

Effective Date: 12/19/2007

Title: Section 415.2 - Definitions

415.2 Definitions. The following definitions, unless context clearly requires otherwise, shall apply to this Article:

(a) Ambulant resident (see 415.37(a)(3)).

(b) Certified nurse aide shall mean an individual who is listed in the New York State Nursing Home Nurse Aide Registry as specified in 415.26(d) of this Part.

(c) Clinical Skills Evaluator (see 415.26(d)(1)(iii)).

(d) Commissioner shall mean the State Commissioner of Health.

(e) Department shall mean the New York State Department of Health.

(f) Designated representative shall mean the individual or individuals designated in accordance with this subdivision to receive information and to assist and/or act in behalf of a particular resident to the extent permitted by State law; it being understood that a designated representative specified in subparagraph (iii) of paragraph (1) of this subdivision is not a health care agent as defined in Article 29-C of the Public Health Law.

(1) Such individual or individuals shall be designated, with such designation noted in the clinical record:

(i) by a court of law when the designation of an individual, committee or guardian has been sought;

(ii) by the resident if the resident has the capacity to make such designation; or

(iii) by family members and other parties who have an interest in the well-being of the resident who, after discussion with the facility, identify the individual or individuals most personally involved in the resident's care, if the resident lacks the capacity to make such designation.

(2) The designated representative shall:

(i) receive any written and oral information required by this Part to be provided to the resident if such resident lacks the capacity to understand or make use of such information, and also receive any information required to be provided to both the resident and the designated representative; and

(ii) participate to the extent authorized by State law in decisions and choices regarding the care, treatment and well-being of the resident if such resident lacks the capacity to make such decisions and choices.

(g) Governing body shall mean the policy-making body of a government agency, the board of directors or trustees of a corporation or the proprietor or proprietors of a proprietary nursing home to which the department has issued an operating certificate.

(h) Nurse aide (see 415.13(c)(1)).

(i) Nurse aide trainee shall mean an individual who is participating in a State approved residential health care facility nurse aide training program.

- (j) Nurse aide training program coordinator (see 415.26(d)(1)(i)).
- (k) Nursing home, also referred to in this Part as a residential health care facility or a facility, shall mean a facility, institution, or portion thereof subject to Article 28 of the New York State Public Health Law, providing therein, lodging for 24 or more consecutive hours to three or more nursing home residents who are not related to the operator by marriage or by blood within the third degree of consanguinity, who need regular nursing services or other professional services but who shall not need the services of a general hospital.
- (l) Primary instructor (see 415.26(d)(1)(ii)).
- (m) Resident, or nursing home resident, shall mean an individual who has been admitted to and who resides in a nursing home and who is entitled to receive care, treatment and services in accordance with the requirements of this Part.
- (n) Resident care unit or nursing unit shall mean a designated area including a group of resident rooms with adequate supporting rooms, areas, facilities, services, and personnel providing nursing care and management of residents which is planned, organized, operated and maintained to function as a unit so as to encourage the efficient delivery of resident services and effective observation of and communication with residents.
- (o) Resident council shall mean the resident organization created by residents of a nursing home and recognized by the facility as the group that represents the interests of its membership.
- (p) Respiratory care and therapy shall mean the care for any portion of the respiratory tract, especially the lungs. This care may include but not be limited to the following: percussion or cupping, postural drainage, positive pressure machine and where appropriate, use of oxygen to administer drugs.
- (q) Respiratory therapist or respiratory therapy technician shall mean a person who holds a baccalaureate degree, associate degree, certificate or diploma in respiratory or inhalation therapy from a college, university, institution, hospital school or program accredited by the State Education Department of the Joint Review Committee for Inhalation Therapy Education, or who demonstrates equivalent proficiency to the employing facility by means of an evaluation by two qualified medical specialists. (r) Qualified specialist shall mean a physician who holds a current license to practice medicine in the State of New York, and who:
- (1) is a diplomate of the appropriate American board or who has been certified as a specialist by the American Osteopathic Specialty Board for the respective specialty; or
 - (2) has been notified of admissibility to examination by such board, or presents evidence of completion of an approved qualifying residency in such specialty; or
 - (3) holds the rank of attending or associate attending specialist in an accredited voluntary or governmental hospital which is approved for training in the speciality in which the physician has privileges; or
 - (4) holds an appropriate specialist rating granted by the Workers' Compensation Board after May 1960, provided the award is based on training approved by the respective specialty board.
- (s) Sponsor shall mean the agency or the person or persons, other than the resident, responsible in whole

or in part for the financial support of the resident, including the costs of care in the facility.

(t) Withdrawal of equity (see 415.26(h)(7)).

(u) Feeding assistant (see section 415.13(d)(1) of this Part).

Volume: C