

NEBRASKA HEALTH AND HUMAN SERVICES
REGULATION AND LICENSURE

175 HEALTH CARE FACILITIES AND SERVICES LICENSURE

CHAPTER 12 SKILLED NURSING FACILITIES, NURSING FACILITIES, AND
INTERMEDIATE CARE FACILITIES

12-006 STANDARDS OF OPERATION, CARE, AND TREATMENT: To assure adequate protection and promotion of the health, safety, and well-being of facility residents and compliance with state statutes, skilled nursing facilities, nursing facilities, and intermediate care facilities must meet the following standards except where specified otherwise.

12-006.01 Licensee Responsibilities: The licensee of each facility must assume the responsibility for the total operation of the facility. The licensee may appoint a governing body. Licensee responsibilities include:

1. Monitoring policies to assure the appropriate administration and management of the facility;
2. Ensuring the facility's compliance with all applicable state statutes and relevant rules and regulations;
3. Periodically reviewing reports and recommendations regarding the quality assurance/performance improvement program and implementing programs and policies to maintain and improve the quality of resident care and treatment;
4. Appointing a Nebraska-licensed administrator who is responsible for the day-to-day management of the facility;
5. Defining the duties and responsibilities of the administrator in writing;
6. Notifying the Department in writing within five working days when a vacancy in the administrator position occurs, including who will be responsible for the position until another administrator is appointed; and
7. Notifying the Department in writing within five working days when the vacancy in the administrator position is filled, including the effective date, license number, and the name of the person appointed administrator.

12-006.02 Administrator: Every skilled nursing facility, nursing facility, and intermediate care facility must have a Nebraska-licensed administrator who is responsible for the overall management of the facility. Each administrator must be responsible for and oversee the operation of only one licensed facility or one integrated system, except that an administrator may be responsible for and oversee the operations of up to three licensed facilities if approval is granted by the Board of Examiners in Nursing Home Administration and such facilities are located within two hours' travel time of each other, the distance between the two facilities the farthest apart does not exceed 150 miles, and the combined total number of beds in the facilities does not exceed 200. With approval of the Board, an administrator may act in the dual role of administrator and department

head but not in the dual role of administrator and director of nursing. The administrator is responsible for:

1. The facility's compliance with rules and regulations.
2. Planning, organizing, and directing those responsibilities delegated to him or her by the licensee of the facility;
3. Maintaining liaison, through meetings and periodic reports, among the governing body, medical and nursing staff, and other professional and supervisory staff of the facility;
4. The facility's protection and promotion of residents' health, safety and well-being; promotion of resident individuality, privacy and dignity; and resident participation in decisions regarding care and services;
5. Ensuring staffing appropriate in number and qualification to meet the resident needs;
6. Designating an appropriate person to act as a substitute in his or her absence who is responsible and accountable for management of the facility. The administrator remains responsible for the acts of the designated person. In case of an extended absence, an appropriate person means one who holds a current license or provisional license issued by the Department to act as a nursing home administrator;
7. Ensuring that facility staff identify and review incidents and accidents, resident complaints and concerns, patterns and trends in overall facility operation such as provisions of resident care and service and take action to alleviate problems and prevent recurrence;
8. Ensuring that a report is made on any alleged abuse of a resident by a staff member, volunteer, family member, visitor, or any other person to Adult Protective Services or local law enforcement as directed in the Adult Protective Services Act, Neb. Rev. Stat. §§ 28-348 to 28-387. All alleged abuse must be investigated and residents protected from further abuse throughout the investigation; and
9. Ensuring the establishment of a quality assurance/performance improvement committee and that the recommendations of the committee are addressed.

12-006.03 Medical Director: The facility must designate a physician to serve as medical director. The medical director is responsible for:

1. Ensuring adequate medical practitioner availability and support;
2. Ensuring effective medical practitioner and facility compliance with requirements;
3. Evaluating and improving the quality of the care; and
4. Evaluating and improving the quality of the systems and processes that influence the care.

12-006.04 Staff Requirements: The facility must maintain a sufficient number of staff with the required training and skills necessary to meet the resident population's requirements for assistance or provision of personal care, activities of daily living, supervision, supportive services and medical care where appropriate.

12-006.04A Employment Eligibility: The facility must provide for and maintain evidence of the following:

12-006.04A1 Staff Credentials: The facility must verify the current licensure, certification, registration, or other credentials of staff prior to the staff assuming job responsibilities and must have procedures for verifying that current status is maintained.

12-006.04A2 Health Status: The facility must establish and implement policies and procedures related to the health status of staff to prevent the transmission of disease to residents.

12-006.04A2a Health History Screening: The facility must complete a health history screening for each staff prior to assuming job responsibilities. A physical examination is at the discretion of the employer based on results of the health history screening.

12-006.04A3 Criminal Background and Registry Checks: The facility must complete and maintain documentation of pre-employment criminal background and registry checks on each unlicensed direct care staff member.

12-006.04A3a Criminal Background Checks: The facility must complete criminal background checks through a governmental law enforcement agency or a private entity that maintains criminal background information.

12-006.04A3b Registry Checks: The facility must check for adverse findings on the following registries:

1. Nurse Aide Registry;
2. Adult Protective Services Central Registry;
3. Central Register of Child Protection Cases; and
4. Nebraska State Patrol Sex Offender Registry.

12-006.04A3c The facility must:

1. Determine how to use the criminal background and registry information, except for the Nurse Aide Registry, in making hiring decisions;
2. Decide whether employment can begin prior to receiving the criminal background and registry information; and
3. Document any decision to hire a person with a criminal background or adverse registry findings, except for the Nurse Aide Registry. The documentation must include the basis for the decision and how it will not pose a threat to patient safety or patient property.

12-006.04A3d: The facility must not employ a person with adverse findings on the Nurse Aide Registry regarding resident abuse, neglect, or misappropriation of resident property.

12-006.04B Training: The facility must provide initial and ongoing training designed to meet the needs of the resident population. Training must be provided by a person qualified by education, experience, and knowledge in the area of the service being provided. The training must include the following:

12-006.04B1 Initial Orientation: The facility must ensure each employee of the facility receives initial orientation within two weeks that includes as a minimum, but is not limited to:

1. Resident rights;
2. Emergency procedures including fire safety and disaster preparedness plans including availability and notification;
3. Information on abuse, neglect, and misappropriation of money or property of a resident and reporting requirements according to the Adult Protective Services Act, and facility procedures;
4. Job duties and responsibilities; and,
5. Nursing staff must receive information on medical emergencies directives.

12-006.04B2 Ongoing Training: The facility must ensure each employee receives ongoing training to ensure continued compliance with regulations and facility policy. The record of such training must include a notation of type of training, name of employee(s), date of training, and name of person providing the training.

12-006.04B2a Nursing Assistant Training: Ongoing training for nursing assistants must consist of at least 12 hours per year on topics appropriate to the employee's job duties, including meeting the physical, psychosocial, and mental needs of the residents in the facility.

12-006.04B2b Medication Aides: When medication aides are utilized by the facility, there must be ongoing training to ensure competencies are met as provided in 172 NAC 95.

12-006.04B2c Director of Food Service: When the director of food service is not a qualified dietitian, the director must have at least 15 hours of continuing education related to dietetics each year, 5 hours of which relate to sanitation. Evidence of credentials and of continuing education must be available within the facility.

12-006.04C Nursing Staff Resources and Responsibilities: The facility must provide sufficient nursing staff on a 24-hour basis, with specified qualifications as follows, to provide nursing care to all residents in accordance with resident care plans.

12-006.04C1 Director of Nursing Services: The facility must employ a Director of Nursing Services full-time, who may serve only one facility in this capacity. The Director of

Nursing Services of the facility must be a registered nurse. The Director of Nursing Services is responsible for the following:

1. Administrative authority, function, and activity of the nursing department;
2. Orientation and inservice education of the nursing services staff;
3. Establishment and implementation of nursing services, objectives, standards of nursing practices, nursing policy and procedure manuals and written job descriptions for each level of nursing personnel;
4. Establishment and implementation of methods of coordination of nursing services with other resident services in meeting each resident's needs;
5. Preadmission evaluation of residents; establishment and implementation of criteria for admission to the facility;
6. Recommendation of the number and levels of nursing personnel to be employed;
7. Nursing staff development; and
8. Establishment and implementation of complete nursing assessments and nursing care plans for residents, and ongoing evaluation and updating of care plans to reflect the current overall condition of the residents.

12-006.04C1a The full-time registered nurse requirement as a Director of Nursing Services may not be waived.

12-006.04C1b The Director of Nursing Services may serve as a charge nurse only when the facility has an average daily occupancy of 60 or fewer residents.

12-006.04C1c The facility must notify the Department in writing within five working days when a vacancy in the Director of Nursing Services position occurs, including who will be responsible for the position until a full-time Director of Nursing Services is secured. The Department must be notified in writing within five working days when the vacancy is filled indicating effective date, name, and license number of the person assuming Director of Nursing Services responsibilities.

12-006.04C2 Registered Nurse Requirement: Except when waived under 175 NAC 12-006.04C2a or 12-006.04C2b, skilled nursing facilities and nursing facilities must use the services of a registered nurse for at least eight consecutive hours a day, seven days a week.

12-006.04C2a Registered Nurse Waiver in a Nursing Facility: The Department may waive the requirement that a nursing facility certified under Title XIX of the federal Social Security Act, as amended, use the services of a registered nurse for at least eight consecutive hours per day, seven days per week, if:

1. The facility demonstrates to the satisfaction of the Department that it has been unable despite diligent efforts, including offering wages at the community prevailing rate for nursing facilities, to recruit appropriate personnel;

2. The Department determines that a waiver of the requirement will not endanger the health or safety of individuals staying in the facility; and

3. The Department finds that, for any periods in which a registered nurse is not available, a registered nurse or physician is obligated to respond immediately to telephone calls from the facility; or

4. The Department of Health and Human Services Finance and Support has been granted any waiver by the federal government of staffing standards for certification under Title XIX of the federal Social Security Act, as amended, and the requirements of subdivisions of 12-006.04C2a, items 1-3, have been met.

A waiver granted under this section is subject to annual review by the Department. As a condition of granting or renewing a waiver, a facility may be required to employ other qualified personnel. The Department may grant a waiver under this section if it determines that the waiver will not cause the State of Nebraska to fail to comply with any of the applicable requirements of Medicaid so as to make the state ineligible for the receipt of all funds to which it might otherwise be entitled.

12-006.04C2b Registered Nurse Waiver in a Skilled Nursing Facility: The Department may waive, for up to one year, the requirement that a skilled nursing facility certified under Title XVIII of the Federal Social Security Act, as amended, use the services of a registered nurse for more than 40 hours per week if:

1. The facility is located in a non-urban area where the supply of skilled nursing facility services is not sufficient to meet the needs of individuals residing in the area;

2. The facility has one full-time registered nurse who is regularly on duty at the facility 40 hours per week; and

3. The facility has:

a. Only residents whose physician has indicated through orders or admission or progress notes that the residents do not require the services of a registered nurse or a physician for more than 40 hours per week; and

b. Has made arrangements for a registered nurse or a physician to spend time at the facility, as determined necessary by the physician, to provide the necessary services on days when the regular, full-time registered nurse is not on duty.

A waiver granted under this subsection is subject to annual review by the Department. As a condition of granting or renewing a waiver, a facility may be required to employ other qualified licensed personnel.

12-006.04C3 Charge Nurse Requirement: Except when waived under 175 NAC 12-006.04C4 or 12-006.04C5 of this section, skilled nursing facilities and nursing facilities must designate a licensed nurse to serve as a charge nurse on each tour of duty. Intermediate care facilities must designate a licensed nurse to serve as a charge nurse for one tour of duty each 24 hours.

12-006.04C3a The charge nurse is responsible for the total nursing care delivered on his or her tour of duty on the assigned unit. Charge nurse responsibilities are as follows:

1. Through assignment, delegate and/or direct to other nursing personnel the direct nursing care of the specific residents on the basis of staff qualifications, size and physical layout of the facility, characteristics of the resident load, and the emotional, social, and nursing care needs of residents;
2. Be knowledgeable and responsive to the physical and emotional needs of all residents;
3. Complete and accurate medication administration;
4. Provide direct resident care as required;
5. Participate in the review, revising and implementation of residents' plan of care;
6. Notify the Director of Nursing Services, physician, and family of changes in resident condition, i.e., injury, accident, or adverse change; and,
7. Complete documentation describing nursing care provided, including resident response and status.

12-006.04C4 24-Hour Nurse Staffing Waiver in a Nursing Facility: The Department may waive the requirement that a nursing facility certified under Title XIX of the federal Social Security Act, as amended, use the services of a licensed nurse on a 24-hour basis seven days per week, including the requirement for a charge nurse on each tour of duty, if:

1. The facility demonstrates to the satisfaction of the Department that it has been unable, despite diligent efforts, including offering wages at the community prevailing rate for nursing facilities, to recruit appropriate personnel;
2. The Department determines that a waiver of the requirement will not endanger the health or safety of individuals staying in the facility; and
3. The Department finds that, for any periods in which licensed nursing services are not available, a licensed registered nurse or physician is obligated to respond immediately to telephone calls from the facility or hospital; or
4. The Department of Health and Human Services Finance and Support has been granted any waiver by the federal government of staffing standards for certification under Title XIX of the federal Social Security Act, as amended, and the requirements of 175 NAC 12-006. 04C4, items 1-3 have been met.

A waiver granted under this section is subject to annual review by the Department. As a condition of granting or renewing a waiver, a facility may be required to employ other qualified licensed personnel. The Department may grant a waiver under this section if it determines that the waiver will not cause the State of Nebraska to fail to comply with any of the applicable requirements of Medicaid so as to make the state ineligible for the receipt of all funds to which it might otherwise be entitled.

12-006.04C5 24-Hour Nurse Staffing Waiver in a Skilled Nursing Facility: The Department may waive the requirement that a skilled nursing facility use licensed nurses on a 24-hour basis, seven days a week, including the requirement for a charge nurse each tour of duty, if:

1. The facility demonstrates to the satisfaction of the Department that it has been unable, despite diligent efforts including but not limited to offering wages equal to or greater than the community prevailing wage rate being paid nurses at nursing facilities, to hire enough licensed nurses to fulfill such requirements;
2. The Department determines that a waiver of the requirement will not endanger the health or safety of residents of the facility; and,
3. The Department finds that, for any period in which staffing requirements cannot be met, a registered nurse or a physician is obligated to respond immediately to telephone calls from the facility.

A waiver granted under this subsection is subject to annual review by the Department.

As a condition of granting or renewing a waiver, a facility may be required to employ other qualified licensed personnel.

12-006.04C6 Notification of Waiver

12-006.04C6a The Department will provide notice of the granting of a waiver to the office of the state long-term care ombudsman and to Nebraska Advocacy Services or any successor designated for the protection of and advocacy for persons with mental illness or mental retardation.

12-006.04C6b The skilled nursing facility or nursing facility granted a waiver must provide written notification to each resident of the facility or, if appropriate, to the guardian, designee, or immediate family of the resident.

12-006.04C7 Other Nursing Personnel: The facility must assign a sufficient number of qualified nursing personnel who are awake, dressed and assigned to resident care duties at all times.

12-006.04C7a The facility must ensure personnel who provide direct resident care but are not required to be licensed or registered, including Nursing Assistants and Medication Aides, meet the following requirements:

12-006.04C7a(1) Nursing Assistants must be at least 16 years of age and must have completed a training course approved by the Department in accordance with 175 NAC 13.

12-006.04C7a(2) Medication Aides must meet the requirements in 172 NAC 95.

12-006.04C7a(3) Personnel must have the ability to speak and understand the English language or a language understood by a substantial portion of the facility's residents.

12-006.04C7b Paid Dining Assistants: When the facility utilizes persons other than a licensed registered or practical nurse or a nursing assistant for the feeding of residents, the facility must follow 172 NAC 105. Each facility must establish and implement policies and procedures:

1. To ensure that paid dining assistants providing assistance with feeding to residents in the facility meet the qualification, training and competency requirements specified in 172 NAC 105;

2. To ensure that competency assessments and/or courses for paid dining assistants have been completed in accordance with the provisions of 172 NAC 105;

3. That specify how the facility will meet the role requirements at 172 NAC 105-004, which state that paid dining assistants must:

a. Only feed residents who have no complicated feeding problems as selected by the facility based on the resident's latest assessment, plan of care, and determinations by the charge nurse that the resident's condition at the time of such feeding meets that plan of care and that the paid dining assistant is competent to feed that particular resident;

b. Work under the supervision of a licensed registered or practical nurse who is on duty, physically present in the facility, and immediately available; and

c. Call a supervisor for help in an emergency;

4. That specify how the facility will meet the requirements at 172 NAC 105-007, which state that the facility must maintain:

a. A listing of all paid dining assistants employed at the facility and the number of hours worked;

b. For each individual paid dining assistant:

(1) Verification of successful completion of an approved paid dining assistant training course and competency evaluation, and

(2) Verification that the facility has made checks with the Nurse Aide Registry, the Adult Protective Services Central Registry, and the central register of child protection cases maintained by the Department of Health and Human Services if applicable; and

5. That address how supervision of paid dining assistants will occur and how paid dining assistants will be identified as single-task workers.

12-006.04D Dietary Services Staffing: The facility must employ sufficient personnel competent to carry out the functions of the dietary services in a safe and timely manner.

12-006.04D1 Qualified Dietitian: The facility must employ a qualified dietitian on a full-time, part-time, or consultant basis.

12-006.04D1a The qualified dietitian is responsible for the general guidance and direction of dietary services, assessing special nutritional needs, developing therapeutic

diets, regular diets, developing and implementing in-service education programs, participating in interdisciplinary care planning when necessary, supervising institutional food preparation, service and storage.

12-006.04D2 Food Service Director: The facility must designate a person to serve as the director of food service who receives scheduled consultation from a registered dietitian or licensed medical nutrition therapist if a qualified dietitian is not employed full-time.

12-006.04D2a To qualify as director of food service the employee must be one of the following:

1. A graduate of a dietetic technician program approved by the American Dietetic Association;
2. An individual with a bachelor's degree in foods and nutrition;
3. A graduate of a dietetic assistant program approved by the American Dietetic Association, qualifying for certification by the Dietary Managers Association;
4. A graduate of a dietary manager program approved by the Dietary Managers Association and qualifying for certification by the Dietary Managers Association; or
5. An individual who successfully completes a course in food service management offered by an accredited university, community college, or technical college, whose curriculum meets at least the minimum requirements of any of the programs described in 175 NAC 12-006.04D2a, items 1-3, whether or not formally approved by the entities named in those sections.

12-006.04D3 The dietitian or director of food service is responsible for ensuring residents are provided with a nourishing, palatable, well-balanced diet that meets the daily nutritional and special dietary needs of each resident. The director of food service or his/her designee must participate in the interdisciplinary care plan.

12-006.04E Social Services Staffing: The facility must employ adequate staff to meet the social service needs of the residents.

12-006.04E1 The facility must designate a social services director to be responsible for arranging and integrating social services with other elements of the care plan. The person designated as social services director must have:

1. A certificate issued by the Department to practice social work as a certified master social worker;
2. A Master of Social Work (M.S.W.) degree with one year experience in the provision of social services in a long term care facility, or geriatric setting;
3. A graduate degree in social or behavioral sciences with a specialty in gerontology with one year experience in the provision of social services in a long term care facility, or geriatric setting;

4. A Bachelor of Social Work degree from a college or university with an undergraduate social work program accredited by the Council on Social Work Education with one year of experience in the provision of social services in a long term care facility or geriatric setting;

5. A Bachelor of Arts (B.A.) or Bachelor of Science (B.S.) degree in social or behavioral sciences with one year of experience in the provision of social service in a long term care facility, or geriatric setting;

6. An Associate of Arts degree in social or behavioral sciences with two years of experience in the provision of social services in a long term care facility, or the services of a qualified consultant;

7. Successfully completed a course of instruction in social services of at least 36 hours established by the Provider Associations; or

8. Two years experience in the provision of social services in a long-term care facility.

12-006.04E2 If the designated person does not meet the qualifications of a social service director, the facility must have a written agreement with a qualified social worker for consultation and assistance on a regularly scheduled basis as required to meet the needs of the residents.

12-006.04E3 The social service director or his/her designee must act as part of the interdisciplinary team in assessing the individual needs of the resident and participate in development and implementation of the interdisciplinary care plan. The facility must implement social service interventions to assist the resident in meeting treatment goals, address resident needs and provide social service support in meeting resident needs and individuality.

12-006.04E4 The facility social service staff must establish and maintain relationships with the resident's family or designee.

12-006.04F Resident Activity Staffing: The facility must employ adequate staff to provide activities of interest to residents.

12-006.04F1 The facility must designate a qualified resident activities director. The activities director must meet one of the following qualifications:

1. A qualified therapeutic recreation specialist with one year of experience in a long term care facility or geriatric setting;

2. A licensed occupational therapist with one year of experience in a long term care facility or geriatric setting;

3. A qualified therapeutic recreation assistant with one year of experience in a long term care facility or geriatric setting;

4. An individual who has a Bachelor of Arts (B.A.) or Bachelor of Science (B.S.) degree in social or behavioral sciences with one year of experience in the provision of recreational services in a long term care facility or geriatric setting;

5. An individual who has successfully completed a course of instruction in recreational services of at least 36 hours established by the provider associations, or a substantially equivalent course established by any other health care association or entity; or,

6. Has two years of full-time experience in a resident activities program in a health care setting.

12-006.04F2 If the designated person does not meet the qualifications of an activities director, the facility must have a written agreement with a qualified consultant for consultation and assistance on a regularly scheduled basis as required to meet the needs of the residents.

12-006.04F3 The activity director or his/her designee must act as a member of the interdisciplinary team and participate in the development of the interdisciplinary care plan. The activity director is responsible for providing daily activities for residents to stimulate and promote the physical, spiritual, social, emotional, and intellectual well-being of each resident.

12-006.04G Medical Records Staffing: The facility must assign overall supervisory responsibility for the medical record service to a full-time employee of the facility, and must maintain sufficient supporting personnel competent to carry out the functions of the medical record services.

12-006.05 Resident Rights: The facility must inform residents of their rights in writing. The operations of the facility must afford residents the opportunity to exercise their rights, which must include, but are not limited to, the following. Residents must have the right to:

1. Be fully informed in writing prior to or at the time of admission and during his or her stay, of services available in the facility, and of related charges including any charges for services not covered by the facility's basic per diem rate;

2. Be fully informed of his or her rights and responsibilities as a resident and of all rules and regulations governing resident conduct and responsibilities. This information must be provided prior to or at the time of admission and its receipt acknowledged by the resident in writing, or, in the case of residents already in the facility, upon the facility's adoption or amendment of resident rights policies;

3. Be fully informed by a physician of his or her health and medical condition unless medically contraindicated;

4. Participate in the planning of his or her total care and medical treatment, or to refuse treatment. A resident may participate in experimental research only upon informed written consent;

5. Be free from arbitrary transfer or discharge. The resident must be informed at the time of admission that he or she may be transferred or discharged only upon the following terms:

a. Upon his or her consent;

b. For medical reasons, which must be based on the resident's needs and be determined and documented by a physician;

c. For the resident's safety or the safety of other residents or facility employees;

d. When rehabilitation is such that movement to a less restrictive setting is possible; or

e. For nonpayment of the resident's stay, except as prohibited by Title XVIII or XIX of the Social Security Act as amended, or the Nebraska Nursing Home Act, Neb. Rev. Stat. §§ 71-6008 to 71-6037. Non-payment under the Nebraska Nursing Home Act must not include a change in resident economic status so that the resident receives Medicaid or becomes eligible for Medicaid if the resident has resided in the facility for a period of at least one year after July 17, 1986, unless 10% of the facility's residents are receiving Medicaid or are eligible for Medicaid. This provision does not apply to Nebraska Veterans' Homes established under Chapter 80, Article 3 of Nebraska Statutes.

A minimum of 30 days written notice must be given to the resident or to his or her designee prior to involuntary transfer or discharge of a resident, except that:

(1) Five days written notice must be given if the transfer is to a less restrictive setting due to rehabilitation.

(2) Ten days written notice will be given if the resident is five or more days in arrears of payment for stay.

(3) Written notice is not required in the event of emergency transfer or discharge if the transfer or discharge is mandated by the resident's health care needs and is in accord with the written orders and medical justification of the attending physician, or if mandated for safety of other residents or facility employees as is documented in the facility's records.

Written notice must contain:

(1) The stated reason for transfer or discharge;

(2) The effective date of the transfer or discharge; and

(3) In not less than 12-point type, the following text:

A health care facility or health care service shall not discriminate or retaliate against a person residing in, served by, or employed at the facility or service who has initiated or participated in any proceeding authorized by the Health Care Facility Licensure Act or who has presented a complaint or provided information to the administrator of the facility or service, the Department of Health and Human Services, the Department of Health and Human Services Finance and Support, or the Department of Health and Human Services Regulation and Licensure. Such person may maintain an action for any type of relief, including injunctive and declaratory relief, permitted by law.

6. Exercise rights as a resident of the facility and as a citizen of the United States;

7. Voice complaints and grievances without discrimination or reprisal and have those grievances addressed;

8. Be free from chemical and physical restraints imposed for the purposes of discipline or convenience, and not required to treat the resident's medical symptoms;
9. Be free from abuse, neglect and misappropriation of their money and personal property;
10. Refuse to perform services for the facility;
11. Examine the results of the most recent survey of the facility conducted by the Department;
12. Privacy in written communication including sending and receiving mail;
13. Receive visitors as long as this does not infringe on the rights and safety of other residents in the facility. The administrator may refuse access to any person for any of the following reasons:
 - a. The resident refuses to see the visitor;
 - b. The presence of that person would be injurious to the health and safety of a resident, especially as documented by the attending physician;
 - c. The visitor's behavior is unreasonably disruptive to the facility and this behavior is documented by the facility;
 - d. The presence of that person would threaten the security of a resident's property or facility property; or
 - e. The visit is for commercial purposes only.

Any person refused access to a facility may, within 30 days of such refusal, request a hearing by the Department. The wrongful refusal of a nursing home to grant access to any person as required in Neb. Rev. Stat. §§ 71-6019 and 71-6020 constitutes a violation of the Nebraska Nursing Home Act. A nursing home may appeal any citation issued pursuant to this section as provided in 175 NAC 12-008.02;

14. Have access to the use of a telephone with auxiliary aides where calls can be made in private;
15. Retain and use personal possessions, including furnishings, and clothing as space permits, unless to do so would infringe upon the rights and safety of other residents;
16. Self-administer medications if it is safe to do so;
17. Form and participate in an organized resident group that functions to address facility issues;
18. Review and receive a copy of their permanent record, within two working days;

19. Manage his or her personal financial affairs. Under specific written authorization by the resident, the facility may assist in such management to the extent specified by the resident;

20. Receive confidential treatment of all information contained in his or her records, including information contained in an electronic data bank. His or her written consent or that of the resident's designee is required for the release of information to persons not otherwise authorized under law to receive it; and

21. Be treated with consideration, respect, and full recognition of his or her dignity and individuality, including privacy in treatment and in care for his or her personal needs.

12-006.06 Complaints and Grievances: The facility must establish and implement procedures for addressing complaints and grievances from residents, resident groups, employees and others.

12-006.06A Submission of Complaints and Grievances: The facility must establish and implement a procedure on submission of individual or collective complaints and grievances. The facility must prominently display in plain view of residents, employees, and others the procedure for submitting complaints and grievances.

12-006.06B Resolution of Complaints and Grievances: The facility must establish and implement a procedure for investigating and assessing the validity of, and addressing complaints and grievances.

12-006.06C The facility must ensure that the telephone numbers and addresses of the Department's Investigations Division and the state long term care ombudsman are readily available to residents, employees and others for further course of redress.

12-006.07 Quality Assurance/Performance Improvement: The facility must have a quality assurance/performance improvement committee responsible for identifying issues which necessitate action, development and implementation of action plan to correct problems and reevaluation of the problem to promote quality care and treatment provided to residents.

12-006.07A Committee Participants: The facility must ensure the following individuals serve on the quality assurance/performance improvement committee:

1. Director of Nursing Services;
2. Medical Director or designee; and
3. At least three other members of the facility's staff.

12-006.07B Other Participants: The facility must request participation of other members of the facility staff as well as consultants on the quality assurance/performance improvement committee as necessary to identify issues which necessitate action and to participate in development and implementation of action plan to correct the problem and reevaluation of the problem.

12-006.07C Committee Responsibilities: The quality assurance/performance improvement committee is responsible for:

1. Identifying issues that necessitate action by the committee;
2. Developing and implementing plans of action to correct identified problems;
3. Monitoring the appropriateness and effectiveness of corrective actions; and
4. Reevaluating corrective actions, revising of plans of corrective action, and revising facility policies and clinical policies as necessary.

12-006.08 Medical Services: The facility must ensure that the medical care of each resident is supervised by a medical practitioner and that another medical practitioner supervises the medical care of the residents when their attending medical practitioner is unavailable.

12-006.08A Admission Criteria: The facility must ensure that each individual admitted to the facility has written approval of a recommendation for admittance to the facility by a medical practitioner. Each resident admitted to the facility must have a history and physical examination completed by a medical practitioner within 30 days prior to or 14 days after admission. Each resident must remain under the care of a medical practitioner.

12-006.08B Medical Practitioner Responsibilities: The medical practitioner must:

1. Review the resident's total program of care, including medications and treatments, at each visit required;
2. Write, sign, and date progress notes at each visit;
3. Sign any order he/she gives.

12-006.09 Care and Treatment: The facility is responsible for ensuring the physical, mental and psychosocial needs of all residents are met in accordance with each resident's individualized needs and physician orders.

12-006.09A Resident Admission and Retention: The facility must ensure that the facility's practice of admission and retention of residents meet the resident's identified needs for care and/or treatment.

12-006.09A1 Admission Criteria: The facility must establish and implement written criteria for admission to the facility. The written criteria must include how eligibility for admission is determined based on:

1. Identification of resident need in relationship to care and treatment, including severity of presenting problem; and
2. Need for supervision and other issues related to providing care and treatment and facility resources.

12-006.09A2 Retention of Residents: The facility must continue to provide care and treatment to residents as long as the facility can continue to meet the identified needs for care, treatment, and supervision, and other issues related to providing care and treatment.

12-006.09B Resident Assessment: The facility must conduct initially and periodically a comprehensive, accurate, and reproducible assessment of each resident's functional capacity to identify the resident's abilities and needs. The assessment must include documentation of:

1. Medical conditions (diagnoses) and prior medical history;
2. Medical status measurements, including:
 - a. Height;
 - b. Weight;
 - c. Blood pressure; and
 - d. Laboratory findings (i.e., hemoglobin, hemocrit, sodium, potassium, blood sugar, etc.);
3. The resident's capability to perform daily life functions and significant impairments in functional capacity;
4. Physical and mental functional status;
5. Sensory and physical impairments;
6. Nutritional status and requirements, including:
 - a. Observations for signs of nutritional deficiency;
 - b. Feeding and swallowing problems;
 - c. Food preferences and tolerances;
 - d. Nutritional implications of medicines prescribed; and
 - e. Evaluation of the current height and weight status;
7. Special treatments or procedures;
8. Mental and psychosocial status, including:
 - a. Medically related social services needs of resident;
 - b. Evaluation of resident's physical, mental and psychosocial functioning, and social service support needs; and

c. Evaluation of outside contacts, frequency of visitors, use of free time, communication, orientation, and behavior;

9. Discharge potential, including:

a. Status of independent functioning;

b. Availability of support personnel at home;

c. Services needed; and

d. Financial resources;

10. Dental condition;

11. Activities potential, including:

a. Individual activity interests and physical, mental, and psychosocial abilities;

b. Preadmission hobbies and interests;

c. Participation in activities;

d. Daily activity needs to stimulate and promote physical, spiritual, social, emotional, and intellectual well-being of each resident; and

e. The interest and needs of bedridden residents and those otherwise unable or unwilling to participate in group activities;

12. Rehabilitation potential;

13. Cognitive status; and

14. Medication therapy.

12-006.09B1 Frequency: The facility must ensure that a comprehensive assessment is completed:

1. No later than 14 days after the date of admission;

2. By the end of the 14th calendar day following the determination that a significant change has occurred; and

3. In no case less often than once every twelve months.

12-006.09B2 Review of Assessments: The facility must complete an assessment of each resident no less than once every 3 months, and as appropriate, revise the resident's assessment to ensure accuracy of the assessment.

12-006.09C Comprehensive Care Plans: The facility must develop and implement a comprehensive interdisciplinary care plan for each resident to ensure that there is provision of quality care. The comprehensive care plan must be designed to permit achievement and maintenance of optimal functional status and independence. The care plan must include and specify:

1. An interdisciplinary evaluation of resident needs;
2. Measurable objectives and timetables to meet a resident's medical, nursing, mental, and psychosocial needs that are identified in the comprehensive assessment;
3. The services that are to be furnished to attain or maintain the resident's highest practicable well-being;
4. Goals for the residents that are time limited and measurable;
5. A discharge plan based on the needs of the individual; and
6. The discipline(s) responsible for providing specific care and the frequency of the interventions.

12-006.09C1 Frequency of Care Plans: The facility must develop and implement care plans in accordance with the following time frames:

12-006.09C1a Preliminary Nursing Care Plan: The facility must develop a preliminary nursing assessment and nursing care plan in accordance with the medical practitioner's admission orders within 24 hours of the resident's admission.

12-006.09C1b Comprehensive Care Plan: The facility must develop a comprehensive interdisciplinary care plan and discharge plan within seven days after the completion of the comprehensive assessment.

12-006.09C1c Review and Revision: The facility must review and revise the care plan at least quarterly or with change in condition or services provided. Review of the care plan must include an interdisciplinary evaluation of the resident's progress relative to the goals established.

12-006.09C2 Discharge Planning: The facility must develop a post discharge plan of care for any resident when there is anticipated discharge to a home, same level, or a different level of care. The discharge plan of care must be developed with the participation of the resident and resident's family. The post discharge plan of care is developed to assist the resident in planning for post discharge needs and assist the resident to adjust to new living environment.

12-006.09C3 Discharge Summary: When the facility discharges a resident, the facility must have a discharge summary. The facility must ensure the discharge summary includes the resident's status at time of discharge, which is available for release to authorized persons and agencies with the consent of the resident or resident's designee. The discharge summary must include:

1. Resident's full name;

2. Medical record number;
3. Admission date;
4. Discharge date;
5. Name of attending medical practitioner;
6. Date and time of discharge;
7. Recapitulation of resident's stay;
8. Final diagnosis;
9. Date summary completed; and
10. Signature of the person completing the summary.

12-006.09C3a Discharge to Another Setting: When the facility discharges a resident to a different facility setting or service, in addition to 1-10 above, the discharge summary must also include:

1. Medically defined conditions;
2. Medical status measurement;
3. Functional status;
4. Sensory and physical impairments;
5. Nutritional status and requirements;
6. Special treatments and procedures;
7. Psychosocial status;
8. Discharge potential;
9. Dental condition;
10. Activities potential;
11. Rehabilitation potential;
12. Cognitive status; and
13. Drug therapy, including education.

12-006.09D Provision of Care and Treatment: The facility must provide the necessary care and treatment to permit achievement and maintenance of optimal mental, physical,

and psychosocial functional status and independence in accordance with the comprehensive assessment and plan of care for each resident.

12-006.09D1 Resident Abilities: The facility must ensure care and treatment is provided to improve or maintain a resident's abilities when the resident is capable of some level of independence in performing these abilities. When the resident is not capable of independent functioning, the facility must be responsible for provision of these cares.

12-006.09D1a Diminished Abilities: The facility must ensure a resident receives the appropriate standards of care and treatment to prevent a diminution of the resident's abilities unless circumstances of the individual's medical condition demonstrates the diminution was unavoidable. This includes the resident's ability to:

1. Bathe, dress and groom;
2. Transfer and ambulate;
3. Toilet;
4. Eat; and
5. Use speech, language, or other functional communication systems.

12-006.09D1b Maintenance or Improvement in Abilities: The facility must ensure a resident is given the appropriate standards of care and treatment to maintain or improve his abilities as described in 006.09D1a.

12-006.09D1c Inability to Self-Perform: The facility must ensure a resident who is unable to carry out activities of daily living receives the appropriate standards of care and treatment to maintain good nutrition, grooming, and personal and oral hygiene.

12-006.09D1d Vision and Hearing: The facility must ensure that residents receive appropriate standards of care and treatment and assistive devices to maintain vision and hearing abilities. The facility must, if necessary, assist the resident in:

1. Making appointments, and
2. Arranging for transportation to and from the office of a practitioner/professional specializing in hearing and vision and/or provision of vision or hearing assistive devices.

12-006.09D2 Skin Integrity: The facility must ensure that a resident receives appropriate standards of care and treatment to maintain or improve skin integrity.

12-006.09D2a Prevent Pressure Sores: The facility must identify and implement appropriate standards of care and treatment to prevent a resident who enters the facility without a pressure sore from developing pressure sores unless the individual's clinical condition demonstrates that they were unavoidable.

12-006.09D2b Promote Healing: The facility must identify and implement standards of care and treatment for each resident with a pressure sore to promote healing, prevent infection and prevent other areas from occurring.

12-006.09D2c Other Open Areas: The facility must identify and implement standards of care and treatment to prevent a resident from developing skin excoriation, skin tears, and other open areas unless the individual's condition demonstrates that they were unavoidable.

12-006.09D3 Urinary/Bowel Function: The facility must identify and implement standards of care and treatment for residents who have or are at risk for elimination problems.

Care and treatment must be provided to:

1. Prevent urinary tract infection;
2. Restore bladder/bowel function unless the resident's condition demonstrates that the loss in bladder/bowel function is unavoidable;
3. Keep residents free of odors not caused by a clinical condition;
4. Keep residents free from skin breakdown related to bladder or bowel incontinence;
5. Keep residents free of fecal impactions and signs of discomfort from bowel constipation; and
6. Ensure a resident who enters the facility without an indwelling catheter does not receive an indwelling catheter unless the resident's clinical condition demonstrates that catheterization was necessary.

12-006.09D4 Range of Motion: The facility must identify and implement standards of care and treatment to improve or maintain each resident's range of motion unless the resident's clinical condition demonstrates a decline in range of motion was unavoidable.

12-006.09D5 Mental and Psychosocial Functioning: The facility must identify and implement appropriate standards of care and treatment to promote each resident's mental and psychosocial functioning.

12-006.09D5a Social Service Support: The facility must identify and implement methods to assist the resident in meeting treatment goals, address resident needs, and provide social service support in meeting each resident's needs and individuality including but not limited to:

1. Decreased social interaction; or
2. Increased withdrawn, angry or depressive behaviors.

12-006.09D5b Provision of Activities: The facility must identify and provide for daily activities to stimulate and promote the physical, spiritual, social, emotional, and intellectual well-being of each resident. The activity program must promote the resident's self-respect, self-expression, and choice.

12-006.09D6 Special Needs: The facility must identify and implement standards of care and treatment to prevent complications, infections, discomfort, and skin excoriations to residents receiving the following special services:

1. Gastric tubes;
2. Colostomy, ureterostomy, or ileostomy care;
3. Parenteral and enteral fluids;
4. Injections;
5. Tracheostomy care;
6. Tracheal suctioning;
7. Respiratory care;
8. Foot care; and
9. Prostheses.

12-006.09D7 Accidents: The facility must identify and implement standards of care and treatment to prevent resident accidents.

12-006.09D7a The facility's environment must be free from hazards over which the facility has control.

12-006.09D7b The facility must establish and implement policies and procedures which address:

1. Investigation, including documentation of the accidents to include identification and evaluation of individual resident causal factors;
2. Method for tracking and identification of trends;
3. Development of interventions to prevent the accident from recurring; and,

4. Reevaluation of the effectiveness of the interventions.

12-006.09D8 Nutrition: The facility must identify and implement standards of care and treatment to maintain nutritional status of each resident. This includes:

12-006.09D8a Food Service: The facility must provide each resident with a nourishing, palatable, well-balanced diet that meets the daily nutritional and special dietary needs of each resident. In the event that a facility contracts for the services of an outside food service management company, the facility remains responsible for compliance with the applicable regulations.

12-006.09D8b Unplanned Weight Loss: The facility must ensure that residents do not incur an unplanned significant weight loss or other indicator of malnourishment unless the resident's clinical condition demonstrates that this is not possible.

12-006.09D8b1 The facility must evaluate current height and weight status. Each resident must have a recorded weight no less than monthly with follow-up on unexplained gains and losses. Alternative methods of anthropometric assessment may be used.

12-006.09D8c Assistive Devices: The facility must provide special eating equipment and utensils for residents who need them.

12-006.09D9 Hydration: The facility must provide each resident with sufficient fluid intake to maintain proper hydration and health.

12-006.10 Administration of Medication: The facility must establish and implement policies and procedures to ensure residents receive medications only as legally prescribed by a medical practitioner in accordance with the five rights and prevailing professional standards.

12-006.10A Methods of Administration of Medication: When the facility is responsible for the administration of medication, it must be accomplished by the following methods:

12-006.10A1 Self-Administration: The facility must allow residents of the facility to self-administer medication, with or without supervision, when resident assessment determines resident is capable of doing so.

12-006.10A2 Licensed Health Care Professional: When the facility utilizes licensed health care professionals for whom medication administration is included in the scope of practice, the facility must ensure the medications are properly administered in accordance with prevailing professional standards.

12-006.10A3 Provision of Medication by a Person Other Than a Licensed Health Care Professional: When the facility utilizes persons other than a Licensed Health Care Professional in the provision of medications, the facility must follow 172 NAC 95 and 96.

Each facility must establish and implement policies and procedures:

1. To ensure that medication aides who provide medications are trained and have demonstrated the minimum competency standards specified in 172 NAC 95-004;

2. To ensure that competency assessments and/or courses for medication aides have been completed in accordance with the provisions of 172 NAC 96-005;

3. That specify how direction and monitoring will occur when the facility allows medication aides to perform the routine/acceptable activities authorized by 172 NAC 95-005 and as follows:

a. Provide routine medication; and

b. Provide medications by the following routes:

(1) Oral, which includes any medication given by mouth, including sublingual (placing under the tongue) and buccal (placing between the cheek and gum) routes and oral sprays;

(2) Inhalation, which includes inhalers and nebulizers, including oxygen given by inhalation;

(3) Topical application of sprays, creams, ointments, and lotions and transdermal patches; and

(4) Instillation by drops, ointments, and sprays into the eyes, ears, and nose;

4. That specify how direction and monitoring will occur when the facility allows medication aides to perform the additional activities authorized by 172 NAC 95-007, which include but are not limited to:

a. Provision of PRN medications;

b. Provision of medications by additional routes including but not limited to gastrostomy tube, rectal, and vaginal; and/or;

c. Participation in monitoring;

5. That specify how competency determinations will be made for medication aides to perform routine and additional activities pertaining to medication provision;

6. That specify how written direction will be provided for medication aides to perform the additional activities authorized by 172 NAC 95-009;

7. That specify how records of medication provision by medication aides will be recorded and maintained; and

8. That specify how medication errors made by medication aides and adverse reactions to medications will be reported. The reporting must be:

a. Made to the identified person responsible for direction and monitoring;

b. Made immediately upon discovery; and

c. Documented in the resident's medical record.

12-006.10A4 When the facility is not responsible for the administration/provision of medications, the facility must maintain overall responsibility for the supervision, safety and welfare of the resident.

12-006.10B Medication Record: Each resident must have an individual medication administration record, which must include:

1. The name of the facility;
2. The name of the resident;
3. The room and bed number of the resident;
4. Resident identification number;
5. The name of the medication prescribed;
6. The strength of the individual dose;
7. Directions for administration of the medication;
8. Name of physician; and
9. Drug allergies and sensitivities.

12-006.10B1 Medication Documentation: The dose administered to the resident must be properly documented on the medication record by the person who administered the drug, after the drug is administered. For oral medications, the actual act of swallowing must be observed.

12-006.10B1a If the resident refuses the medication, the refusal must be documented as refused on the medication record.

12-006.10C Medications must be administered by the same person who prepared the dose, except under single unit dose package distribution systems.

12-006.10D Medication Errors: The facility must ensure that it is free of medication error rates of 5% or greater, and residents are free of any significant medication errors.

12-006.10D1 The facility must have a method of recording, reporting, and reviewing medication administration errors. All medication administration errors must be reported to the prescribing medical practitioner in accordance with standards of care.

12-006.10E The facility must have policies and procedures for reporting any adverse reaction to a medication as in accordance with standards of care, to the resident's medical practitioner and for documenting such event in the resident's medical record.

12-006.11 Dietary Services: The facility must provide each resident with a nourishing, palatable, well-balanced diet that meets the daily nutritional and special dietary needs of each resident. In the event that a facility contracts for the services of an outside food

service management company, the facility remains responsible for compliance with the applicable regulations.

12-006.11A Menus and Nutritional Adequacy: The facility's menus must:

12-006.11A1 Be developed and implemented to meet the nutritional needs of residents in accordance with the recommended dietary allowances of the Food and Nutrition Board of the National Research Council, with provision for ensuring adequate intake of calories and fluids;

12-006.11A2 Be designed to be compatible with the food preferences of the majority of the residents of the facility, with the physicians' orders, and with the physical needs of each resident;

12-006.11A3 Offer substitutes of similar nutritive value to residents who refuse food; and

12-006.11A4 Include therapeutic diets when prescribed by the medical practitioner.

12-006.11B Frequency of Meals: The facility must provide at least three meals daily, at regular times comparable to normal mealtimes in the community.

12-006.11B1 The facility must ensure that no more than 14 hours elapse between a substantial evening meal and breakfast the following day. Sixteen hours may elapse if a nourishing snack is offered at bedtime daily.

12-006.11C Food Supply: The facility must maintain supplies of staple foods for a minimum of a seven day period and perishable foods for a three day period on the premises. Food must be procured from sources approved or considered satisfactory by federal, state, or local authorities.

12-006.11D Food Preparation: The facility must ensure foods are prepared by methods that conserve the food's nutritive value, flavor, and appearance. Foods must be attractively served at the proper temperatures. Recipe resources must be available.

12-006.11E Sanitary Conditions: The facility must comply with the provisions of the Food Code.

12-006.12 Pharmacotherapy Services: The facility must provide routine and emergency drugs, devices and biologicals to its residents, or obtain them under an agreement. The storage, control, handling, administration, and provision of drugs, devices, and biologicals must be in accordance with state laws and regulations relating to same, and to the practice of pharmacy and medicine and surgery.

12-006.12A Procedures: The facility must develop and implement appropriate policies and procedures for accurate acquiring, receiving, and administering of all medications to meet the needs of each resident.

12-006.12B Pharmacotherapy Services Supervision: The facility must employ or obtain the services of a Nebraska-licensed pharmacist to provide for the development, coordination, and supervision of all pharmaceutical services. The pharmacist is responsible for:

1. Consultation on all aspects of the provision of pharmacotherapy services in the facility;
2. Ensuring that the pharmacotherapy service has procedures for control and accountability of all medications throughout the facility;
3. Ensuring that medication records are in order and that an account of all Schedule II and III controlled substances is maintained and reconciled;
4. Maintaining records of receipt and disposition of all controlled substances in sufficient detail to enable an accurate reconciliation; and
5. Reviewing the drug regimen of each resident at least monthly and reporting any irregularities to the primary medical practitioner and Director of Nursing Services in accordance with standards of care. The drug regimen review must include a signed and dated statement that:
 - a. No potential problems were found;
 - b. A problem was found but it was deemed not significant; or
 - c. A significant problem was found.

The statement must include a description of the situation and the information that was communicated to the individual with the authority to correct it, usually the medical practitioner.

12-006.12C Controlled Substances and Prescription Drugs: The facility must comply with all state laws and regulations related to the procurement, storage, administration and destruction of drugs, devices, and biologicals and of those medications subject to the Nebraska Uniform Controlled Substance Act.

12-006.12C1 The possession of a controlled substance or prescription drug is prohibited except as may be ordered by a medical practitioner by prescription for a resident.

12-006.12D Bulk Supply: Any duly licensed facility may purchase bulk quantities of non-prescription drugs, devices, and biologicals e.g., aspirin, milk of magnesia, and certain cough syrups, and may administer these medications to individual residents in the facility only on the order of a medical practitioner.

12-006.12E Drug Accountability and Disposition: The facility must establish and implement procedures for storing and disposing of drugs, devices and biologicals in accordance with State and local laws.

12-006.12E1 Drug Storage: The facility must have all drugs, devices, and biologicals stored in locked areas and stored in accordance with the manufacturer's or pharmacist's instructions for temperature, light, humidity, or other storage instructions. Only authorized personnel who are designated by the facility responsible for administration or provision of medications must have access to the medications.

12-006.12E1a Controlled Substance Storage: The facility must provide separately locked, permanently affixed compartments for storage of controlled medications listed in

Schedule II of Neb. Rev. Stat. § 28-405, and other medications subject to abuse, except when the facility uses single unit package drug distribution systems in which the quantity stored is minimal and a missing dose can be readily detected.

12-006.12E1b Controlled Substance Count: A shift count of all controlled substances in Schedules II and III must be completed by two persons with each initialing the separate medication control sheet for each medication when the count is completed. The individual medication administration record can serve as a record of the receipt and disposition of all other Controlled Substances.

12-006.12E2 Compounding and Dispensing: Only the pharmacist, or a pharmacy intern under the direct supervision of the pharmacist, may compound or dispense drugs, devices or biologicals or make label changes.

12-006.12E3 The facility must ensure drugs, devices and biologicals are stored in the container in which they are received from the pharmacy.

12-006.12E4 Discontinued, Outdated, Deteriorated Drugs, Devices and Biologicals: The facility must ensure no discontinued, outdated, or deteriorated drugs, devices and biologicals are available for use in the facility.

12-006.12E5 Separate Storage Requirement: Drugs, devices and biologicals for external use, as well as poisons, must be stored separately from all other medications.

12-006.12E6 Emergency Box Drug: Authorized personnel of the facility may administer medications to residents of the institution from the contents of emergency boxes located within such facility if such drugs and boxes meet all of the requirements as set out in the Emergency Box Drug Act.

12-006.12E7 Medication Integrity and Labeling: The facility must ensure all medications used in the facility are labeled in accordance with currently accepted professional standards of care, and include the appropriate accessory and cautionary instructions, and the expiration date when applicable.

12-006.12E8 Disposition of Prescription Medications: The facility must ensure the proper disposal of all prescription medications.

12-006.12E8a Discharged Resident Medications: The facility may send prescribed medication with a resident upon discharge only with the order of a medical practitioner and all medication containers must be properly labeled by the dispensing pharmacy.

12-006.12E8b Discontinued Medications: When any prescription medication is discontinued permanently or the resident has expired, the facility must either:

1. Return the medication to the dispensing pharmacy for credit in accordance with Neb. Rev. Stat. § 71-2421; or
2. Properly dispose of any residue. The disposal must be performed by a pharmacist assisted by a licensed nurse employed by the facility according to the following terms:
 - a. The disposal must take place on the site of the facility; and

b. Medication name, strength and quantity disposed of must be recorded in the resident's medical record, dated and signed by the pharmacist.

12-006.12E8c Shared Medication Usage: The facility must ensure that no medications are saved for use by other residents.

12-006.13 Specialized Rehabilitative Services: All nursing facilities and skilled nursing facilities must provide specialized rehabilitative services as ordered by the medical practitioner and identified in the resident's comprehensive plan of care. The specialized rehabilitative services must be designed to maintain and improve the resident's ability to function independently, to prevent, as much as possible, advancement of progressive disabilities, and to restore maximum function, independence and self-determination.

12-006.14 Dental Services: The facility must assist residents in obtaining routine and 24-hour dental care to meet the needs of each resident. The facility must, if necessary, assist the resident in:

1. Making appointments;
2. Arranging transportation to and from the dentist's office; and
3. Referring residents with lost or damaged dentures, chewing difficulties, oral ulcerations, or oral pain to a medical practitioner.

12-006.15 Outside Resources: If the facility does not employ a qualified professional person to furnish a specific service required to meet the needs of a resident, the facility must have the services furnished to residents by a person or agency outside the facility under an arrangement/agreement. The facility is responsible for obtaining services that meet professional standards that apply to professionals and the timeliness of the services. This includes such services as laboratory and radiology and other diagnostic services.

12-006.16 Record-Keeping Requirements: The facility must maintain and safeguard clinical and other records.

12-006.16A Clinical Records: The facility must maintain clinical records on each resident in accordance with accepted professional standards and practice. Clinical records must contain at a minimum:

1. Sufficient information to identify the resident;
2. A record of the resident's assessments, including those assessments performed by services under agreement with the facility;
3. The plan of care and services including medication administration, provided by facility staff and services provided under agreement with the facility;
4. Interdisciplinary progress notes to include effect of care provided, residents' response to treatment, change in condition, and changes in treatment;

5. Medical practitioner orders which are signed and dated;
6. Allergies;
7. Person to contact in an emergency situation;
8. Name of attending medical practitioner; and
9. Advanced directives if available.

12-006.16B The clinical record must be:

1. Complete;
2. Accurately documented;
3. Readily accessible;
4. Systematically organized; and
5. Legible.

12-006.16C Clinical Record Safeguards: The facility must safeguard clinical record information against loss, destruction, or unauthorized use.

12-006.16C1 If the facility maintains a resident's record by computer, electronic signatures are acceptable. If attestation is done on computer records, safeguards to prevent unauthorized access, and to provide for reconstruction of information must be in place.

12-006.16C2 The facility must protect the confidentiality of all information contained in the resident's records, regardless of the form or storage method of the records, except when release is authorized by:

1. Transfer agreement to another health care facility or health care service;
2. Law;
3. Third party payment contract; or
4. The resident or designee.

12-006.16C3 Records are subject to inspection by authorized representatives of the Department.

12-006.16D Record Retention and Preservation: Resident clinical records must be maintained and preserved for a period of at least five years or, in case of a minor, five years after the resident becomes of age under Nebraska law. In cases in which a facility ceases operation, all records of each resident must be transferred to the health care facility to which the resident moves. All other resident records of a facility ceasing operation must be disposed of by shredding, burning, or other similar protective

measures in order to preserve the resident's rights of confidentiality. Records or documentation of the actual fact of resident medical record destruction must be permanently maintained.

12-006.16E Other Resident Records: The facility must maintain records pertaining to resident personal funds accounts as applicable, financial matters, resident possessions, and statements of resident rights and responsibilities.

12-006.16E1 Resident possessions must be inventoried at time of admission, updated as needed, and accounted for upon discharge from the facility.

12-006.16F Chronological Resident Register: The facility must maintain a chronological resident register. This register, if kept on computer, must be reproducible and safeguarded from destruction. The register must identify:

1. Name of resident;
2. Date of admission;
3. Date of birth;
4. Social Security number;
5. Admission number;
6. Gender;
7. Names of medical practitioner and dentist; and
8. Date of discharge and destination.

12-006.16G Other Facility Records: The facility must have and maintain the following records:

12-006.16G1 Daily Census Record: A count of residents must be taken at the same hour each day, and must be noted and totaled at the end of 365 days. The total represents the number of "individual care days for the past 12 months."

12-006.16G2 Written policies and procedures that govern all services provided by the facility. Policies and procedures must address the following areas but are not limited to:

1. Admission of residents to facility which ensure that only individuals whose needs can be met by the facility or by providers of care under contract to the facility are admitted;
2. Transfer and discharge;
3. Methods the facility uses to receive complaints and recommendations from its residents and ensuring facility response;
4. Clinical record protection;

5. Care and services provided by facility staff and contracted services; and

6. All areas identified in 175 NAC 12-006.09, 12-006.10, and 12-006.12.

12-006.16G3 Written disaster plan;

12-006.16G4 Records of each orientation and inservice or other training program, including names of staff attending, subject matter of the training, names and qualifications of instructors, dates of training, length of training sessions and any written materials provided;

12-006.16G5 Current employment records for each staff person. Information kept in the record must include information on the length of service; orientation; inservice; licensure, certification, registration, or other credentials; performance; health history screening; and previous work experience;

12-006.16G6 Contracts with outside resources to furnish required facility services not provided directly by the facility; and

12-006.16G7 Records regarding operation and maintenance of the facility.

12-006.16H Inspection of Records: Records required by 175 NAC 12 must be available for inspection and copying by authorized representatives of the Department.

12-006.17 Infection Control: The facility must maintain facility practices to provide a sanitary environment and to avoid sources and transmission of infections and communicable diseases. This includes the establishment and maintenance of an infection control program for the prevention, control, and investigation of infections and communicable disease.

12-006.17A Infection Control Program Requirements: The facility must ensure the infection control program has provisions for and implementation of practices for:

1. Identifying, reporting, investigating, and controlling infections and communicable diseases of residents and staff;

2. Early detection of infection that identifies trends so any outbreaks may be contained to prevent further spread of infection;

3. Monitoring treatment of infection for appropriateness and for alteration of treatment when necessary;

4. Decisions on what procedures, such as isolation, must be applied to an individual resident with suspected infections; and

5. Maintenance of a record to include observation of unsafe and unsanitary practices, incidents, and corrective action related to infections or transmission of infections. The record must include a system of surveillance of infections for uniform facility use and identification.

12-006.17B Prevention of Cross-Contamination: The facility must prevent cross-contamination between residents in provision of care, sanitation of equipment and supplies, and cleaning of resident's rooms.

12-006.17C Disease Transmission: The facility must prohibit employees known to be infected with any disease in communicable form to work in any area of the facility in a capacity in which there is a likelihood of the employee transmitting disease to residents or to other facility personnel, food, or food contact surfaces with pathogenic organisms.

12-006.17D Handwashing Requirement: The facility must require staff to wash their hands after each direct resident contact for which handwashing is indicated by acceptable professional practice.

12-006.18 Environmental Services: The facility must provide a safe, clean, comfortable, and homelike environment, allowing the resident to use his or her personal belongings to the extent possible.

12-006.18A Housekeeping and Maintenance: The facility must provide the necessary housekeeping and maintenance services to protect the health and safety of residents, including:

1. The facility must keep its buildings and grounds, and resident living and common areas, clean, safe and in good repair.
2. The facility must dispose of all garbage and rubbish in a manner to prevent the attraction of rodents, flies, and all other insects and vermin and to minimize odor and the transmission of infectious diseases.
3. The facility must provide and maintain in all areas adequate lighting, environmental temperatures, and sound levels that are conducive to the care and treatment provided.
4. The facility must maintain and equip the premises to prevent the entrance, harborage, or breeding of rodents, flies, and all other insects and vermin.

12-006.18B Equipment, Fixtures, and Furnishings: The facility must keep all equipment, fixtures, and furnishings clean, safe and in good repair.

12-006.18B1 Equipment: The facility must provide equipment adequate for meeting resident needs as specified in each resident's care plan.

12-006.18B2 Furnishings: Common areas and resident sleeping areas must be furnished with beds, chairs, sofas, tables, and storage items that are comfortable and reflective of resident needs and preferences. Furnishings may be provided by either the facility or the family.

12-006.18B3 Preventive Maintenance: The facility must establish and implement a process designed for routine and preventive maintenance of equipment and furnishing to ensure that such equipment and furnishings are safe and function to meet their intended use.

12-006.18C Linens: The facility is responsible for providing each resident with an adequate supply of clean bed, bath and other linens as necessary for care and treatment of residents. The linens must be in good repair.

12-006.18C1 Storage and Handling: The facility must establish and implement procedures for the storage and handling of soiled and clean linens.

12-006.18C2 Laundry Water Temperatures: When the facility launders bed and bath linens, water temperatures to laundry equipment must exceed 140 degrees Fahrenheit if laundry is not appropriately sanitized or disinfected by other acceptable methods in accordance with the manufacturer's instructions or other documentation.

12-006.18D Pets: The facility must assure that a facility-owned pet does not negatively affect the residents residing in the facility. The facility must establish and implement policies and procedures regarding pets that include:

1. An annual examination by a licensed veterinarian;
2. Current vaccinations as recommended by the licensed veterinarian which must include rabies for dogs, cats, and ferrets;
3. Provision of pet care necessary to prevent the acquisition and spread of fleas, ticks, and other parasites; and
4. Responsibility for care and supervision of the pet by facility staff.

12-006.18E Environmental Safety: The facility is responsible for maintaining the environment in a manner that minimizes accidents.

12-006.18E1 Environmental Hazards: The facility must maintain the environment to protect the health and safety of residents by keeping surfaces smooth and free of sharp edges, mold or dirt; keeping floors free of objects and slippery or uneven surfaces and keeping the environment free of other conditions which may pose a potential risk.

12-006.18E2 Passageways: The facility must maintain all doors, stairways, passageway, aisles or other means of exit to provide safe and adequate means of exit and access for care and treatment.

12-006.18E3 Water Temperatures: The facility must provide water for bathing and handwashing at safe and comfortable temperatures to protect residents from potential for burns or scalds.

12-006.18E3a The facility must establish and implement policies and procedures to monitor and maintain water temperatures that accommodate resident comfort and preferences but do not exceed the following temperatures:

1. Water temperatures at resident bathing and therapy fixtures must not exceed 110 degrees Fahrenheit; and
2. Water at handwashing fixtures must not exceed 120 degrees Fahrenheit.

12-006.18E4 The facility must establish and implement policies and procedures to ensure hazardous/poisonous materials are properly handled and stored to prevent accidental ingestion, inhalation or consumption of the hazardous/poisonous materials by residents.

12-006.18E5 The facility must restrict access to mechanical equipment which may pose a danger to residents.

12-006.18F Disaster Preparedness and Management: The facility must establish and implement disaster preparedness plans and procedures to ensure that residents' care and treatment, safety, and well-being are provided and maintained during and following instances of natural (tornado, flood, etc.) and other disasters, disease outbreaks, or other similar situations. Such plans and procedures must address and delineate:

1. How the facility will maintain the proper identification of each resident to ensure that care and treatment coincide with the resident's needs;
2. How the facility will move residents to points of safety or provide other means of protection when all or part of the building is damaged or uninhabitable due to natural or other disaster;
3. How the facility will protect residents during the threat of exposure to the ingestion, absorption, or inhalation of hazardous substances or materials;
4. How the facility will provide food, water, medicine, medical supplies, and other necessary items for care and treatment in the event of a natural or other disaster; and
5. How the facility will provide for the comfort, safety, and well-being of residents in the event of 24 or more consecutive hours of:
 - a. Electrical or gas outage;
 - b. Heating, cooling, or sewer system failure; or
 - c. Loss or contamination of water supply.