

PART I GENERAL NURSING HOMES

100 LEGAL AUTHORITY

100.01 Adoption of Rules, Regulations, and Minimum Standards. By virtue of authority vested in it by Mississippi Code Annotated §43-11-1 through §43-11-17, or as otherwise amended, the Mississippi Department of Health (otherwise known as the licensing agency), does hereby adopt and promulgate the following Rules, Regulations, and Minimum Standards for Institutions for the Aged or Infirm (hereinafter referred to as facility/ies). Upon adoption of these Rules, Regulations, and Minimum Standards for Institutions for the Aged or Infirm, any former rules, regulations and minimum standards, in conflict therewith, previously adopted by the licensing agency are hereby repealed.

100.02 Codes and Ordinances. Every facility located inside the boundaries of a municipality shall comply with all local municipal codes and ordinances applicable thereto. In addition, each facility shall comply with all applicable state and federal laws.

100.03 Fire Safety. No facility may be licensed until it shows conformance to the safety regulations providing minimum standards for prevention and detection of fire as well as for protection of life and property against fire.

100.04 Duty to Report. All fires, explosions, natural disasters, avoidable deaths or avoidable, serious, or life-threatening injuries to residents shall be reported by telephone to the Licensure and Certification Branch of the licensing agency by the next working day after the occurrence. The licensing agency will provide the appropriate forms to the facility which shall be completed and returned within fifteen (15) calendar days of the occurrence. All reports shall be complete and thorough and shall record, at a minimum the causal factors, date and time of occurrence, exact location of occurrence within or without the facility, and attached thereto shall be all police, fire, or other official reports.

101 DEFINITIONS

101.01 Administrator. The term "administrator" shall mean a person who is delegated the responsibility for the interpretation, implementation, and proper application of policies and programs established by the governing authority and is delegated responsibility for the establishment of safe and effective administrative management, control, and operation of the services provided. The administrator may be titled manager, superintendent, director, or otherwise. The administrator shall be duly licensed by the Mississippi State Board of Nursing Home Administrators.

101.02 Bed Capacity. The term "bed capacity" shall mean the largest number which can be installed or set up in a facility at any given time for use of residents, as printed on the certificate of licensure. The bed capacity shall be based upon

space designed and/or specifically intended for such use whether or not the beds are actually installed or set up.

101.03 Bed Count. The term "bed count" shall mean the number of beds that are actually installed or set up for residents in a facility at a given time.

101.04 Change of Ownership. The term "change of ownership" includes, but is not limited to, inter vivos gifts, purchases, transfers, leases, cash and/or stock transactions or other comparable arrangements whenever the person or entity acquires a majority interest (Fifty percent [50%] or more) of the facility or services. Changes of ownership from partnerships, single proprietorships or corporations to another form of ownership are specifically included. Provided, however, "Change of Ownership" shall not include inherited interest acquired as a result of a testamentary instrument or under the laws of descent and distribution of the State of Mississippi.

101.05 Criminal History Record Checks.

1. Affidavit. For the purpose of fingerprinting and criminal background history checks, the term "affidavit" means the use of Mississippi Department of Health (MSDH) Form #210, or a copy thereof, which shall be placed in the individual's personal file.

2. Employee. For the purpose of fingerprinting and criminal background history checks, employee shall mean any individual employed by a covered entity. The term "employee", also includes any individual who by contract with the covered entity provides direct patient care in a patient's, resident's, or client's room or in treatment rooms. 3

Minimum Standards of Operation for the Aged or Infirm Health Facilities Licensure and Certification

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The term "employee" does not include healthcare professional/technical students, as defined in Section 37-29-232, performing clinical training in a licensed entity under contracts between their schools and the licensed entity, and does not include students at high schools who observe the treatment and care of patients in a licensed entity as part of the requirements of an allied health course taught in the school if:

a. The student is under the supervision of a licensed healthcare provider;
and

b. The student has signed the affidavit that is on file at the student's school stating that he or she has not been convicted of or plead guilty or nolo contendere to a felony of possession or sale of drugs, murder, manslaughter, armed robbery, rape, sexual battery, any sex offenses

listed in section 45-33-23 (g), child abuse, arson, grand larceny, burglary, gratification of lust, aggravated assault, or felonious abuse and/or battery of a vulnerable adult, or that any such conviction or plea was reversed on appeal or a pardon was granted for the conviction or plea.

c. Further, applicants and employees of the University of Mississippi Medical Center for whom criminal history record checks and fingerprinting are obtained in accordance with Section 37-115-41 are exempt from application of the term employee under Section 43-11-13.

3. Covered Entity. For the purpose of criminal history record checks, “covered entity” means a licensed entity or a healthcare professional staffing agency.

4. Licensed Entity. For the purpose of criminal history record checks, the term “licensed entity” means a hospital, nursing home, personal care home, home health agency or hospice.

5. Health Care Professional/Vocational Technical Academic Program. For the purpose of criminal history record checks, “health care professional/vocational technical academic program” means an academic program in medicine, nursing, dentistry, occupational therapy, physical therapy, social services, speech therapy, or other allied-health professional whose purpose is to prepare professionals to render patient care services.

6. Health Care Professional/Vocational Technical Student. For purposes of criminal history record checks, the term means a student enrolled in a healthcare professional/vocational technical academic program.

7. Direct Patient Care or Services. For purposes of fingerprinting and criminal background history checks, the term “direct patient care” means direct hands-on medical patient care and services provided by an individual in a patient’s, resident’s or client’s room, treatment room or recovery room. Individuals providing direct patient care may be directly employed by the facility or provides patient care on a contractual basis.

8. Documented Disciplinary Action. For the purpose of fingerprinting and criminal background history checks, the term “documented disciplinary action” means any action taken against an employee for abuse or neglect of a patient.

101.06 Day Shift. The term “day shift” shall mean a minimum eight (8) hour period between 6:00 a.m. and 6:00 p.m.

101.07 Dentist. The term "dentist" shall mean a person currently licensed to practice dentistry in Mississippi by the State Board of Dental Examiners.

101.08 Dietitian. The term "dietitian" shall mean a person who is licensed as a dietitian in the State of Mississippi, or a Registered Dietitian exempted from licensure by statute.

101.09 Existing Facility. The term "existing facility" shall mean a facility that has obtained licensure prior to the adoption of these regulations.

101.10 Governing Authority. The term "governing authority" shall mean owner(s), Board of Governors, Board of Trustees, or any other comparable body duly organized and constituted for the purpose of owning, acquiring, constructing, equipping, operating and/or maintaining a facility, and exercising control over the internal affairs of said facility.

101.11 Infectious Medical Waste. The term "infectious medical waste" includes solid or liquid wastes which may contain pathogens with sufficient virulence and quantity such that exposure to the waste by a susceptible host has been proven to result in an infectious disease. For purposes of this regulation, the following wastes shall be considered to be infectious medical wastes:

1. Wastes resulting from the care of residents and animals who have Class I and (or) II diseases that are transmitted by blood and body fluid as defined in the rules and regulations governing reportable diseases as defined by the Mississippi Department of Health;
2. Cultures and stocks of infectious agents; including specimen cultures collected from medical and pathological laboratories, cultures and stocks of infectious agents from research and industrial laboratories, wastes from the production of biological, discarded live and attenuated vaccines, and culture dishes and devices used to transfer, inoculate, and mix cultures;
3. Blood and blood products such as serum, plasma, and other blood components.
4. All discarded sharps (e.g., hypodermic needles, syringes, Pasteur pipettes, broken glass, scalpel blades) which have come into contact with infectious agents;
5. Other wastes determined infectious by the generator or so classified by the Mississippi Department of Health.

101.12 Institutions for the Aged or Infirm (Facility/ies). The term "institution for the aged or infirm" (hereinafter referred to as facility or facilities) shall mean a place either governmental or private which provides group living arrangements for four (4) or more persons who are unrelated to the operator and who are being

provided food, shelter, and personal care whether any such place be organized or operated for profit or not. The term "institution for the aged or infirm" includes nursing homes, pediatric skilled nursing facilities, psychiatric residential treatment facilities, convalescent homes and homes for the aged, provided that these institutions fall within the scope of the definition set forth above. The term "institutions for the aged or infirm" does not include hospitals, clinics, or mental institutions devoted primarily to providing medical service.

101.13 License. The term "license" shall mean the document issued by the licensing agency and signed by the State Health Officer of the Mississippi Department of Health. Licensure shall constitute authority to receive residents and perform the services included within the scope of these rules, regulations, and minimum standards.

101.14 Licensed Facility Representative: For the purposes of regulations governing informal dispute resolutions, the term "licensed facility representative" shall mean an employee of the licensed facility (i.e., including, but not limited to, administrator, assistant administrator, director of nursing, director of social services, and others), as designated by the administrator of the licensed facility.

101.15 Licensed Practical Nurse. The term "licensed practical nurse" shall mean a person who is currently licensed by the Mississippi Board of Nursing as a Licensed Practical Nurse.

101.16 Licensee. The term "licensee" shall mean the person to which the license is issued and upon whom rests the responsibility for the operation of the institution in compliance with these rules, regulations, and minimum standards.

101.17 Licensing Agency. The term "licensing agency" shall mean the Mississippi Department of Health.

101.18 Mantoux Test. A method of skin testing that is performed by injecting one-tenth (0.1) milliliter of purified protein derivative-tuberculin containing five (5) tuberculin units into the dermis (i.e., the second layer of skin) of the forearm with a needle and syringe. The area is examined between forty-eight (48) and seventy-two (72) hours after the injection. A reaction is measured according to the size of the induration. The classification of a reaction as positive or negative depends on the patient's medical history and various risk factors (see definition for "significant tuberculin skin test"). This test is used to evaluate the likelihood that a person is infected with *M. tuberculosis*. It is the most reliable and standardized technique for tuberculin testing. It should be administered only by persons certified in the intradermal technique.

101.19 Medical Waste. The term "medical waste" means all waste generated in direct resident care or in diagnostic or research areas that is non-infectious but aesthetically repugnant if found in the environment.

101.20 New Facility. The term "new facility" shall mean a facility that applies for licensure after the adoption of these regulations.

101.21 Nurse Practitioner. The term "nurse practitioner" shall mean a person who is currently licensed by the Mississippi Board of Nursing as a nurse practitioner.

101.22 Nursing Facility. The term "nursing facility" shall mean a facility in which nursing care is under the supervision of a registered nurse. Either a registered nurse or a licensed practical nurse shall be on active duty at all times.

101.23 Nursing Unit. The maximum nursing unit shall be sixty (60) beds.

101.24 Patient. The term "patient" shall mean any person admitted to a facility for care.

101.25 Person. The term "person" shall mean any individual, firm, partnership, corporation, company, association, or joint stock association, or any licensee herein or the legal successor thereof.

101.26 Personal Care. The term "personal care" shall mean assistance rendered by personnel of the facility for residents in performing one or more of the activities of daily living which includes, but is not limited to, the bathing, walking, excretory functions, feeding, personal grooming, and dressing of such residents.

101.27 Pharmacist. The term "pharmacist" shall mean a person currently licensed to practice pharmacy in Mississippi by the State Board of Pharmacy.

101.28 Physician. The term "physician" shall mean any person currently licensed in Mississippi by the Mississippi State Board of Medical Licensure.

101.29 Qualified Dietary Manager.

1. A Dietetic Technician who has successfully graduated from a Dietetic Technician program accredited by the American Dietetic Association Commission on Accreditation and Approval of Dietetic Education and earns 15 hours of continuing education units every year approved by the Dietary Manager's Association or the American Dietetic Association.

2. A person who has successfully graduated from a didactic program in Dietetics approved by the American Dietetic Association Commission on Accreditation and Approval of Dietetic Education and earns 15 hours of continuing education units every year approved by the Dietary Manager's Association or the American Dietetic Association.

3. A person who has successfully completed a Dietary Manager's Course

approved by the Dietary Manager's Association and who passes the credentialing examination and earns 15 hours of continuing education units every year approved by the Dietary Manager's Association or the American Dietetic Association.

4. A person who has successfully completed a Dietary Manager's Course approved by the Dietary Manager's Association and earns 15 hours of continuing education units every year approved by the Dietary Manager's Association or the American Dietetic Association

101.30 Registered Nurse. The term "registered nurse" shall mean a person who is currently licensed by the Nurses' Board of Examination and Registration of Mississippi Board of Nursing as a registered nurse.

101.31 Resident. The term "resident" is synonymous with patient.

101.32 Restraint. The term "restraint" shall include any means, physical or chemical, which is intentionally used to restrict the freedom of movement of a person.

101.33 Surveyor. The term "surveyor" shall mean an individual employed, or hired on a contractual basis, by the licensing agency for the purpose of conducting surveys, inspections, investigations, or other related functions as part of the licensing agency's responsibilities for licensure and regulation of institutions for the aged and infirm.

101.34 Significant Tuberculin Skin Test. An induration of five (5) millimeters or greater is significant (or positive) in the following:

1. Persons known to have or suspected of having human immunodeficiency virus (HIV).
2. Close contacts of a person with infectious tuberculosis.
3. Persons who have a chest radiograph suggestive of previous tuberculosis.
4. Persons who inject drugs (if HIV status is unknown).

An induration of ten (10) millimeters or greater is significant (or positive) in all other persons tested in Mississippi. A tuberculin skin test is recorded in millimeters of induration. For accurate results, measure the widest diameter of the palpable induration transverse (across) the arm.

101.35 Two-step Testing. A procedure used for the baseline testing of person who will periodically receive tuberculin skin tests (e.g., health care workers) to reduce the likelihood of mistaking a boosted reaction for a new infection. If the initial tuberculin-test result is classified as negative, a second test is repeated one (1) to three (3) weeks later. If the reaction to the second test is positive, it probably represents a boosted reaction. If the second test is also negative, the person is classified as not infected. A positive reaction to a subsequent test would

indicate new infection (i.e., a skin-test conversion) in the person.

102 INSPECTION

102.01 Inspections Required. Each facility for which a license has been issued shall be inspected by the licensing agency by persons delegated with authority by the licensing agency at such intervals as the licensing agency may direct. The licensing agency and/or its authorized representatives shall have the right to inspect construction work in progress. New institutions shall not be licensed without having first been inspected for compliance with these rules, regulations, and minimum standards.