

Effective Date: 04/03/91

Title: Section 415.1 - Basis and scope

415.1 Basis and scope.

(a) Statement of purpose. New York's residential health care facilities are responsible for the health and well-being of more than 100,000 residents ranging from infants with multiple impairments to young adults suffering from the sequelae of traumatic brain injury to the frail elderly with chronic disabilities. For the vast majority of residents, the residential health care facility is their last home. A license to operate a nursing home carries with it a special obligation to the residents who depend upon the facility to meet every basic human need. Each resident comes to the nursing home with unique life experiences, values, attitudes and desires, and a singular combination of clinical and psychosocial needs. In order to assure the highest practicable quality of life, the individuality of the nursing home resident must be recognized, and the exercise of self-determination protected and promoted, by the operator and staff of the facility. The physical environment, care policies and staff behavior must at once acknowledge the dependence of the residents while fostering their highest possible level of independence. In writing a code of minimum operating standards for nursing homes, it is also critical that the regulator recognize the infinite diversity of the nursing home population. A code intended to assure the highest possible quality of care and most meaningful quality of life for all residents must not only accept, but in fact invite variety in nursing home environments, policies and practices, and encourage creativity among nursing home managers and staff.

In order to meet obligations to nursing home residents, this set of requirements, to the extent possible, expresses expectations for facility operation in terms of performance and outcomes rather than by dictating structure and process. It is the intent of these requirements to grant a high degree of latitude and flexibility to administrators and staff while insisting upon conformance to fundamental principles of individual rights and to accepted professional standards. In those areas where a detailed process or procedure is mandated, it is based upon a firm belief that experience has proven the specific practice to be necessary in all cases to assure the high quality of care we expect nursing homes to provide. In addition to the emphasis on individuality and self-determination, the code reflects certain precepts: that nursing homes should be viewed as homes as much as medical institutions, with the resident's psychosocial needs deserving a prominence at least equal to medical condition; that clinical interventions for the nursing home resident must be part of a comprehensive approach planned and provided by an interdisciplinary care team, with the participation of the resident, rather than through a physician-directed acute care orientation; and that quality assurance is a work ethic rather than an oversight method or a department.

(b) General Information.

(1) Nursing homes, which shall include all facilities subject to Article 28 of the Public Health Law and providing residential skilled nursing care and services and residential health related care and services, shall provide such care and services in a manner and quality consistent with generally accepted standards of practice.

(2) In accordance with Article 28 of the Public Health Law, nursing homes, as defined in section 415.2 of this Part, and which include facilities referred to elsewhere in this Title as skilled nursing facilities, health related facilities or residential health care facilities, shall comply with all the requirements of this Part.

(3) Nursing homes shall comply with construction standards contained in Article 2 of Subchapter C of this Chapter (Medical Facility Construction).

(4) Nursing homes shall comply with all pertinent federal, state and local laws, regulations, codes, standards and principles including but not limited to those pertaining to nondiscrimination on the basis of race, color, national origin, handicap, protection of human subjects of research and fraud and abuse and the Public Health Law, Mental Hygiene Law, Social Services Law and Education Law of the State of New York.

(5) The provisions of Parts 700 and 702, of Article 1 of Subchapter C of this Chapter shall not apply to nursing homes.

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Title: Section 415.11 - Resident assessment and care planning

415.11 Resident assessment and care planning. Upon admission and periodically thereafter the facility shall conduct a comprehensive, accurate, standardized, reproducible assessment of each resident's functional capacity. Based on the results of these assessments, the facility shall develop and keep current an individualized comprehensive plan of care to meet each resident's needs.

(a) Comprehensive assessments. (1) The facility shall conduct a comprehensive assessment of each resident's needs, which describes the resident's capability to perform daily life functions and identifies significant impairments in functional capacity. All comprehensive assessments completed after April 1, 1991 shall be recorded on a uniform data instrument designated by the Department of Health.

(2) The comprehensive assessment shall include at least the following information:

(i) medically defined conditions and prior medical history,

(ii) medical status measurement,

(iii) physical and mental functional status

(iv) sensory and physical impairments,

(v) nutritional status and requirements,

(vi) special treatments or procedures,

(vii) discharge potential,

(viii) mental and psychosocial status,

(ix) dental condition,

(x) activities potential,

(xi) rehabilitation potential,

(xii) cognitive status, and

(xiii) drug therapy.

(3) Frequency. Comprehensive assessments shall be conducted:

(i) no later than 14 days after the date of admission;

(ii) promptly after a significant improvement or decline in the resident's physical, mental or psychosocial status in

accordance with generally accepted standards of care and services; and

(iii) in no case less often than once every 12 months for each resident.

(4) Review of assessments. Professional staff shall examine each resident no less than once every 3 months, and as appropriate, revise the resident's comprehensive assessment to assure the continued accuracy of the assessment.

(5) Use. The results of the comprehensive assessment shall be used by the interdisciplinary care team as defined in subparagraph (ii) of paragraph (2) of subdivision (c) of this section to develop, review, and revise the resident's comprehensive plan of care, under subdivision (c) of this section.

(b) Accuracy of assessments. (1) Coordination. (i) Each assessment shall be conducted or coordinated, with the participation of appropriate health professionals.

(ii) Each assessment shall be conducted, or coordinated, by a registered professional nurse who signs and certifies the completion of the assessment.

(2) Certification. Each individual who completes a portion of the assessment shall sign and certify the accuracy of that portion of the assessment.

(3) Penalty for falsification. An individual who willfully and knowingly certifies (or causes another individual to certify) a material and false statement in a resident assessment shall be subject to civil money penalties under federal statutes and regulations.

(4) Use of independent assessors. If the department determines, under a survey or otherwise, that there has been a knowing and willful certification of false statements under paragraph (3) of this subdivision, the department shall require remedial measures, which may include but not be limited to requiring that resident assessments under this section be conducted and certified at the facility's expense by individuals who are independent of the facility and who are approved by the department.

(c) Comprehensive care plans. (1) The facility shall develop a comprehensive care plan for each resident that includes measurable objectives and timetables to meet each resident's medical, nursing and mental and psychosocial needs that are identified in the comprehensive assessment.

(i) The care plan shall reflect a consideration of the resident's ability to self-administer drugs safely.

(ii) The facility shall clearly document those instances in which recommended items or services are not made part of the comprehensive care plan due to the stated contrary wishes of a competent resident or a designated representative who has the authority to make health care decisions for a resident who lacks capacity.

(2) A comprehensive care plan shall be:

(i) developed within 7 working days after completion of the comprehensive assessment;

(ii) prepared by an interdisciplinary team that includes the attending physician, a registered professional nurse with responsibility for the resident, and other appropriate staff in disciplines as determined by the resident's needs, and with the participation of the resident and the resident's family or legal representative to the extent practicable; and

(iii) periodically reviewed and revised as necessary by an interdisciplinary team of qualified persons after each comprehensive assessment or reassessment. (3) The services provided or arranged by the facility shall:

(i) meet generally accepted standards of care and service; and

(ii) be provided by qualified persons in accordance with each resident's written plan of care.

(d) Discharge summary. When the facility anticipates discharge, the facility shall prepare a discharge summary that includes:

(1) a recapitulation of the resident's stay;

(2) a final summary of the resident's status to include information set forth in paragraph (2) of subdivision (a) of this section, at the time of the discharge that shall be available for release to authorized persons and agencies, with the consent of the resident or legal representative; and

(3) a post-discharge plan of care that shall be developed with the participation of the resident and his or her family, which will assist the resident to adjust to his or her new living environment and assure that needed medical and supportive service have been arranged and are available to meet the identified needs of the resident.

(e) Patient assessment and annual resident review (PASARR). The facility shall conduct, at least annually, a review of residents with known or suspected mental impairment or mental retardation utilizing the pertinent portions of the SCREEN instrument set forth in section 400.12 of this Title. Residents screened as mentally impaired or mentally retarded by this process shall be referred to the commissioner's designee for evaluation of the need for active treatment for mental impairment or mental retardation and for need for nursing home services.

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Title: Section 415.12 - Quality of care

415.12 Quality of care. Each resident shall receive and the facility shall provide the necessary care and services to attain or maintain the highest practicable physical, mental and psychosocial well-being, in accordance with the comprehensive assessment and plan of care subject to the resident's right of self-determination.

(a) Activities of daily living. Based on the comprehensive assessment of a resident, the facility shall ensure that:

(1) A resident's abilities in activities of daily living do not diminish unless circumstances of the individual's clinical condition demonstrate that diminution was unavoidable. This includes the resident's ability to:

(i) bathe, dress and groom;

(ii) transfer and ambulate;

(iii) toilet;

(iv) eat; and

(v) use speech, language or other functional communication systems.

(2) A resident is given the appropriate treatment and services to maintain or improve his or her abilities specified in paragraph (1) of this subdivision; and

(3) A resident who is unable to carry out activities of daily living receives the necessary services to maintain good nutrition, grooming, and personal and oral hygiene.

(b) Vision and hearing. To ensure that residents receive proper treatment and assistive devices to maintain vision and hearing abilities, the facility shall, if necessary, assist the resident:

(1) in making appointments;

(2) by arranging for transportation to and from the office of a medical practitioner specializing in the treatment of vision or hearing impairment or the office of a professional specializing in the provision of vision or hearing assistive devices if such services are not provided on-site; and

(3) by promoting the safekeeping, maintenance, and use of vision or hearing assistive devices which the resident needs.

(c) Pressure sores. Based on the comprehensive assessment of a resident, the facility shall ensure that:

(1) a resident who enters the facility without pressure sores does not develop pressure sores unless the individual's clinical condition demonstrates that they were unavoidable despite every reasonable effort to prevent them; and

(2) a resident having pressure sores receives necessary treatment and services to promote healing, prevent infection and prevent new sores from developing.

(d) Urinary Incontinence. Based on the resident's comprehensive assessment, the facility shall ensure that:

(1) a resident who is incontinent of bladder receives the appropriate treatment and services to prevent urinary tract infections and to restore as much normal bladder function as possible; and

(2) a resident who enters the facility without an indwelling catheter is not catheterized unless the resident's clinical condition demonstrates that catheterization was necessary.

(e) Range of motion. Based on the comprehensive assessment of a resident, the facility shall ensure that:

(1) a resident who enters the facility without a limited range of motion does not experience reduction in range of motion unless the resident's clinical condition demonstrates that a reduction in range of motion is unavoidable; and

(2) a resident with a limited range of motion receives appropriate treatment and services to increase range of motion and/or to prevent further decrease in range of motion.

(f) Mental and psychosocial functioning. Based on the comprehensive assessment of a resident, the facility shall ensure that:

(1) a resident who displays mental or psychosocial adjustment difficulty receives appropriate treatment and services to correct the assessed problem; and

(2) a resident whose assessment did not reveal a psychosocial adjustment difficulty does not display a pattern of decreased social interaction and/or increased withdrawn, angry, or depressive behaviors, unless the resident's clinical condition demonstrates that such a pattern was unavoidable.

(g) Enteral feeding tubes. (1) Based on the comprehensive assessment of a resident, the facility shall ensure that a resident who has been able to eat alone or with assistance is not fed by an enteral feeding tube unless the resident's clinical condition demonstrates that use of such a tube was unavoidable.

(2) A resident who is fed by an enteral feeding tube shall receive the appropriate treatment and services to prevent aspiration pneumonia, diarrhea, significant regurgitation, vomiting, dehydration, metabolic abnormalities, and nasal-pharyngeal ulcers and to restore, if possible, normal feeding function.

(3) Following consideration of possible alternatives for short term nutritional therapy, nasogastric tubes and feeding formulations may be used for feeding purposes when determined clinically appropriate by the attending physician and interdisciplinary care team which includes a health care professional with training in diagnosis and management of swallowing disorders. Nasogastric tube feedings shall be used to promote a therapeutic program to maintain adequate nutrition and hydration and include a plan to help the resident develop or regain eating skills.

(4) Residents receiving nasogastric tube feedings shall be reassessed at a minimum by the registered professional

nurse, social worker, and dietitian as needed, but no less than once every six weeks, for the ability to return to normal feeding function. If the nasogastric feeding is continued, the reasons for continuation shall be documented in the resident's clinical record. If nasogastric feedings are to be continued longer than 95 days, permanent enteral feeding procedures such as surgical gastrostomy or jejunostomy shall be considered.

(5) Nasogastric tube feeding formulations shall be given in accordance with the manufacturer's instructions or at a rate appropriate to the physical size of the resident and the amount of fluid and nutrients necessary to meet the assessed caloric and fluid needs of the resident.

(6) To minimize resident discomfort, nasogastric tubes used for resident feeding purposes shall:

(i) be the smallest gauge appropriate for the patient and shall not exceed 3.96 millimeters (#12 French) in outside diameter unless medically indicated;

(ii) be made of a soft, flexible material such as medical grade polyurethane or silicone; and

(iii) be specifically manufactured for nasogastric feeding purposes.

(7) The facility shall develop and follow policies and procedures for nasogastric tube feedings which are written in accordance with prevailing standards of professional practice and in consultation with the medical, nursing, dietary and pharmacy services of the facility. Medical practitioners shall be informed of such policies and procedures governing the use of nasogastric tubes for resident feeding. The policies and procedures shall address as a minimum:

(i) types and sizes of nasogastric tubes and the various types of feeding formulations available at the facility;

(ii) the need to assess each resident's clinical and nutritional status to determine the size of the nasogastric tube and type of feeding appropriate for that individual;

(iii) standard techniques for inserting a nasogastric tube and confirming the correct placement of the tube;

(iv) procedures for administering nasogastric feedings including positioning the resident and the need for resident observation and monitoring before, during and following the feeding; and

(v) infection control policies related to tube feedings.

(h) Accidents. The facility shall ensure that:

(1) the resident environment remains as free of accident hazards as is possible; and

(2) each resident receives adequate supervision and assistive devices to prevent accidents.

(i) Nutrition. Based on a resident's comprehensive assessment, the facility shall ensure that a resident:

(1) maintains acceptable parameters of nutritional status, such as body weight and protein levels, unless the resident's clinical condition demonstrates that this is not possible; and

(2) receives a therapeutic diet when there is a nutritional problem.

(j) Hydration. The facility shall provide each resident with sufficient fluid intake to maintain proper hydration and health.

(k) Special needs. The facility shall ensure that residents receive proper treatment and care for the following special services:

(1) injections;

(2) parenteral and enteral fluids;

(3) colostomy, ureterostomy or ileostomy care;

(4) tracheostomy care;

(5) tracheal suctioning;

(6) respiratory care;

(7) podiatric care; and

(8) prostheses.

(l) Drug therapy. (1) Unnecessary drugs. Each resident's drug regimen shall include only those medications prescribed to treat a specific documented illness or condition and not otherwise contraindicated for a given resident. The drug regimen shall be monitored for evidence of both adverse actions and therapeutic effect. Dose changes or discontinuation of the drug must be made if the drug is ineffective and/or is causing disabling or harmful side effects and/or the condition for which it was prescribed has resolved.

(2) Psychotropic drugs. Based on a comprehensive assessment of a resident and consistent with the provisions of subdivision (a) of section 415.4 of this Part, the facility shall ensure that:

(i) the use of psychotropic drugs shall:

(a) meet all conditions of paragraph (1) of this subdivision;

(b) be ordered by a physician who, in accordance with generally accepted standards of care and services, specifies the problem for which the drug is prescribed;

(c) be used, except in emergencies, only as an integral part of a resident's comprehensive care plan and only after alternative methods for treating the condition or symptoms have been tried and have failed; and

(d) be discontinued if harmful effects of the medication outweigh the beneficial effects of the drug. (ii) residents

who use psychotropic drugs receive gradual dose reductions and behavioral interventions, unless clinically contraindicated, in an effort to discontinue these drugs and assist the resident to attain and maintain optimum physical and emotional functioning.

(m) Medication errors. The facility shall ensure that:

- (1) it is free of medication error rates of five percent or greater; and
- (2) residents are free of any significant medication errors.

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Title: Section 415.13 - Nursing services

415.13 Nursing services. The facility shall have sufficient nursing staff to provide nursing and related services to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident, as determined by resident assessments and individual plans of care. The facility shall assure that each resident receives treatments, medications, diets and other health services in accordance with individual care plans.

(a) Sufficient staff. (1) The facility shall provide services by sufficient numbers of each of the following types of personnel on a 24-hour basis to provide nursing care to all residents in accordance with resident care plans:

(i) registered professional nurses or licensed practical nurses;

(ii) certified nurse aides; and

(iii) other nursing personnel.

(2) The facility shall designate a registered professional nurse or licensed practical nurse to serve as a charge nurse on each tour of duty who is responsible for the supervision of total nursing activities in the facility. Alternatively, as necessitated by resident care needs, the facility may designate one charge nurse for each tour of duty on each resident care unit or on proximate nursing care units in the facility provided that each nursing care unit in the facility is under the supervision of a charge nurse.

(b) Registered professional nurse. (1) The facility shall use the services of a registered professional nurse for at least 8 consecutive hours a day, 7 days a week.

(2) The facility shall designate a registered professional nurse to serve as the director of nursing on a full time basis.

(3) The director of nursing may serve as a charge nurse only when the facility has an average daily occupancy of 60 or fewer residents.

(c) Nurse aide.

(1) For the purpose of this section and section 415.26(d) of this Part, nurse aide shall mean any person who provides direct personal resident care and services including, but not limited to, safety, comfort, personal hygiene or resident protection services, for compensation, under the supervision of a registered professional nurse or licensed practical nurse in the facility, except for those individuals who furnish services to residents only as feeding assistants as defined in Section 415.13(d) of this Part. Certification of such nurse aide shall be in accordance with the provisions of section 415.26(d) of this Part.

(2) Only individuals who meet the following qualifications may be assigned to perform nurse aide functions, as defined in paragraph (1) of this subdivision:

(i) a person who, as verified by the facility, is listed in the New York State RHC Nurse Aide Registry developed and maintained as set forth in Section 2803-j of the Public Health Law and as described in Section 415.31 of this Part;

(ii) a graduate of a nursing program approved by the New York State Commissioner of Education or by

the licensing authority in another state, territory or possession of the United States as preparation for practice as a licensed nurse who has taken and passed the New York State competency examination.

(iii) a nurse aide trainee who has successfully completed a State approved RHCF nurse aide training program as described in subdivision (d) of section 415.26 of this Part or a program designed for such purpose and approved by the State Commissioner of Education and who is waiting to take the RHCF clinical skills and written or oral nurse aide competency examinations at the next scheduled opportunity, such competency examination to be passed within three consecutive attempts within 4 months of the date of the initial RHCF nurse aide trainee employment or of the completion of the State approved RHCF nurse aide training program, whichever occurs first;

(iv) a nurse aide trainee who has taken the competency examinations and is waiting for the official results of the examination;

(v) a certified nurse aide who is currently listed in another state's nursing home nurse aide registry, as verified by the facility, and who has applied to the Department to obtain State certification and has not been denied; and

(vi) a nurse aide trainee provided the individual is concurrently enrolled in a State approved residential health care facility nurse aide training program which meets all requirements set forth in this section and completes such training program and competency examinations within one hundred twenty (120) days of employment, in accordance with the following:

(a) the nurse aide trainee may assume specific duties involving direct resident care and services as training and successful demonstration of competencies in the specific duties/skills are completed, but not before completing at least sixteen (16) hours of classroom instructions in the following areas:

(1) communication and interpersonal skills; (2) infection control;

(3) safety/emergency procedures, including the Heimlich maneuver;

(4) promoting residents' independence;

(5) respecting residents' rights; and

(6) resident abuse, mistreatment and neglect reporting requirements as set forth in Section 2803-d of the Public Health Law; and

(b) the nurse aide trainee shall be under the direct supervision of a nurse when the trainee is providing direct resident care or services and identifiable as a nurse aide trainee.

(vii) If the facility has reason to believe that the individual has worked as a nurse aide in any state(s) other than New York, the facility must request information from the nurse aide registry of such other state(s) before permitting the individual to serve as a nurse aide.

(d) Feeding Assistant. (1) Feeding assistant shall mean an individual who meets the requirements of this section and who is paid by the facility or provided to the facility under contract with another entity to feed residents or assist residents with eating or hydration.

(2) The feeding assistant shall:

(i) be under the supervision of a nurse;

(ii) only feed or assist with feeding only those residents who do not have complicated feeding problems. Complicated feeding problems include, but are not limited to, difficulty swallowing, recurrent lung aspirations, and tube or parenteral/IV feedings.

(iii) have successfully completed a state-approved feeding assistant training program, such program shall meet the requirements as described in subdivision (k) of section 415.26 of this Part.

(3) The charge nurse's selection of residents who can safely be fed or assisted by a feeding assistant shall be based upon a registered professional nurse's assessment and the resident's latest assessment and plan of care.

(4) The feeding assistant may only provide eating and hydration assistance to residents in congregated dining rooms, not in a resident's room.

(5) In an emergency, the feeding assistant must call a supervisory nurse for help on the resident call system, when the supervisory nurse is not on the scene.

(6) The facility must maintain records of all individuals used by the facility as feeding assistants. For each individual, such records shall include, but not be limited to:

(i) a copy of the feeding assistant training program certificate of completion,

(ii) the dates and results of evaluations of the feeding assistant, and

(iii) the dates and subject topics of any additional training related to the individual's role as a feeding assistant, and a record of the individual's demonstrated competency in the activities and/or skills toward which the training was focused.

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Title: Section 415.14 - Dietary services

415.14 Dietary services. The facility shall provide each resident with a nourishing, palatable well-balanced diet that meets the daily nutritional and special dietary needs of each resident.

(a) Direction. The facility shall employ a qualified dietitian either full-time, part-time or on a consultant basis who shall be responsible for the nutrition services in the nursing home.

(1) The facility shall designate a qualified dietitian or a dietetic service supervisor qualified on the basis of education, training and experience in food service management to serve as the director of food service. If the director of food service is not a qualified dietitian, such individual shall receive frequently scheduled consultation from a qualified dietitian.

(2) A qualified dietitian is one who is qualified based upon:

(i) registration by the Commission on Dietetic Registration of the American Dietetic Association,

(ii) education, training and experience in identification of dietary needs, planning and implementation of dietary program, or

(iii) certification as a certified dietitian or certified nutritionist in accordance with Article 157 of the Education Law.

(b) Sufficient staff. The facility shall employ sufficient professional and support personnel competent to carry out the functions of the dietary service.

(1) The availability of qualified dietitian services shall be related to the number of beds in the nursing homes, the amount and type of dietary supervision required, and the complexity of resident needs and additional full or part-time qualified dietitians shall be utilized commensurate with such factors. Each resident's nutritional care shall be under the direction of a qualified dietitian.

(2) The facility shall utilize one or more dietetic service supervisor(s) with consultation by a qualified dietitian to manage the food service in the absence of the qualified dietitian.

(c) Menus and nutritional adequacy.

(1) Menus shall meet the nutritional needs of residents in accordance with dietary allowances that meet generally recognized standards of care and shall take into account the cultural background and food habits of residents.

(i) The facility shall have an effective means of recording and transmitting to the food service diet orders and changes; and

(ii) The facility shall maintain a current list of residents identified by name, location and diet order and such identification shall accompany each resident's meal when it is served.

(2) Menus shall be prepared in advance in accordance with a diet manual acceptable to the medical, nursing and dietary services and retained for one year from the date of serving; and

(3) Menus shall be followed.

(d) Food. Each resident shall receive and the facility shall provide:

(1) food prepared by methods that conserve nutritive value, flavor and appearances;

(2) food that is palatable, attractive, and at the proper temperature;

(3) food prepared in a form designed to meet individual needs; and

(4) substitutes offered of similar nutritive value to residents who refuse food served.

(e) Therapeutic diets. Therapeutic diets shall be prescribed by the attending physician, when indicated, based on the findings of the comprehensive resident assessment.

(f) Frequency of meals. (1) Each resident shall receive and the facility shall provide at least three substantial meals daily, at regular times comparable to normal mealtimes in the community.

(2) There shall be no more than 14 hours between a substantial evening meal and breakfast the following day, except as provided in paragraph (4) of this subdivision.

(3) The facility shall offer snacks at bedtime daily.

(4) If a nourishing snack as determined by a qualified dietitian in accordance with generally accepted standards of care, is provided at bedtime, up to 16 hours may elapse between a substantial evening meal and breakfast the following day provided that a resident group agrees to this meal span and a nourishing snack is served.

(g) Assistive devices. The facility shall provide assistance with eating and special eating equipment and utensils for residents who need them.

(h) Sanitary conditions. The facility shall store, prepare, distribute and serve food under sanitary conditions; and in accordance with the sanitary requirements of Part 14 (Service Food Establishments) of Chapter I (State Sanitary Code) of this Title.

(i) Kosher food. The facility shall provide, as part of the basic services, kosher food or food products prepared in accordance with the Hebrew orthodox religious requirements when the resident, as a matter of religious belief, desires to observe Jewish dietary laws; and shall

(1) establish a plan and procedure for obtaining, preparing and serving kosher foods and food products in accordance with Hebrew Orthodox religious requirements; (2) incorporate the provision of kosher food and food products prepared in accordance with Hebrew orthodox religious requirements into the resident's comprehensive care plan; and

(3) assure that employees who are involved with such plan of care are trained in the procedures that satisfy Hebrew orthodox dietary requirements.

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Title: Section 415.15 - Medical services

415.15 Medical services. The nursing home shall develop and implement medical services to meet the needs of its residents.

(a) Medical director. The facility shall designate a full-time or part-time physician to serve as medical director. The medical director shall be responsible for:

(1) implementation of resident medical care policies;

(2) the coordination of physician services and medical care in the facility;

(3) coordinating the review, prior to granting or renewing professional privileges or association, of any physician, dentist or podiatrist as required by Public Health Law Section 2805-k. Hospital-based nursing homes may utilize the hospital's medical staff membership review system to facilitate this review. Such review shall be coordinated with the activities of the Quality Assessment and Assurance Committee established in section 415.27 of this Part and shall:

(i) provide for the maintenance and continuous collection of information concerning the facility's experience with negative health care outcomes and incidents injurious to residents, resident grievances, professional liability premiums, settlements, awards, costs incurred by the facility for resident injury prevention and safety improvement activities;

(ii) periodically reconsider the credentials, physical and mental capacity and competency in delivery of health care services of all physicians, dentists or podiatrists who are employed or associated with the facility;

(iii) gather information concerning individual physicians, dentists and podiatrists within the individual physician's, dentist's or podiatrist's personnel file maintained by the facility; and

(iv) prior to renewal of privileges of physicians dentists, or podiatrists, solicit and consider information provided by the Resident Council about each such practitioner; and

(4) assuring that each resident's responsible physician attends to the resident's medical needs, participates in care planning, follows the schedule of visits maintained in accordance with subdivision (b) of this section, and complies with facility policies. When a physician fails to provide services which meet generally accepted standards of practice, the medical director shall take necessary corrective measures and refer the matter to the Office of Professional Medical Conduct of the Department as appropriate.

(b) Physician services. The facility shall ensure that a physician personally approves a recommendation that an individual be admitted to a nursing home. Each resident shall remain under the care of a physician and shall be provided care that meets prevailing standards of medical care and services.

(1) Physician supervision. The facility shall ensure that:

(i) the medical care of each resident is supervised by a physician who assumes the principal obligation and

responsibility to manage the resident's medical condition and who agrees to visit the resident as often as necessary to address resident medical care needs; and

(ii) another physician supervises the medical care of residents when the resident's attending physician is unavailable.

(2) Physician visits and responsibilities. The facility shall ensure that the responsible physician:

(i) participates as a member of the interdisciplinary care team in the development and review of the resident's comprehensive care plan with the understanding that the minimum level of physician participation in interdisciplinary development and review of the care plan shall be a person-to-person conference with the registered professional nurse who has principal responsibility for development and implementation of the resident's care plan;

(ii) visits the resident whenever the resident's medical condition warrants medical attention and establishes and maintains a schedule of visits appropriate to the resident's medical condition. The frequency of visits shall be no less often than once every 30 days for the first 90 days after admission, and at least once every 60 days thereafter;

(iii) reviews the resident's total program of care, including medications and treatments, at each regularly scheduled visit;

(iv) prepares, authenticates and dates progress notes at each visit;

(v) authenticates and dates all orders;

(vi) provides residents and designated representatives with his or her name, office address and telephone number and responds to calls from residents to discuss the resident's medical care;

(vii) participates in facility training programs to familiarize him or herself with State regulations and facility policies;

(viii) is informed of the results of all Department of Health surveys related to medical service deficiencies and is involved in resolving such problems; and (ix) at the option of the physician and the facility, scheduled visits after the initial visit may alternate between personal visits by the responsible physician and visits by a registered physician's assistant or certified nurse practitioner in accordance with paragraph (4) of this subdivision.

(3) Availability of physicians for emergency care. The facility shall provide or arrange for the provision of physician services 24 hours a day, in case of an emergency.

(4) Physician delegation of tasks. (i) Except as specified in subparagraph (ii) of this paragraph, a facility may permit a physician to delegate tasks to a registered physician's assistant or certified nurse practitioner who:

(a) meets the applicable requirements of Part 94 of this Title or is certified as a nurse practitioner, respectively;

(b) is acting within the scope of practice as defined by State law; and

(c) is under the supervision of the physician.

(ii) The facility shall not permit a physician to delegate a task when the regulations specify that the physician must perform it personally or when the delegation is prohibited by the facility's own policies.

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Title: Section 415.16 - Rehabilitative services

415.16 Rehabilitative services. Facilities shall provide or obtain rehabilitative services such as audiology, speech therapy, speech-language pathology, and occupational therapy for every resident it admits in accordance with the resident's comprehensive plan of care to obtain or maintain the highest practicable physical well-being in accordance with generally accepted standards of rehabilitative care and services.

(a) Provision of services. If specialized rehabilitative services are required in the resident's comprehensive plan of care, the facility shall:

(1) provide the required services; or

(2) obtain the required services from an outside resource, in accordance with Section 400.4 of this Title, who is a provider of specialized rehabilitative services.

(b) Qualifications. Specialized rehabilitative services shall be provided by qualified personnel pursuant to the written order of a physician.

(c) Organization. The facility shall designate an occupational therapist, physical therapist and speech-pathologist to assist the facility in the development and implementation, in cooperation with nursing and medical services, of written policies and procedures for rehabilitative services within the facility which:

(1) establish restorative and maintenance rehabilitation as components of inter-disciplinary resident care planning and treatment;

(2) establish a system of determining rehabilitative goals for each resident based on the resident's need relative to his or her physical and mental level of functioning, the overall plan of care for the resident and the resident preferences. These treatment goals shall range on a continuum, progressing from all specialized restorative rehabilitative services to routine maintenance rehabilitation; and

(3) establish a system to monitor the maintenance of optimum levels of functioning for those residents who have been discharged from a formal rehabilitative program and who are on a maintenance program primarily provided by nursing staff on the floor.

Volume: C

Effective Date: 04/01/92

Title: Section 415.17 - Dental services

415.17 Dental services. The facility shall provide oral hygiene care and routine and 24-hour emergency dental care in accordance with the comprehensive resident care plan and which meets generally accepted standards of dental and dental hygiene care and services.

(a) Organization. The facility shall appoint a licensed and currently registered dentist to assist the facility in the development and implementation, in cooperation with nursing and medical services, of written dental service and oral hygiene policies and procedures which:

(1) establish oral hygiene and dental care as components of interdisciplinary resident care planning and treatment;

(2) develop an oral hygiene program to be jointly administered by nursing, dental and dental hygiene staff;

(3) set forth in detail how emergency care to alleviate pain, infection, or swelling and routine dental services are to be provided and the specific arrangements with dentist(s) who are to provide these services including the prompt referral of residents with lost or damaged dentures to a dentist if such residents will benefit from such referral; and

(4) establish a system of determining dental treatment goals for each resident based on the resident's need relative to his or her physical and mental level of functioning, the overall plan of care for the resident and the resident's preferences. These treatment goals shall range on a continuum, progressing from all essential dental services to only routine oral hygiene services and emergency services. The decision to defer treatment of identified dental conditions shall be documented based on physical or mental contraindications for care and the resident's informed choice.

(b) Admission. An initial screening of each resident's oral health status shall be conducted within 48 hours of admission to determine the need for emergency care to alleviate pain, infection, or swelling. The presence and functioning of any oral prostheses shall be observed, and, with the resident's consent, the prostheses shall be indelibly marked for identification.

(c) Oral Examination and Treatment. A complete oral examination of each resident shall be conducted by a licensed and currently registered dentist or dental hygienist within 7 days following completion of the initial comprehensive assessment in accordance with Section 415.11 of this Part and by a dentist at least annually thereafter. Based on treatment priorities determined at each time of examination, an individual plan of continuing oral hygiene and dental care meeting generally accepted standards of dental and dental hygiene care and services shall be established, or updated, and carried out for each resident. If treatment by a dentist is needed, such treatment shall begin within 30 days of the examination. This shall include arrangements for transportation when the services of a provider outside the facility are required.

(d) Records. The admission dental record and records of all subsequent dental care shall be maintained as part of the resident clinical record.

Volume: C

Effective Date: 12/27/2006

Title: Section 415.18 - Pharmacy services

415.18 Pharmacy Services. (a) The facility shall provide pharmaceutical services and develop and implement policies and procedures that assure the accurate acquisition, receipt, dispensing and administering of all drugs and biologicals required to meet the needs of each resident. The facility shall provide routine and emergency drugs and biologicals directly to its residents, or obtain them under a contract as described in section 400.4 of Part 400 of this Subchapter. The facility shall be licensed under Article 33 of the Public Health Law and Part 80 of this Title.

(b) Service consultation. The facility shall employ or obtain the services of a registered pharmacist who:

(1) provides consultation on all aspects of the provision of pharmacy services in the facility;

(2) establishes a system of records of receipt and disposition of all controlled drugs; and

(3) determines that drug records are in order and that an account of all controlled drugs is maintained and periodically reconciled consistent with the requirements of Article 33 of the Public Health Law and Part 80 of this Title.

(c) Drug regimen review. (1) The drug regimen of each resident shall be reviewed at least once a month by a registered pharmacist.

(2) The pharmacist shall report any irregularities to the attending physician and the director of nursing, and these reports shall be acted upon promptly. The findings and corrective actions shall be regularly reviewed by the quality assessment and assurance committee established pursuant to section 415.27 of this Part.

(3) Psychotropic drugs may be administered only on the orders of a physician and only as part of a plan of care, developed in accordance with sections 415.4, 415.11 and 415.12 of this Part, designed to eliminate or modify the symptoms for which the drugs are prescribed.

(d) Labeling of drugs and biologicals. The facility shall label drugs and biologicals in accordance with currently accepted standards of practice and include the appropriate accessory and cautionary instructions and the expiration date. Labeling of all medications shall be in accordance with Article 137 of the State Education Law and 8 NYCRR Part 29. Facilities which use a unit dose drug distribution system shall develop and implement an appropriate method of providing accessory and cautionary instructions.

(e) Storage of drugs and biologicals. (1) The facility shall store all drugs and biologicals in locked compartments under proper temperature controls, and permit access only to authorized personnel.

(2) The facility shall provide separately locked, permanently affixed, compartments for storage of controlled drugs and other drugs 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. Storage of controlled substances shall be in accordance with Article 33 of the Public Health Law and Part 80 of this Title.

(3) Poisons and medications for "external use only" shall be kept in a locked cabinet and separate from other medications; and

(4) medications whose shelf life has expired or which are otherwise no longer in use shall be disposed of or destroyed in accordance with State and Federal laws and regulations.

(f) Return of unused medications. (1) When services are provided by a cooperating vendor pharmacy, the facility shall establish policies and procedures which permit either the staff registered pharmacist or consultant registered pharmacist to return to the vendor pharmacy from which it was purchased any unused medications or drug products, provided such medication is sealed in unopened, individually packaged, units and within the recommended period of shelf life for the purpose of redispensing and which are in accord with the following provisions:

(i) Drug products which may be returned are limited to:

(a) oral and parenteral medication in single-dose hermetically sealed containers; and

(b) parenteral medication in multiple-dose hermetically sealed containers from which no doses have been withdrawn.

(ii) The drug products returned show no obvious sign of deterioration.

(iii) Drug products packaged in manufacturer's unit-dose packages may be returned for redispensing provided that they are redispensed in time for use before the expiration date, if any, indicated on the package.

(iv) Drug products repackaged by the pharmacy into unit-dose or multiple-dose "blister packs" may be returned for redispensing provided that:

(a) the date on which the drug product was repackaged, its lot number and expiration date are indicated clearly on the package;

(b) not more than 90 days have elapsed from the date of the repackaging;

(c) a repackaging log is maintained by the pharmacy in the case of drug products repackaged in advance of immediate needs. (v) "Blister packs". (a) Partially used "blister packs" may be redispensed only as returned.

(b) Partially used "blister packs" may not be emptied and repackaged.

(c) Additional units of medication may not be added to partially used "blister packs".

(vi) No drug product dispensed in bulk in a dispensing container may be returned.

(vii) No medication or drug product defined as a controlled substance in section 3306 of the Public Health Law may be returned.

(2) The vendor pharmacy to which such drug products are returned shall reimburse or credit the nursing home or purchaser of such drug products for the unused medication that is restocked and redispensed and shall not otherwise charge any individual resident or the State, if a resident is a recipient or beneficiary of a State-funded program, for unused medication or drug products returned for reimbursement or credit.

(g) Emergency medications. The facility shall ensure the provision of (an) emergency medication kit(s)

as follows:

(1) The contents of each kit shall be approved by the medical director, pharmacist and director of nursing.

(2) Limited supplies of controlled substances for use in emergency situations may be stocked in sealed emergency medication kits.

(i) Each such kit may contain up to a 24 hour supply of a maximum of ten different controlled substances in unit dose packaging, three of which may be injectable drugs.

(ii) Controlled substances contained in emergency medication kits may be administered by authorized personnel pursuant to an order of an authorized practitioner to meet the immediate need of a resident. Personnel authorized to administer controlled substances shall include registered professional nurses, licensed practical nurses or other practitioners, licensed/registered under Title VIII of the Education Law and authorized to administer controlled substances.

(iii) The facility shall maintain all records of controlled substances furnished or transferred from the pharmacy and the disposition of all controlled substances in emergency kits, as required by article 33 of the Public Health Law and corresponding regulations.

(3) For medications other than controlled substances the medication contents of each kit shall be limited to injectables except that the kit may also include:

(i) sublingual nitroglycerin; and

(ii) up to five noninjectable, prepackaged medications, not to exceed a 24-hour supply. The total number of noninjectables may not exceed 25 medications for the entire facility;

(4) Each kit shall be kept and secured within or near the nurses' station.

(h) Medications for leaves. Medication shall be released to discharged residents or to a resident going on temporary leave. The medication supply in the facility may be used to supply the medications needed for a temporary leave of absence.

(i) *Verbal orders.* All medications administered to residents shall be ordered in writing by a legally authorized practitioner unless unusual circumstances justify a verbal order, in which case the verbal order shall be given to a licensed nurse, or to a licensed pharmacist, immediately reduced to writing, authenticated by the nurse or registered pharmacist and countersigned by the prescriber within 48 hours. In the event a verbal order is not signed by the prescriber or a legally designated alternate practitioner within 48 hours, the order shall be terminated and the facility shall ensure that the resident's medication needs are promptly evaluated by the medical director or another legally authorized prescribing practitioner.

Volume: C

Effective Date: 09/18/91

Title: Section 415.19 - Infection control

415.19 Infection control. The facility shall establish and maintain an infection control program designed to provide a safe, sanitary, and comfortable environment in which residents reside and to help prevent the development and transmission of disease and infection.

(a) Infection control program. The facility shall establish an infection control program with written policies and procedures under which it:

(1) Investigates, controls and takes action to prevent infections in the facility;

(2) Determines what procedures such as isolation and universal precautions should be utilized for an individual resident and implements the appropriate procedures; and

(3) Maintains a record of incidence and corrective actions related to infections.

(b) Preventing spread of infection. (1) When the infection control program determines that isolation is needed to prevent the spread of infection, the facility shall isolate the resident.

(2) The facility shall assure that all equipment and supplies are cleaned and properly sterilized where necessary and are stored in a manner that will not violate the integrity of the sterilization.

(3) The facility shall prohibit persons, including but not limited to, staff, volunteers, and visitors known to have a communicable disease or infected skin lesions from direct contact with residents or their food, if direct contact will transmit the disease.

(4) The facility shall require physicians and staff to wash their hands after each direct resident contact for which handwashing is indicated by accepted professional practice.

(c) Linens. Personnel shall handle, store, process, and transport linens so as to prevent the spread of infection.

(d) Reporting. The facility shall report increased incidence of infections, including nosocomial infections as defined in Section 2.2 of this Title, to the appropriate area office of the Office of Health Systems Management and shall report, immediately, the presence of any communicable disease as defined in section 2.1 of Part 2 of this Title to the city, county or district health officer.

(e) Notice to Funeral Director. If, at the time of death, a resident was diagnosed as having a specific communicable disease designated in Part 2 of this Title or an infectious disease, a written report of such disease shall accompany the body when it is released to the funeral director or his or her agent, except that no HIV-related information shall be disclosed to the funeral director unless the funeral director has access in the ordinary course of business to HIV-related information on the death certificate of the deceased individual.

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).

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Effective Date: 04/03/91

Title: Section 415.20 - Laboratory and blood bank

415.20 Laboratory and blood bank. (a) Approved laboratory or blood bank. The facility shall provide for blood and laboratory services to meet the needs of its residents, pursuant to orders by authorized licensed practitioners, and shall be responsible for the quality and timeliness of such services:

(1) by promptly performing such services as the facility is licensed to provide directly under Subparts 58-1 and 58-2 of this Title, as appropriate, and, is certified to perform by the Medicare program; and

(2) by promptly arranging for an approved blood bank or laboratory service to perform such services as the facility may require, but not provide. Such services shall be obtained from entities approved under Subparts 58-1 and 58-2 of this Title, as appropriate, which are certified by the Medicare program to provide such services.

(b) Transportation. The facility shall assist the resident in making transportation arrangements to and from the source of laboratory or blood bank service, if the resident needs assistance.

(c) Records. The facility shall ensure that authenticated and dated reports of clinical laboratory and blood bank services are placed in the resident's clinical record.

Volume: C

Effective Date: 04/03/91

Title: Section 415.21 - Radiology and other diagnostic services

415.21 Radiology and other diagnostic services. (a) The facility shall provide or obtain radiology and other diagnostic services to meet the needs of its residents pursuant to an order by an appropriate practitioner. The facility shall be responsible for the quality and timeliness of such services.

(1) The facility shall promptly perform such services as the facility is licensed to provide directly under Part 16 of this Title. The services shall be provided in accordance with generally recognized standards of care and services.

(i) The diagnostic radiology and other diagnostic services shall be free from hazards for residents and staff.

(ii) Personnel. A qualified full-time, part-time, or consulting physician, who is qualified by education and experience in radiology, shall supervise the ionizing radiology services and shall interpret those tests that are determined by the governing body, and the medical director, to require such physician's specialized knowledge. Upon recommendation of such qualified physician, the medical director shall designate the practitioners and staff, in accordance with Part 89 of this Title, who may use the radiologic equipment, administer procedures and interpret test results.

(iii) Records. Records of diagnostic radiologic services shall be maintained.

(a) The practitioner who performs radiology services shall prepare and authenticate reports of his or her interpretations.

(b) The facility shall maintain for at least six years or three years after a resident who is a minor reaches the age of majority (18) films, scans, and other image records which have not been incorporated into the resident's clinical record.

(2) The facility shall promptly arrange for ordered radiology and other diagnostic services which the facility is not licensed to provide. Such services shall be obtained from entities approved under Part 16 of this Title and which are certified by the Medicare program.

(b) The facility shall:

(1) promptly notify the ordering practitioner of the results of radiologic and other diagnostic services.

(2) assist the resident, if needed, with transportation arrangements to and from the source of services.

(3) file in the resident's clinical record authenticated and dated reports of diagnostic radiology and other diagnostic services.

Volume: C

Effective Date: 04/01/92

Title: Section 415.22 - Clinical records

415.22 Clinical records. (a) The facility shall maintain clinical records for each resident in accordance with accepted professional standards and practice. The records shall be:

- (1) complete;
- (2) accurately documented;
- (3) readily accessible; and
- (4) systematically organized.

(b) Clinical records shall be retained for six years from the date of discharge or death or for residents who are minors, for three years after the resident reaches the age of majority (18).

(c) The facility shall safeguard clinical record information against loss, destruction, or unauthorized use;

(d) The facility shall keep confidential all information contained in the resident's records, regardless of the form or storage method of the records, except when release is required by:

- (1) transfer to another health care institution;
- (2) law; or
- (3) the resident.

(e) The facility shall permit each resident to inspect his or her records and obtain copies of such records in accordance with the provisions of subparagraph (iv) of paragraph (1) of subdivision (c) of section 415.3 of this Part.

(f) The clinical record shall contain:

- (1) sufficient information to identify the resident;
- (2) a record of the resident's comprehensive assessments;
- (3) the plan of care and services provided;
- (4) the results of any preadmission screening conducted by the State;
- (5) progress notes by all practitioners and professional staff caring for the resident; and
- (6) reports of all diagnostic tests and results of treatments and procedures ordered for the resident.

Volume: C

Effective Date: 06/02/2010

Title: Section 415.26 - Organization and administration

415.26 Organization and administration. A nursing home shall be administered in a manner that enables it to use its resources effectively and efficiently to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident.

(a) Administration.

(1) No nursing home shall operate unless it is under the supervision of an administrator who holds a currently valid nursing home administrator's license and registration, or temporary license, issued pursuant to Article 28-D of the Public Health Law. The administrator shall set an example for all staff members, consultants and others affiliated with the facility which recognizes that the institution exists to serve the interests of and the needs of the residents, which emphasizes the importance of a resident's right to independence regarding all aspects of institutional life and encourages residents to participate together with staff in resolving conflicts and problems which frequently arise in a group residential setting. The administrator shall:

(i) be readily accessible to residents and staff for consultations;

(ii) involve the Resident Council in addressing the need to seek compromises between conflicting resident and staff interests and needs;

(iii) encourage professional and respectful behavior on the part of the staff toward residents; and

(iv) seek to involve staff at all levels in developing and implementing an interdisciplinary approach to resident services, in order to better serve the individual and group interests of residents.

(2) Administrator coverage.

(i) Nursing homes with 41 or more beds shall employ a full-time administrator.

(ii) Nursing homes with 40 beds or fewer shall designate in writing a licensed and registered administrator for an amount of time in accordance with the following:

(a) In no event shall an administrator be employed for fewer than twelve hours per week; such hours to be served during normal business hours of 7:00 a.m. to 5:30 p.m. Monday thru Friday.

(b) The Department may require employment greater than 12 hours per week based on:

(1) the size of the facility;

(2) the history and nature of any operating deficiencies; and

(3) any investigations or other problems brought to the attention of the Commissioner.

(iii) The governing body shall designate in writing a staff member to serve as alternate administrator for all hours that the administrator of record is absent from duty to ensure that all shifts, 24 hours-a-day, 7 days-a-week are covered by administrative supervision.

(iv) No person whose license to practice nursing home administration has been forfeited, revoked,

annulled, or placed on inactive status or suspended shall be involved in the administration and direction of a nursing home either on a full-time, part-time or acting basis.

(3) When, by reason of death, resignation, incapacity, illness or other reason, the nursing home does not have a licensed and currently registered nursing home administrator capable of carrying out such functions, the governing body shall immediately notify the commissioner, assign such duties to a named individual acceptable to the commissioner in accordance with that individual's training, experience and prior record of work performance at a nursing home, and provide for supervision of the nursing home by a licensed and currently registered nursing home administrator in accordance with the following:

(i) A plan for the supervision of the unlicensed acting nursing home administrator shall be submitted to the Department which provides that:

(a) The nursing home is making a bonafide effort to recruit a licensed and registered nursing home administrator;

(b) There is no other licensed and registered person in the facility available, capable and willing to accept the position;

(c) The supervising administrator will provide a minimum of four hours of on-site supervision weekly during normal business hours unless the Department determines that more hours are necessary based on:

(1) the quality of care in the facility;

(2) the qualifications of the unlicensed acting administrator; and

(3) the on-site presence of qualified administrative staff.

(ii) the unlicensed acting administrator shall serve for a maximum of three months except that the nursing home may request and receive from the Department one additional three month extension upon a finding that the unlicensed acting administrator has performed his or her duties effectively and that the quality of resident care and services has not deteriorated.

(4) In addition to the other responsibilities delineated herein, the administrator shall:

(i) report to the governing body at regular intervals;

(ii) implement the policies of the nursing home by making operating decisions, including but not limited to general supervision, employing and discharging of staff, programming and, where appropriate, integrating the services of the nursing home with the community's health resources;

(iii) assure that the residents' council:

(a) meets as often as the membership deems necessary;

(b) is directed by the residents and is chaired by a resident or another person elected by the membership; and

(c) may meet with any member of the supervisory staff provided that reasonable notice of the council's request is given to such staff;

(iv) agree to assign a staff person in consultation with the Resident Council, acceptable to such Council, to act as advisor or coordinator, to facilitate the Council in holding regular meetings and to assist members in carrying out Council activities, including obtaining necessary information to become informed of facility policies, exploring the solutions to problems and conveying to the administrator issues and suggestions which require administrative action;

(v) assure that any complaints, problems or issues reported by the council to the designated staff person or administration are addressed; and that a written report addressing the problem, issues or suggestions is sent to the council when requested; and

(vi) assure that except in extraordinary circumstances such as health emergencies, the facility has visiting hours encompassing at least 10 hours within a 24 hour period, including at least two meal periods, and that a statement as to the visiting hours is posted in a public place such as the main lobby or the residents' dining room.

(5) The facility shall provide such secretarial, accounting, receptionist and other supportive personnel, and such office equipment and supplies, as are needed for satisfactory administration of the nursing home.

(b) Governing Body. The nursing home shall have a governing body, or designated persons functioning as a governing body, that is legally responsible for establishing and implementing policies regarding the management and operation of the facility. The governing body shall:

(1) appoint an administrator who is eligible for such appointment and who functions in accordance with subdivision (a) of this section;

(2) determine and establish written policies consistent with the stated purposes of the facility, the program of services provided, its physical structure and equipment, the number and qualifications of staff members, and their job classifications and descriptions;

(3) be responsible for the operation of the facility;

(4) be responsible for providing or arranging services for residents as required in this Subchapter;

(5) employ or otherwise arrange for the services of such personnel as are required in this Subchapter;

(6) assure that a method is implemented to promptly deal with complaints and recommendations made by residents or designated representatives which:

(i) enables complaints and recommendations to be made orally or put in writing;

(ii) brings complaints and recommendations promptly to the attention of the administration for review and resolution;

(iii) responds to all residents or designated representatives as to action taken or the reason why no action was taken, as soon as possible and except under extraordinary circumstances such as health or administrative emergencies, within 21 days after the complaint or recommendation was made; and

(iv) provides for review and evaluation of the effectiveness of the complaint process;

(7) assure that the complaint and recommendation method is made known to:

- (i) all residents upon admission and their designated representatives; and
 - (ii) all nursing, social service and other appropriate personnel, in order to assist residents who want to make a complaint or recommendation;
- (8) assure that the facility establishes a residents' council;
- (9) be responsible for compliance with all provisions of this Subchapter;
- (10)(i) post in a public place a notice supplied by the New York State Department of Health containing:
- (a) the time and date the facility shall assess residents to determine case mix intensity, pursuant to section 86-2.30 of this Title; and
 - (b) department auditors will be in the facility to review the data submitted by the facility in the patient review instrument for the current assessment period; and
 - (c) a statement that each resident and/or the resident's designated representative has the right to know the specific assignment to a patient classification category; and
 - (d) the person within the facility to contact for this information.
- (ii) notify the resident and/or the resident's designated representative according to the following procedures, that a process exists for reimbursement purposes to assign residents to a patient classification category as contained in Appendix 13-A of this Title entitled "Patient Categories and Case Mix Indices Under Resource Utilization Group (RUG-II) Classification System":
- (a) upon admission to the facility, at the initial resident assessment required pursuant to section 415.11 of this Part a designated professional staff member shall inform the resident and/or resident's designated representative of this process and that further information on the classification system is available upon request; and
 - (b) the process by which residents are classified for reimbursement purposes into the RUG-II classification system shall be, at least annually, an item for discussion on the agenda at a resident council as required by paragraph (8) of this subdivision;
- (11) furnish for the staff telephone services consisting of at least one operational, unlocked, noncoin telephone installation on each floor of the facility, for the use of professional staff in the performance of their duties;
- (12) permit activities related only to the operation of the facility except that the operator, subject to prior written approval of the commissioner, may, where such arrangement will not result in any diminishment of resident care or services, or adversely affect the cost of delivering nursing home services;
- (i) enter into a written contract for the purpose of leasing unneeded space and equipment on the premises of the facility to a health care practitioner licensed by the State Education Department, or to a provider licensed under the Public Health Law, Mental Hygiene Law, or Social Services Law to provide health care services to residents or nonresidents, where such arrangements will also promote needed health care services for residents; or

(ii) prepare food for consumption off-site as part of a nutrition program or make available service of meals, nutrition education, and nutrition counseling for nonresidents on-site;

(13) notify the department immediately of anticipated or actual termination of any service vital to the continued safe operation of the facility or to the health and safety of its residents and personnel, including but not limited to the anticipated or actual termination of telephone, electric, gas, fuel, water, heat, air conditioning, rodent or pest control, contract food, or contract laundry services, and the services of key full- or part-time personnel such as the administrator, director of nurses, consultant physician, consultant dietitian or others; and apply remedial measures promptly and notify the department immediately regarding the nature of results of such measures;

(14) transfer residents to another appropriate facility only after consultation, as appropriate, with the resident, his or her physician, and designated representative except in an emergency situation, in which case the operator shall notify the physician and designated representative immediately and record the reason for the transfer; and

(15) ensure that members of the governing body make themselves available to hold meetings with representatives of the Resident Council at least 3 times a year to discuss matters contained in a jointly developed agenda.

(c) Staff qualifications and personnel management. The nursing home shall employ on a full time, part time or consultant basis a sufficient number of professional staff members who are educated, oriented and qualified to carry out the provisions of this Part and to assure the health, safety, proper care and treatment of the residents.

(1) With regard to personnel management, the facility shall:

(i) provide personnel in accordance with paragraph (2) of this subdivision, with a planned orientation to nursing home operation and resident care and such on-the-job training as is necessary for each properly to perform his or her individual job assignments:

(ii) have on file and furnish each employee with a copy of written policies governing conditions of employment, including the job description for his or her position;

(iii) assure that each part-time, full-time or private duty employee, consultant, volunteer, or other person serving in any other capacity in the nursing home shall:

(a) receive an orientation which shall include but not be limited to the following:

(1) a review and explanation of relevant personnel policies and procedures, including his or her job description;

(2) an orientation to the facility's organization, its long-term care philosophy, the roles of all personnel in the organization;

(3) an orientation to the physical plant, infection control, quality assessment and assurance and the environmental aspects of the facility;

(4) the facility safety program, including fire safety, accident prevention, resident emergency procedures, and facility operation during disruption of services;

(5) resident's rights; and

(6) resident abuse and neglect reporting requirements as set forth in section 2803-d of the Public Health Law.

(b) be on duty, alert and appropriately dressed during the entire tour of duty, part-time assignment, consultation visit, volunteer work, private duty or other employment in the nursing home;

(c) maintain personal cleanliness and hygiene; and

(d) conduct himself or herself in a professionally acceptable manner with all residents, employees and guests, including refraining from abusive, immoral or other unacceptable conduct, behavior or language and demonstrating respect for each resident's dignity in full recognition of his or her individuality;

(iv) assign each employee duties consistent with his or her job description and with his or her level of competence, education, preparation and experience; and

(v) develop and implement policies and procedures which require:

(a) the provision for a physical examination and recorded medical history for personnel including all employees and members of the medical and dental staff. The examination shall be of sufficient scope to ensure that, consistent with federal and state statutes prohibiting discrimination on the basis of disability or handicap, no person shall assume his/her duties unless he/she is free from a health impairment that would present a risk to the resident which cannot be reasonably accommodated, or which might interfere with the performance of his/her duties, including the habituation or addiction to depressants, stimulants, narcotics, alcohol or other drugs or substances which may alter the individual's behavior. The nursing home is required to provide such examination without cost for all employees. The nursing home shall also conduct a health status assessment of all volunteers whose activities are such that a health impairment would pose a risk to residents or personnel, in order to determine that the health and well being of residents and personnel are not jeopardized by the condition of such volunteers. The nursing home shall require the following of all personnel as a condition of employment or affiliation:

(1) either tuberculin skin test or Food and Drug Administration (FDA) approved blood assay for the detection of latent tuberculosis infection, prior to employment or affiliation and no less than every year thereafter for negative findings. Positive findings shall require appropriate clinical follow-up but no repeat tuberculin skin test or blood assay. The medical staff shall develop and implement policies regarding positive outcomes; and

(2) a certificate of immunization against rubella which means:

(i) a document prepared by a physician, physician's assistant, specialist's assistant, nurse practitioner, licensed midwife or a laboratory possessing a laboratory permit issued pursuant to Part 58 of this Title, demonstrating serologic evidence of rubella antibodies; or

(ii) a document indicating one dose of live virus rubella vaccine was administered on or after the age of twelve months, showing the product administered and the date of administration, and prepared by the health practitioner who administered the immunization, or

(iii) a copy of a document described in (i) or (ii) of this subclause, which comes from a previous employer or the school which the employee attended as a student; and

(3) a certificate of immunization against measles, for all personnel born on or after January 1, 1957, which means:

(i) a document prepared by a physician, physician's assistant, specialist's assistant, nurse practitioner, licensed midwife or a laboratory possessing a laboratory permit issued pursuant to Part 58 of this Title, demonstrating serologic evidence of measles antibodies; or

(ii) a document indicating two doses of live virus measles vaccine were administered with the first dose administered on or after the age of 12 months and the second dose administered more than 30 days after the first dose but after 15 months of age showing the product administered and the date of administration, and prepared by the health practitioner who administered the immunization; or

(iii) a document, indicating a diagnosis of the employee as having had measles disease, prepared by the physician, physician's assistant/specialist's assistant, licensed midwife or nurse practitioner who diagnosed the employee's measles; or

(iv) a copy of a document described in (i), (ii) or (iii) of this subclause which comes from a previous employer or the school which the employee attended as a student;

(4) if any licensed physician, physician's assistant/specialist's assistant, licensed midwife or nurse practitioner certifies that immunization with measles and/or rubella vaccine may be detrimental to the employee's health, the requirements of subclause (2) and/or (3) of this clause relating to measles and/or rubella immunization shall be inapplicable until such immunization is found no longer to be detrimental to such employee's health. The nature and duration of the medical exemption must be stated in the employee's employment medical record and must be in accordance with generally accepted medical standards, (see, for example, the recommendations of the American Academy of Pediatrics and the Immunization Practices Advisory Committee of the U.S. Department of Health and Human Services).

(b) the reassessment of the health status of all personnel as frequently as necessary, but no less than annually, to ensure that personnel are free from health impairments which pose a risk to residents or personnel which cannot be reasonably accommodated or which may interfere with the performance of duties;

(c) that all personnel report immediately to their supervisor or the administrator any signs or symptoms of personal illness. All personnel making such report shall be referred to an appropriate health care professional for assessment of the risk to residents and personnel. Based on this assessment, the nursing home shall authorize appropriate measures to be taken, including but not limited to removal, reassignment or return to duty;

(2) For all personnel, the facility shall provide planned orientation and staff development programs, including but not limited to:

(i) an orientation for each new employee prior to or within one week of employment;

(ii) on-the-job skill training as is necessary for each to properly perform his or her job;

(iii) continuous staff development programs to increase knowledge, skills and understanding of problems and ways of dealing with problems associated with residents needing nursing home care including knowledge of the Quality Assurance and Assessment program in the facility; and

(iv) maintenance of records of these activities, including the methods used and an evaluation on their

effectiveness.

(3) For all personnel who provide services in the nursing home, for whom licensure, registration or certification is required, the facility shall obtain and retain verification of license number or certification with expiration date of same.

(4) For all services and departments, the facility shall maintain:

(i) an organization chart;

(ii) a master plan for staffing; and

(iii) policies and procedure manuals.

(d) Nurse aide certification and training. (1) Definitions. The following terms used in this section shall be defined as follows:

(i) Nurse aide training program coordinator shall mean a person who is assigned the administrative responsibility and accountability for the RHCF nurse aide training program. The program coordinator (PC) shall be a registered professional nurse with at least two years experience in a nursing home and demonstrated competency to teach adult learners as evidenced and documented by at least one of the following:

(a) completion of a professionally recognized course in teaching adult learners or New York State Education Department teacher certification;

(b) two years of experience teaching nursing or nursing related programs to adults in an academic setting approved by the State Education Department or other recognized accrediting body; or

(c) two years of experience teaching nurse aides in a residential health care facility.

(ii) Instructor shall mean the person who is assigned the educational responsibility for the nursing home nurse aide training program. This person shall have the day to day responsibility for implementing the facility's training program in accordance with the facility's policies and procedures and State and federal requirements. The instructor shall be a registered professional nurse with at least one year of experience in a nursing home who has demonstrated ability to teach adult learners as evidenced and documented by at least one of the following:

(a) completion of a professionally recognized course in teaching adult learners or New York State Education Department teacher certification;

(b) two years of experience teaching nursing or nursing related programs to adults in an academic setting approved by the State Education Department or other recognized accrediting body; or

(c) two years of experience teaching nurse aides in a residential health care facility.

(iii) Clinical skills evaluator or Nurse Aide Evaluator shall mean a person who administers part or all of the state authorized residential health care facility nurse aide competency examinations. This person shall be a registered professional nurse who has one year of nursing home experience and has successfully completed the State approved clinical evaluator or nurse aide evaluator program. Effective July 1, 1992, only individuals possessing nurse aide evaluator designation may administer the State

RHCF nurse aide competency examinations.

(2) Nurse aide certification. In order to obtain nurse aide certification and be listed in the New York State RHCF Nurse Aide Registry as described in Section 415.31 of this Part, an individual must successfully complete a State approved residential health care facility nurse aide training program as described in paragraph (2) of this subdivision and pass the State authorized clinical skills competency examination and written or oral competency examination as described in paragraph (3) of this subdivision.

(i) The residential health care facility nurse aide training program shall be reviewed and approved by the Department prior to implementation as to the requirements contained in this section.

(ii) The facility shall be notified by the Department within 90 days of the submission of the program whether the program has been approved, disapproved or additional information is required.

(iii) Program approval will be granted for a term not to exceed 2 years and is subject to on-site review for the purpose of determining compliance with applicable State and federal requirements during the course of all facility surveys.

(iv) Approved programs must notify the Department, in the form and manner described by the Department, and may be subject to review, whenever substantive changes are made to the program.

(v) Approval to provide training by or in the facility will be withdrawn by the Department for up to two years each time the facility:

(a) fails to permit unannounced visits;

(b) fails to meet all of the applicable federal and State requirements for nurse aide training and competency evaluation;

(c) is subjected to an extended or partial extended survey;

(d) is assessed a civil monetary penalty of \$5,000.00 or more;

(e) has a temporary manager, receiver or caretaker appointed;

(f) is subjected to a ban on admissions or a denial of payment under either the Title XVIII or Title XIX programs.

(3) Nurse aide training program. The training program shall be supervised by a Program Coordinator who meets the definition specified in subparagraph (i) of paragraph (1) of this subdivision and conducted by the Primary Instructor who meets the definition specified in subparagraph (ii) of paragraph (1) of this subdivision. The program coordinator may be the director of nursing services provided that the director of nursing services does not perform the actual training. Additional health care personnel may supplement the instructor to provide specialized training provided that such supplemental trainers have at least one year of experience in their field of expertise.

(i) The nurse aide training program shall include classroom and clinical training which enhances both skills and knowledge and, when combined, shall be of at least 100 hours' duration. The clinical training shall as a minimum include at least 30 hours of supervised practical experience in a nursing home. The nurse aide training program shall include stated goals, objectives, and measurable performance criteria

specific to the curriculum subject material, the resident population and the purpose of the facility, and shall be consistent with the curriculum outlined below. This curriculum shall be taught at a fourth (4th) to sixth (6th) grade English literacy level. Facilities with special populations shall supplement the curriculum to address the needs of such populations accordingly. The curriculum shall otherwise include but not be limited to the following:

(a) Normal aging:

- (1) anatomical changes;
- (2) physiological changes;
- (3) psychosocial aspects:
 - (i) role changes;
 - (ii) cultural changes;
 - (iii) spiritual needs; and
 - (iv) psychological and cognitive changes; and
- (4) concept of wellness and rehabilitation.

(b) Psychological needs of the resident:

- (1) adjustment to institutional living;
- (2) working with resident and family during admission/transfer/discharge;
- (3) residents' rights:
 - (i) respect and dignity;
 - (ii) confidentiality;
 - (iii) privacy; and
 - (iv) self-determination; and
- (4) sexual adjustments in relation to illness, physical handicaps and institutional living.

(c) Communication in health care facilities:

- (1) relating to residents, families, visitors, and staff;
- (2) methods of communication in overcoming the barriers of language and cultural differences; and
- (3) communicating with residents who have sensory loss, memory, cognitive or perceptual impairment.

(d) Personal care needs:

- (1) care of the skin, mouth, hair, ears and nails; and
 - (2) dressing and grooming.
- (e) Resident unit and equipment:
- (1) bed-making; and
 - (2) care of personal belongings such as clothing, dentures, eyeglasses, hearing aids and prostheses.
- (f) Nutritional needs:
- (1) basic nutritional requirements for foods and fluids;
 - (2) special diets;
 - (3) meal services;
 - (4) assistance with eating:
 - (i) use of adaptive equipment; and
 - (ii) feeding the resident who needs assistance; and
 - (5) measuring and recording fluid and food intake.
- (g) Elimination needs:
- (1) physiology of bowel and bladder continence:
 - (i) maintaining bowel regularity; and
 - (ii) physical, psychosocial and environmental causes of incontinence;
 - (2) nursing care for the resident with urinary and/or bowel incontinence:
 - (i) toileting programs;
 - (ii) care of urinary drainage equipment;
 - (iii) use of protective clothing; and
 - (iv) enemas;
 - (3) measuring urinary output;
 - (4) bowel and bladder training programs; and
 - (5) care of ostomies, including but not limited to colostomy and ileostomy.

(h) Mobility needs:

(1) effects of immobility; and

(2) ambulation and transfer techniques:

(i) use of assistive devices;

(ii) use of wheelchairs; and

(iii) use of mechanical lifters.

(i) Sleep and rest needs:

(1) activity, exercise and rest; and

(2) sleep patterns and disturbances.

(j) Nursing care programs for the prevention of contractures and decubitus ulcers (pressure sores);

(1) body alignment, turning and positioning;

(2) individualized exercise programs;

(3) special skin care procedures;

(4) use of special aids; and

(5) maintenance of individualized range of motion.

(k) Observing and reporting signs and symptoms of disability and illness:

(1) physical signs and symptoms:

(i) determination of temperature, pulse, respiration;

(ii) testing urine;

(iii) measuring height and weight;

(2) behavioral changes; and

(3) recognizing and reporting abnormal signs and symptoms of common diseases and conditions, including but not limited to:

(i) shortness of breath;

(ii) rapid respirations;

(iii) coughs;

- (iv) chills;
- (v) pain and pains in chest or abdomen;
- (vi) blue color to lips;
- (vii) nausea;
- (viii) vomiting;
- (ix) drowsiness;
- (x) excessive thirst;
- (xi) sweating;
- (xii) pus;
- (xiii) blood or sediment in urine;
- (xiv) difficult or painful urination;
- (xv) foul-smelling or concentrated urine; and
- (xvi) urinary frequency.

(l) Infection control:

- (1) medical asepsis;
- (2) handwashing; and
- (3) care of residents in isolation.

(m) Resident safety:

- (1) environmental hazards;
- (2) smoking;
- (3) oxygen safety; and
- (4) use of restraints.

(n) Nursing care needs of resident with special needs due to medical conditions such as but not limited to:

- (1) stroke;
- (2) respiratory problems;

- (3) seizure disorders;
- (4) cardiovascular disorders;
- (5) sensory loss and deficits;
- (6) pain management;
- (7) mentally impairing conditions:
 - (i) associated behavior disorders; and
 - (ii) characteristics of residents such as wandering, agitation, physical and verbal abuse, sleep disorders, and appetite changes.
- (o) Mental health and social service needs:
 - (1) self care according to the resident's capabilities;
 - (2) modifying behavior in response to the behavior of others;
 - (3) developmental tasks associated with the aging process; and
 - (4) utilizing the resident's family as a source of emotional support.
- (p) Resident rights;
- (q) Care of the dying resident including care of the body and personal effects after death; and
- (r) Care of cognitively impaired residents:
 - (1) techniques for addressing the unique needs and behaviors of individuals with dementia;
 - (2) communicating with cognitively impaired residents;
 - (3) understanding the behaviors of cognitively impaired residents;
 - (4) appropriate responses to the behaviors of cognitively impaired residents; and
 - (5) methods of reducing the effects of cognitive impairments.
- (ii) The training program shall maintain a performance record of the major duties and skills taught each nurse aide trainee. At the end of the training program, a copy of the performance record shall be given to the trainee and the trainee's employer, if different from the training facility. As a minimum, the performance record shall include the following:
 - (a) a listing of the measurable performance criteria for each duty and skill expected to be learned in the program;
 - (b) an entry showing satisfactory or unsatisfactory performance;

(c) the date of the performance; and

(d) the name of the instructor supervising the performance.

(4) Nurse aide competency evaluation. Subsequent to the completion of the nurse aide training program including the satisfactory performance of all duties and skills listed in the performance record, the facility shall arrange for the nurse aide trainee to take and pass the State authorized residential health care facility nurse aide clinical skills competency examination and the written or oral competency examination as follows:

(i) The clinical skills competency examination shall be given by a licensed registered nurse, who meets the definition of the Clinical Skills Evaluator until June 30, 1992 and effective July 1, 1992 the Nurse Aide Evaluator specified in subparagraph (iii) of paragraph (1) of this subdivision and who is not otherwise associated with the facility employing and/or training the nurse aide trainee. The trainee shall have three opportunities to pass the clinical skills examination; and

(ii) After passing the clinical skills examination, the trainee shall have three opportunities to pass the written or oral competency examination. The nurse aide trainee will obtain certification and be listed in the Registry upon passing the written or oral examination.

(5) The operator shall not charge a fee to any individual for the costs of training, including textbooks and materials, or for the costs of the competency examinations.

(i) If within 12 months of completing a State approved RHCF nurse aide training program, an individual is employed or is given an offer of employment by a facility, the facility must arrange, in a form and manner indicated by the Department, for the individual to receive reimbursement from the State for the amount of the costs, up to the CAP established by the State, incurred by the individual for the training. Such reimbursement shall be on a pro rata basis based on the length of subsequent employment as an RHCF nurse aide in the RHCF.

(ii) If within 12 months of completing the State approved RHCF nurse aide competency evaluation program, an individual is employed or is given an offer of employment by a facility, the facility must arrange, in a form and manner indicated by the Department, for the individual to receive reimbursement from the State for the acceptable amount of the costs, up to the CAP established by the State, incurred by the individual for the examinations. Such reimbursement shall be on a pro rata basis based on the length of subsequent employment as an RHCF nurse aide in the RHCF.

(6) Nurse aide recertification. The certified nurse aide shall be recertified every two years no later than the last day of the month in which certification was received. To obtain recertification the certified nurse aide shall demonstrate in the form indicated by the Department that he/she has worked at least 7 hours for compensation as a health care nurse aide during the previous 24 month period. The operator shall implement nurse aide recertification in accordance with the following:

(i) The required documentation shall be provided in the form indicated by the Department to each nurse aide who either currently works for or last worked for compensation as a nurse aide in the facility;

(ii) A fee shall not be charged by the operator to any nurse aide for any cost associated with recertification;

(iii) The recertification fee for each nurse aide who either currently works for or last worked for compensation as a nurse aide in the facility shall be paid by the operator except that the nurse aide

staffing agency or employment organization which currently employs the nurse aide may pay this fee; and

(iv) After any period of 24 consecutive months during which the certified nurse aide did not provide nurse aide care for compensation in a residential health care facility, such nurse aide shall be required to requalify as specified in the following subparagraphs (a) or (b) to be listed in the New York State RHCF Nurse Aide Registry:

(a) Nurse aides who, on or after July 1, 1989, successfully completed a State approved nurse aide training program in accordance with applicable federal and State requirements, must pass the State authorized residential health care facility nurse aide clinical skills competency examination and the written or oral competency examination;

(b) All other nurse aides must successfully complete a State approved nurse aide training program and pass the State authorized residential health care facility nurse aide clinical skills competency examination and the written or oral competency examination.

(7) The operator shall complete a performance review of each nurse aide at least once every 12 months.

(8) The operator shall ensure that the certified nurse aide regularly attends inservice education programs provided for all personnel and that the programs shall include the following:

(i) A portion of each individual's annual inservice education as required by subparagraph (iv) of this paragraph shall be based upon the outcome of the individual's annual performance review as specified in paragraph (7) of this section, and address the areas of weakness in the individual's performance;

(ii) Inservice education must also address the special needs of the residents in the facility, including the care of the cognitively impaired;

(iii) Written records shall be maintained which indicate the content of and attendance at each inservice training program and the outcomes of the performance review; and

(iv) Each certified nurse aide shall attend and be compensated for inservice education sufficient to ensure the continuing competence of the nurse aide of not less than six hours of inservice education in every six month period.

(e) Use of outside resources. If the nursing home does not employ a qualified professional person to furnish a specific service to be provided by the facility, the nursing home shall have that service furnished to residents by a qualified person or agency outside the facility in accordance with the following:

(1) The operator shall enter into written agreement with the outside resource which shall comply with the provisions of this section and section 400.4 of this Title and shall:

(i) specify that the operator retains professional and administrative responsibility for obtaining services that meet professional standards and principles that apply to professionals providing services in such a facility;

(ii) require that such services are provided on a timely basis;

(iii) set forth the responsibilities, function, objectives and terms of the agreement, including financial

arrangements and charges of each such outside resource; and

(iv) be signed by an authorized representative of the facility and the person or the agency providing the service; and

(2) The outside resource, when acting as a consultant, shall apprise the administrator of recommendations, plans for implementation and continuing assessment in his or her areas of responsibility through dated, signed reports which shall be retained by the administrator for follow-up action and evaluation of performance.

(f) Disaster and Emergency Preparedness.

(1) The nursing home shall have a written plan, updated at least twice a year, with procedures to be followed for the proper care of residents and personnel, and for the reception and treatment of mass casualty victims, in the event of an internal or external emergency resulting from natural or man-made causes including but not limited to earthquake, severe weather, flood, bomb threat, chemical spills, strike, interruption of utility services, nuclear accidents, fire or similar occurrences.

(2) The nursing home shall develop and implement written policies concerning missing residents.

(3) The nursing home shall:

(i) train all employees in emergency procedures when they begin to work for the facility;

(ii) periodically, but at least annually review the written plan with existing staff; and

(iii) carry out staff drills in accordance with the written plan at least twice a year.

(g) Transfer Agreements. Nursing homes shall have in effect a written transfer agreement with one or more general hospitals as required to meet the medical care needs of residents. Such transfer agreements shall:

(1) comply with the provisions of section 400.9 of this Title;

(2) ensure that residents are admitted to the general hospital on a timely basis when such transfer is medically appropriate as determined by the attending physician or other approved practitioner; and

(3) provide for the transfer of medical and other information needed for care and treatment of residents, when the transferring facility deems it appropriate.

(h) Financial Policies. (1) The facility shall:

(i) specify its refund policies in writing to each resident, next of kin and/or sponsor prior to admission; and

(ii) refund promptly any amount or proportion of prepayment in excess of the amount or proportion thereof obligated for services already furnished in the event the resident leaves the nursing home prior to the end of the prepayment period for reasons beyond the control of the resident, next of kin and/or sponsor. In the event that the resident leaves for reasons within his or her control, or that of the next of kin and/or sponsor, the facility shall not retain from the prepayment or charge in the absence of a prepayment, an amount in excess of one day's basic rate in addition to any amount obligated for services

already furnished.

(2) The facility shall not enter into any contract or agreement with the resident, next of kin and/or sponsor for life care of the resident.

(3) No facility or agent, consultant, employee or representative thereof shall:

(i) pay any commission, bonus, rebate or gratuity to any organization, agency, physician, employee or other person for referral of any resident to the nursing home;

(ii) request and/or accept any remuneration, tip or gratuity in any form from a resident, next of kin and/or sponsor for any services provided or arranged or for denial of services by the nursing home other than specified fees ordinarily paid for care, excluding donations, gifts and legacies given in behalf of the facility; or

(iii) accept any remuneration, rebate, gift, benefit or advantage of any form from any vendor or other supplier because of the purchase, rental or loan of equipment, supplies or services for the facility or resident, excluding normal business practices.

(4) In the event that the operator of the facility and the consulting physician or any other professional provider of services are one and the same person, he or she shall not reimburse himself or herself as consultant for such services provided to the facility or directly to any resident other than for services provided in an emergency.

(5) If a resident authorizes the facility in writing to manage his or her personal finances in accordance with 415.3(g)(1) of this Part, the facility shall hold, safeguard, manage and account for personal funds of the resident deposited with the facility in accordance with the following:

(i) Deposit of funds.

(a) Funds in excess of \$50. The facility shall deposit any resident's personal funds in excess of \$50 in an interest bearing account (or accounts) that is separate from any of the facility's operating accounts, and that credits all interest earned on the resident's funds to his or her account. In pooled accounts, there shall be a separate accounting for each resident's share.

(b) Funds less than \$50. The facility shall maintain a resident's personal funds that do not exceed \$50 in a non-interest bearing account or petty cash fund.

(ii) Accounting and records. The facility shall establish and maintain a system that assures a full and complete and separate accounting, according to generally accepted accounting principles, of each resident's personal funds entrusted to the facility on the resident's behalf. The system shall contain, as a minimum, the resident's name, Medicaid case number where applicable, date of admission, date and amount of each withdrawal or deposit, and balance at each transaction.

(a) The system shall preclude any commingling of resident funds with facility funds or with the funds of any person other than another resident.

(b) The individual financial record shall be available within one business day of a request, to the resident or his or her designated representative.

(c) The individual financial record shall document each deposit or withdrawal of funds including the

signature of the resident or the resident's designated representative for each transaction.

(iii) Notice of certain balances. The facility shall notify the resident when the amount in the account of a resident who receives Medicaid benefits reaches \$200 less than the SSI resource limit for one person, specified in section 1611(a)(3)(B) of the Social Security Act, and that, if the amount in the account, in addition to the value of the resident's other nonexempt resources, should reach the SSI resource limit for one person, the resident may lose eligibility for Medicaid or SSI;

(iv) Conveyance upon death. Upon the death of a resident with a personal fund deposited with the facility, the facility shall convey within 30 days the resident's funds, and a final accounting of those funds, to the individual or probate jurisdiction administering the resident's estate.

(v) Assurance of financial security. The facility shall purchase a surety bond, or provide self-insurance, to assure the security of all personal funds of residents deposited with the facility.

(vi) Limitation on charges to personal funds. The facility shall not impose a charge against the personal funds of a resident for any item or service for which payment is made under Medicaid or Medicare (except for applicable deductible and coinsurance amounts). The facility may charge the resident for requested services that are more expensive than or in excess of covered services.

(a) Services included in Medicare or Medicaid payment. During the course of a covered Medicare or Medicaid stay, the facilities shall not charge a resident for the following items and services:

(1) nursing services and specialized rehabilitative services;

(2) dietary services;

(3) an activities program;

(4) room/bed maintenance services; and

(5) routine personal hygiene items and services.

(b) Optional covered items and services. A facility may choose to provide residents with supplies, equipment and transportation essential to the activities program required by 415.5(g) of this Title. If it chooses to provide these items and services, they shall be included as covered Medicare or Medicaid services and reimbursed under those program benefits. No charges shall be made to residents for those services.

(c) Items and services that may be charged to residents' funds. Listed below are general categories and examples of items and services that the facility may charge to residents' funds if they are requested by a resident and payment is not made by Medicare or Medicaid:

(1) Telephone.

(2) Television/radio for personal use.

(3) Personal comfort items, including smoking materials, notions and novelties, and confections.

(4) Cosmetic and grooming items and services, in excess of those for which payment is made under Medicaid or Medicare.

(5) Personal clothing.

(6) Personal reading matter.

(7) Gifts purchased on behalf of a resident.

(8) Flowers and plants.

(9) Social events and entertainment offered off the premises and outside the scope of the activities program, provided under subdivision (g) of section 415.5.

(10) Noncovered special care services such as private duty nurses consistent with Medicare and Medicaid rules and regulations for residents who are beneficiaries of these programs.

(11) Specially prepared or alternative food requested instead of the food generally prepared by the facility, if it is documented that the requested food costs more than food provided to other residents, except that food provided under paragraph (6) of subdivision (f) of section 415.3 of this Title shall not be charged to residents' funds.

(d) Requests for items and services.

(1) The facility shall not charge a resident or his or her designated representative for any item or service not requested by the resident or the designated representative.

(2) The facility shall not require a resident or his or her designated representative to request any item or service as a condition of admission or continued stay.

(3) The facility shall inform the resident or his or her designated representative requesting an item or service for which a charge will be made that there will be a charge for the item or service and what the charge will be.

(6) The facility shall:

(i) upon receiving prepayment or advance money for the purpose of being applied to payments in satisfaction of or as security for the performance of facility responsibilities, deposit such money, which shall continue to be the money of the person making the prepayment, in an interest-bearing account in a bank or with a financial agent;

(ii) not be required to deposit prepayment in an interest-bearing account where such money is to be applied to payments when due, until 61 days after such prepayment or advanced money is made;

(iii) notify in writing each of the persons making such prepayment of the name and address of the bank or financial agent with which the deposit is made and the amount of such deposit.

(iv) be entitled to receive an administrative expense equivalent to one percent per annum upon the prepayment money deposited, which shall be in lieu of all other administrative expenses;

(v) inform any person making prepayment as security for the performance of facility responsibilities that

waivers of the provisions of this paragraph are void.

(7) Equity withdrawal. No facility or governing body may withdraw or reduce a facility's equity so as to create or increase a negative net worth by means of a withdrawal without the prior approval of the commissioner.

(i) The term withdrawal shall mean:

(a) any payment of cash or transfer of other assets by a facility directly or indirectly to or for the benefit of its operator or owner; and

(b) any liability or contingent liability incurred within any period of 12 consecutive months by a facility or its operator by reason of a mortgage, lease, borrowing or other transaction relating to such facility that exceeds, in the aggregate, \$25,000.

(ii) Negative net worth shall be calculated without regard to any surplus created by reevaluation of assets.

(iii) An application for approval shall be submitted in writing at least 60 days prior to the proposed withdrawal and shall specify the purpose of the withdrawal and the details concerning such withdrawal including, where applicable, such items as the principal amount, interest rate, repayment terms, conditions of default, remedies upon default and obligee of any transaction to be consummated in a proposed withdrawal. The application shall contain a verified current balance sheet and a description of the facility's cash position, including as cash such cash equivalents as certificates of deposit and treasury bills.

(iv) In reviewing an application for withdrawal, the commissioner shall consider:

(a) the necessity for the withdrawal;

(b) whether such withdrawal would impair the facility's ability to render quality care;

(c) any expense which such withdrawal would generate; and

(d) the financial condition of the facility in general.

(8) No facility shall enter into a real property mortgage or lease transaction without 30 days' prior notice in writing to the commissioner.

(i) Admission Policies and Practices.

(1) The nursing home shall:

(i) admit a resident only on physician's orders and in accordance with the resident assessment criteria and standards as promulgated and published by the department, and specified in sections 86-2.30(i) and 400.12 of this Title, which shall include, as a minimum:

(a) an assessment, performed prior to admission by or on behalf of the agency or person seeking admission for the resident of the resident's level of care needs according to the resident assessment criteria and standards promulgated and published by the department (and specified in sections 86-2.30(i) and 400.12 of this Title);

(b) for those residents failing to meet the criteria and standards for admission to the nursing home (as indicated in New York State criteria for level of care, specified in section 400.12 of this Title), a certification signed by a physician member of the transferring facility's utilization review agent or signed by the responsible social services district's local Medicaid medical director or designee, indicating the reason(s) the resident requires nursing home level of care; and

(c) for residents in general hospitals and residing in the community, the SCREEN, as specified in section 400.12 of this Title, performed prior to admission to the nursing home shall not be completed by personnel of a residential health care facility, except where a certified home health agency or other appropriate community-based assessor has been contacted by the resident or the resident's designated representative, for the purpose of completing the SCREEN, and has not completed the SCREEN within 48 hours;

(ii) accept and retain only those nursing home residents for whom it can provide adequate care;

(iii) admit each resident only after a pre-admission personal interview with the resident's physician, the resident, his or her next of kin and/or sponsor, as appropriate, except that a telephone interview may be substituted when a personal interview is not feasible, and a summary of all interviews shall be recorded on the resident's chart or other appropriate record;

(iv) maintain a written record of all financial arrangements with the resident, his or her next of kin and/or sponsor, with copies executed by and furnished to each party;

(v) make no arrangement for prepayment for basic services exceeding three months;

(vi) assess no additional charges, expenses or other financial liabilities in excess of the daily, weekly or monthly basic rate except;

(a) upon express written approval and authority of the resident, next of kin or sponsor;

(b) upon express written orders of the resident's personal, alternate or staff physician stipulating specific services and supplies not included as basic services;

(c) upon 30 days' prior written notice to the resident or designated representative, of additional charges, expenses or other financial liabilities due to the increased cost of maintenance and/or operation of the nursing home; and, upon request of the resident, designated representative or of the department, financial and statistical supportive evidence sufficient to reflect such change in economic status shall be provided; or

(d) in the event of a health emergency involving the resident and requiring immediate special services or supplies to be furnished during the period of the emergency;

(vii) provide to each resident or designated representative at the time of admission, a written copy of the following information and services which shall be considered as basic information and services to be made available to all residents:

(a) the daily, weekly or monthly rate;

(b) board, including therapeutic or modified diets, as prescribed by a physician;

- (c) lodging; a clean, healthful, sheltered environment, properly outfitted;
- (d) 24 hours-per-day nursing care;
- (e) the use of all equipment, medical supplies and modalities, notwithstanding the quantity usually used in the everyday care of nursing home residents, including but not limited to catheters, hypodermic syringes and needles, irrigation outfits, dressings and pads, and so forth;
- (f) fresh bed linen, as required, changed at least twice weekly, including sufficient quantities of necessary bed linen or appropriate substitutes changed as often as required for incontinent residents;
- (g) hospital gowns or pajamas as required by the clinical condition of the resident, unless the resident, next of kin or sponsor elects to furnish them, and laundry services for these and other launderable personal clothing items;
- (h) general household medicine cabinet supplies, including but not limited to non-prescription medications, materials for routine skin care, oral hygiene, care of hair, and so forth, except when specific items are medically indicated and prescribed for exceptional use for a specific resident;
- (i) assistance and/or supervision, when required, with activities of daily living, including but not limited to toilet, bathing, feeding and ambulation assistance;
- (j) services, in the daily performance of their assigned duties, by members of the nursing home staff concerned with resident care;
- (k) use of customarily stocked equipment, including but not limited to crutches, walkers, wheelchairs or other supportive equipment, including training in their use when necessary, unless such item is prescribed by a physician for regular and sole use by a specific resident;
- (l) activities program, including but not limited to a planned schedule of recreational, motivational, social and other activities, together with the necessary materials and supplies to make the resident's life more meaningful;
- (m) social services as needed;
- (n) physical therapy, on either a staff or fee-for-service basis, as prescribed by a physician, administered by or under the direct supervision of a licensed and currently registered physical therapist;
- (o) occupational therapy, on either a staff or fee-for-service basis, as prescribed by a physician, administered by or under the supervision of a qualified occupational therapist;
- (p) speech pathology services, on either a staff or fee-for-service basis, as prescribed by a physician, administered by a qualified speech pathologist;
- (q) audiology services, on either a staff or fee-for-service basis, as prescribed by a physician, administered by a qualified audiologist; and
- (r) dental services, on either a staff or fee-for-service basis, as administered by or under either the personal or general supervision of a licensed and currently registered dentist;
- (viii) apply the following restrictions to the admission and retention of residents:

- (a) residents under 16 years of age shall be admitted only to a nursing home area approved for such occupancy by the department and separate and apart from adult residents;
- (b) prenatal, intrapartum or postpartum, and maternity patients shall not be admitted;
- (c) residents identified and assessed to need nursing home care shall not be barred from admission or retention solely on the basis that they are also maintained on alcohol or substance abuse treatment programs; and
- (d) a resident suffering from a communicable disease shall not be admitted or retained unless a physician certifies in writing that transmissibility is negligible, and poses no danger to other residents, or the facility is staffed and equipped to manage such cases without endangering the health of other residents;
- (ix) not discriminate because of race, color, blindness, sexual preference or sponsorship in admission, retention and care of residents;
- (x) establish and implement written policies and procedures governing the admission process which ensure compliance with State and Federal anti-discrimination laws which apply to the governing body. Such laws include, but need not be limited to, the applicable provisions of this Part; Public Health Law, section 2801-a(9); the New York State Civil Rights Law, sections 40 and 40-c; article 15 (Human Rights Law) of the State Executive Law, sections 291, 292 and 296 and title 42 of the United States Code, sections 1981, 2000a, 2000a-2, 2000d, 3602, 3604 and 3607. Copies of the cited State and Federal statutes are available from West Publishing Company, P.O. Box No. 64526, St. Paul, MN 55164-0526, the publisher of McKinney's Consolidated Laws of New York annotated and the United States Code annotated. Copies of such statutes are also available for public inspection and copying at the Records Access Office, Department of Health, Tower Building, Empire State Plaza, Albany, NY 12237. The policies and procedures shall include but not be limited to the following:
- (a) the prominent inclusion in admission application forms and policy statements of a legend summarizing the applicable Federal and State anti-discrimination laws;
- (b) the prominent display in the admissions office of the New York State Division of Human Rights nondiscrimination regulatory poster. This poster is available from the State Division of Human Rights, 55 West 125 Street, New York, NY 10027. A copy of this poster is also available for public inspection and copying at the Department of Health's Records Access Office at the address set forth above.
- (c) explicit advice to potential residents of their right to nondiscriminatory treatment in admissions;
- (d) the training of admission personnel in the requirements of Federal and State anti-discrimination laws listed above; and
- (e) written admission policies which specifically state the criteria used in making admission decisions. If a waiting list is used in making admission decisions, the list shall be maintained in written form including the date of each application. The operation and utilization of the waiting list shall be described in the written admission policies;
- (xi) furnish to all hospitals within the long-term care planning area and to any hospital, referral agency, or individual upon request a copy of the facility's admission policies; and
- (xii) maintain a centralized log on the receipt and disposition by the facility of persons referred for

admission. For the purposes of this subdivision, receipt by the facility of a completed hospital/community patient review instrument for a person needing nursing home care shall constitute a patient referral. The log shall contain for each referral a patient identifier, and indicate the race, sex, color, national origin of the referral, the date of referral, referring hospital or agency, and date and type of disposition of referral by the facility. Records of such log shall be retained for 18 months from date of entry. In lieu of a log, a facility may meet the requirements of this subdivision by retaining the completed hospital/community patient review instrument forms received by the facility for 18 months from receipt in a central place organized by date of receipt and marked by date and type of disposition.

(2) The nursing home shall advise each potential resident or designated representative prior to or at the time of admission, that all medical and dental services which are provided by the facility will be provided by practitioners who have an affiliation with the facility. Potential residents whose personal attending physician or dentist is not approved to provide services to the resident after admission shall be duly notified prior to or at the time of admission. The facility shall promptly receive and evaluate requests by such personal attending physician or dentist, to be approved to attend to such prospective resident consistent with resident care policies and procedures of the facility.

(3) The nursing home shall advise each potential resident or designated representative that he or she may seek a second opinion if he or she disagrees with the diagnosis or treatment being provided, and may call in a specialist selected by the resident or designated representative for medical consultation. The facility shall not be required to bear the expense of such visit.

(j) Misappropriation of resident property. The nursing home shall establish and implement policies and procedures for the receipt, review and investigation of allegations of misappropriation of resident property by individuals in the employ of and/or whose services are utilized by the facility. Such policies and procedures shall be coordinated with the process governing the handling of complaints as set forth in section 415.3 of this Part.

(1) For purposes of this subdivision, misappropriation of resident property shall mean the theft, unauthorized use or removal, embezzlement or intentional destruction of the resident's personal property including but not limited to money, clothing, furniture, appliances, jewelry, works of art, and such other possessions and articles belonging to the resident regardless of monetary value.

(2) In accordance with policies and procedures governing misappropriation of resident property, the nursing home shall:

(i) ensure that upon receipt of an allegation of misappropriation as submitted by the resident, designated representative, other individual or source, an investigation of the matter shall be undertaken not later than 48 hours after receipt;

(ii) maintain a log containing information regarding the receipt, review, investigation, and disposition of every allegation of misappropriation of resident's property including the name of the complainant and the resident, a description of the personal property involved, and staff designated to conduct the review and investigation;

(iii) notify the resident and complainant in writing as to the findings upon disposition of the allegation;

(iv) notify the appropriate police agency when the results of the investigation indicate there is reasonable cause to believe that a resident's personal property valued at more than two hundred fifty (250) dollars has been misappropriated or may elect to make such notification when the resident's personal property is valued at less than that amount;

(v) monitor the status of all referrals to a police agency on a regular basis but not less often than quarterly; and

(vi) notify the Department within 72 hours of receipt of the notice that such referral resulted in conviction of an individual who was involved in misappropriation of resident property.

(3) Upon receipt of such notice of criminal conviction involving misappropriation of property by a nurse aide and after the department has provided to the individual an opportunity to be heard to dispute the allegations and conviction resulting from misappropriation of resident property, the department shall, pursuant to Public Health Law Section 2803-d, as amended by Chapter 717 of the Laws of 1989, report such finding to the New York State RHCF Nurse Aide Registry established in accordance with Public Health Law, Section 2803-j, as amended by such chapter. Any brief statement not exceeding 150 words by the nurse aide disputing the findings shall also be included in the report, provided that any such statement containing the names of any resident or complainant shall be returned to the submitting individual and shall not be reported to the registry.

(k) Feeding Assistant Training Course.

(1) The feeding assistant training program shall consist of a minimum of 15 hours of education and training and must include all of the topics and lessons specified in the state-approved feeding assistant training program curriculum.

(2) The state-approved feeding assistant training program shall include, but not be limited to, training in the following content areas:

(i) Resident rights;

(ii) Infection control;

(iii) Safety and emergency procedures, including Heimlich Maneuver;

(iv) Communications and interpersonal skills;

(v) Changes in resident's condition;

(vi) Appropriate response to resident behavior;

(vii) Assistance with eating and hydration; and

(viii) Feeding techniques.

(3) The facility shall issue a certificate of completion to each individual who successfully completes the state-approved feeding assistant training program. The certificate shall include the full name of the feeding assistant and the facility-issued trainee or employee ID number, signature of feeding assistant, name and address of the facility, date the individual successfully completed the feeding assistant training program, name, title and signature of the training program instructor, and name and signature of the nursing home administrator.

(4) The facility shall retain records of each individual who completes their state-approved feeding assistant program. Such records shall include, but not be limited to:

(i) the full name of the feeding assistant, facility-issued trainee or employee ID number, name and address of the facility, dates on which each content area of the feeding assistant training program was delivered and successfully completed, the date on which the individual successfully completed the feeding assistant training program, and the name, title and signature of the training program instructor.

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Effective Date: 04/01/92

Title: Section 415.27 - Quality assessment & assurance

415.27 Quality assessment & assurance. The facility shall establish and maintain a coordinated quality assessment and assurance program which integrates the review activities of all nursing home programs and services to enhance the quality of life and resident care and treatment.

(a) Facility-wide quality assurance. Quality assurance shall be the responsibility of all staff, at every level, at all times. Supervisory personnel alone cannot ensure quality of care and services. Such quality must be a part of each individual's approach to his or her daily responsibilities.

(b) Quality assessment and assurance committee. The facility shall maintain a quality assessment and assurance committee consisting of at least the following:

(1) the administrator or his or her designee;

(2) the director of nursing services;

(3) a physician designated by the facility;

(4) at least one member of the governing body who is not otherwise affiliated with the nursing home in an employment or contractual capacity; and

(5) at least 3 other members of the facility's staff.

(c) Committee functions. The quality assessment and assurance committee shall:

(1) meet at least quarterly to identify issues with respect to which quality assessment and assurance activities are necessary;

(2) have a written plan for the quality assessment and assurance program which describes the program's objectives, organization, responsibilities of all participants, scope of the program and procedures for overseeing the effectiveness of monitoring, assessing and problem-solving activities. Such plan shall also provide for the development and implementation of quality improvement initiatives designed to advance the quality of life, care and services in the facility.

(3) define methods for identification and selection of clinical and administrative problems to be reviewed. The process shall include but not be limited to:

(i) the establishment of review criteria developed in accordance with current standards of professional practice for monitoring and assessing resident care and clinical performance;

(ii) regularly scheduled reviews of clinical records, resident complaints and suggestions, reported incidents and other documents pertinent to problem identification;

(iii) consultation on at least a quarterly basis with the Resident Council to seek recommendations on quality

improvements;

(iv) documentation of all quality assessment and assurance activities, including but not limited to the findings, recommendations and actions taken to resolve identified problems; and

(v) the timely implementation of corrective actions and periodic assessments of the results of such actions.

(4) ensure that the outcomes of quality assurance reviews are shared with appropriate staff to be used for the revision or development of facility policies and practices and in granting or renewing staff privileges, as appropriate;

(5) facilitate participation in the program by administrative staff and health-care professionals representing each professional service provided;

(6) report its activities, findings and recommendations to the governing body as often as necessary, but no less often than 4 times a year; and

(7) participate with the medical director in implementing Public Health Law 2805-k.

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Effective Date: 04/03/91

Title: Section 415.28 - Disclosure of ownership

415.28 Disclosure of ownership. The nursing home shall make available pertinent information concerning the identity of the owner and/or governing body and in addition shall:

(a) comply with the provisions of subdivision (b) of section 401.3 of this Title regarding any proposed changes in the name of a business, corporation, partnership or governmental subdivision and any proposed initial use of, or change in, an assumed name of a business corporation, not-for-profit corporation, partnership, governmental subdivision or sole proprietor, operating a medical facility or fundraiser under Article 28 of the Public Health Law, or any proposed substitution of the individual or individuals constituting the governing body or owner of a proprietary medical facility or any proposed change in the rights, privileges or obligations of any such person;

(b) comply with the provisions of section 600.11 of this Title regarding Name Changes of Operators and Medical Facilities;

(c) provide written notice to the Department, at the time of change, if a change occurs in the nursing home's administrator or director of nursing; and

(d) ensure that the notice provided in accordance with subdivision (c) of this section includes the identity of each new individual.

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Title: Section 415.29 - Physical environment

415.29 Physical environment. The nursing home shall be designed, constructed, equipped and maintained to provide a safe, healthy, functional, sanitary and comfortable environment for residents, personnel and the public.

(a) Life safety from fire and other hazards. (1) Buildings and equipment shall be maintained and operated so as to prevent fire and other hazards to personal safety.

(2) Nursing homes shall comply with subdivision (a) of section 711.2 of this Title.

(3) The nursing home shall maintain a procedure to investigate fires. A written report of the investigation containing all pertinent information shall be made. The report shall remain on file for not less than six years.

(4) The nursing home shall maintain a procedure for reporting to a designated administrative officer on a standard form adopted for the purpose, all accidents to residents, staff, employees or visitors. The report shall include all pertinent information and shall be kept on file for not less than six years after the occurrence was reported.

(b) Equipment. The nursing home shall maintain all essential mechanical, electrical, and resident care equipment in safe operating condition.

(c) Resident rooms. Resident rooms shall be designed and equipped for adequate nursing care, comfort and privacy of residents. The nursing home shall provide each resident with:

(1) a separate bed of proper size and height for the convenience of the resident;

(2) a clean, comfortable mattress;

(3) bedding appropriate to the weather and climate; and

(4) functional furniture appropriate to the resident's needs, and individual closet space in the resident's bedroom with clothes racks and shelves accessible to the resident.

(d) Toilet, Handwashing and Bathing facilities. Plumbing and plumbing fixtures shall be properly maintained and operable.

(e) Dining and resident activities. The facility shall provide one or more rooms designated for resident dining and activities. These rooms shall:

(1) be well lighted;

(2) be well ventilated, with smoking areas identified;

(3) be adequately furnished; and

(4) have sufficient space to accommodate all activities.

(f) Water supplies. Water supplies of nursing homes shall be operated in conformance with the following requirements:

(1) all water used in operation shall be provided from a public water supply or from an alternate source, in either event as approved by the department;

(2) no changes shall be made in the source or treatment of the water supply without approval of the department;

(3) water shall be adequate in volume and pressure for all medical purposes;

(4) the water system shall not be operated with physical connections to other piping systems or connections to fixtures that may permit contamination of the water supply;

(5) the water system shall be operated with a hot water system adequate for all medical purposes;

(6) the hot water supply used by residents or the public shall be regulated to maintain hot water temperature within the range of 90 degrees to 120 degrees F; and

(7) the nursing home shall ensure that water is available to essential areas when there is a loss of normal water supply.

(g) Waste systems. Waste systems shall be operated so that all sewage and other liquid wastes are disposed of by connection to a public sewer system or by an alternate method, in either event as approved by the department.

(h) Ventilating, heating, and air conditioning systems. Such systems shall:

(1) be maintained in good repair and shall be operated in a manner which will not allow for the spread of infection and provide for resident health and comfort; and

(2) be maintained and operated in such manner that air shall not be circulated from resident isolation rooms, laboratories in which work is done in pathology, virology or bacteriology, autopsy rooms, kitchen and dishwashing areas, toilet and bath rooms, janitors' closets and soiled utility rooms or soiled linen rooms, to other parts of the facility.

(i) Grounds and building. Grounds and buildings shall be maintained:

(1) in a clean condition free of safety hazards;

(2) in such manner as will prevent standing water, flooding or leakage; and

(3) free of excessive noise, odors, pollens, dusts or other environmental pollutants and such nuisances as may adversely affect the health or welfare of residents.

(j) Housekeeping.

(1) The entire nursing home, including but not limited to the floors, walls, windows, doors, ceilings, fixtures, equipment and furnishings, shall be clean. The facility shall be maintained in good repair including, but limited to buildings, utilities, fixed equipment, resident care equipment and furnishings.

(2) Responsibility for direct supervision of housekeeping service shall be assigned to a person, properly qualified by training and experience. (3) Dusting, mopping and vacuum cleaning shall be done in a manner which will not spread dust or other particulate matter.

(4) Adequate supplies and equipment for housekeeping functions shall be provided with cleaning compounds and hazardous substances properly labeled and stored.

(5) The facility shall maintain an effective pest control program so that it is free of insects and rodents.

(6) Waste:

(i) solid wastes, including garbage, rubbish and other refuse, biological wastes and infectious materials, shall be collected, stored and disposed of in a manner that will prevent the transmission of disease and not create a nuisance or fire hazard, nor provide a breeding place for insects or rodents; and

(ii) facilities shall manage regulated medical waste in accordance with the provisions of Part 70 of this Title.

(k) Linen and laundry. The nursing home shall:

(1) provide a sufficient quantity of clean linen to meet the requirements of residents; nursing homes shall maintain a linen inventory equal to at least three times the average daily census, and of this one-third shall be in use, one-third in laundry and one-third in reserve;

(2) maintain linen in proper condition for use, free from rips and tears;

(3) provide for satisfactory laundering of linens and other washable fabrics;

(4) handle, store and process laundry in a manner that will prevent the spread of infection and assure the maintenance of clean linen;

(5) wash all linen, including blankets, between resident use;

(6) bag or enclose all used linen in suitable containers within the resident care unit for transportation to the laundry;

(7) separately bag or enclose used linens from residents with a communicable disease in readily identifiable containers distinguishable from other laundry;

(8) properly maintain space and equipment for laundry storage and transportation;

(9) launder only in areas and with equipment properly maintained and approved for such purpose by the department;

(10) launder in a manner designed to prevent contamination of clean linen and to prevent infection; and

(11) transport clean linen in clean covered containers used exclusively for the purpose, and store clean linen in clean storage areas in a manner to prevent its contamination.

(l) Animals.

(1) Animals, exclusive of those required for laboratory purposes, shall not be allowed in a nursing home, except in a nursing home animal visitation or animal-assisted therapy program as permitted in paragraphs (2) and (3) of this subdivision. Also, service dogs and other service animals which have been individually trained to do work or perform tasks for the benefit of an individual with a disability may accompany such persons when the presence of such animals will not pose a significant risk to the health and safety of others that cannot be eliminated by reasonable accommodation and is not medically contraindicated. However, if the safe operation of the facility would be jeopardized, a service animal need not be allowed to enter. A finding by appropriate medical personnel at the facility that the presence or use of a service animal would pose a significant health risk in certain designated area of a nursing home may serve as a basis for excluding service animals in those areas.

(2) A nursing home may board animals as part of an animal-assisted therapy program, provided that:

(i) the health, safety, welfare and rights of all residents on the unit are assured;

(ii) a staff member has been designated to be responsible for the care and management of the animal or animals and has had appropriate training for such responsibilities;

(iii) the animal or animals are free from disease and have received all immunizations as recommended by a licensed veterinarian;

(iv) the animal or animals shall not be allowed in laundry, utensil storage or food preparation areas; and

(v) the well-being of the participating animal or animals is considered and maintained.

(3) Animal visitations are permitted in a nursing home provided that:

(i) the visit is prescheduled and approved by the facility;

(ii) the animal shall not be allowed in laundry, utensil storage or food preparation areas; and

(iii) the animal will at all times be accompanied by a person familiar with and capable of controlling the animal's behavior.

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Effective Date: 07/30/97

Title: Section 415.3 - Residents' rights

415.3 Residents' rights. (a) The facility shall ensure that all residents are afforded their right to a dignified existence, self-determination, respect, full recognition of their individuality, consideration and privacy in treatment and care for personal needs and communication with and access to persons and services inside and outside the facility. The facility shall protect and promote the rights of each resident, and shall encourage and assist each resident in the fullest possible exercise of these rights as set forth in subdivisions (b) - (h) of this section. The facility shall also consult with residents in establishing and implementing facility policies regarding residents' rights and responsibilities.

(1) The facility shall advise each member of the staff of his or her responsibility to understand, protect and promote the rights of each resident as enumerated in this section.

(2) The facility shall fully inform the resident and the resident's designated representative both orally and in writing in a method of communication that the individuals understand the resident's rights and all rules and regulations governing resident conduct and responsibilities during the stay in the facility. Such notification shall be made prior to or upon admission and during the resident's stay. Receipt of such information, and any amendments to it, shall be acknowledged in writing. A summary of such information shall be provided by the Department and posted in the facility in large print and in language that is easily understood.

(3) The written information provided pursuant to paragraph (2) of this subdivision shall include but not be limited to a listing of those resident rights and facility responsibilities enumerated in subdivisions (b) through (h) of this section. The facility's policies and procedures shall also be provided to the resident and the resident's designated representative upon request.

(4) The facility shall communicate to the resident an explanation of his or her responsibility to obey all reasonable regulations of the facility and to respect the personal rights and private property of other residents.

(5) Any written information required by this Part to be posted shall be posted conspicuously in a public place in the facility that is frequented by residents and visitors, posted at wheelchair height.

(b) Admission rights. The nursing home shall protect and promote the rights of residents and potential residents by establishing and implementing policies which ensure that the facility:

(1) shall not require a third party guarantee of payment to the facility as a condition of admission, or expedited admission, or continued stay in the facility;

(2) shall not charge, solicit, accept or receive, in addition to any amount otherwise required to be paid by third party payors, any gift, money, donation or other consideration as a precondition of admission, expedited admission or continued stay in the facility except that arrangements for prepayment for basic services not exceeding three months shall not be precluded by this paragraph;

(3) shall not require residents or potential residents to waive their rights to Medicare or Medicaid benefits;

(4) shall not require oral or written assurance that residents or potential residents are not eligible for, or will not

apply for, Medicare or Medicaid benefits;

(5) shall obey all pertinent state and local laws which prohibit discrimination against individuals entitled to Medicaid benefits;

(6) may require an individual who has legal access to a resident's income or resources available to pay for facility care, to sign a contract, without incurring personal financial liability, to provide the facility payment from the resident's income or resources;

(7) may charge a resident who is eligible for Medicaid for items and services the resident has requested and received, and that are not specified at the time of admission as included in basic nursing home services, so long as the facility gives proper notice of the availability and cost of these items and services to the resident and does not condition the resident's admission or continued stay on the request for and receipt of such additional items and services; and

(8) may solicit, accept or receive a charitable, religious or philanthropic contribution from an organization or from a person unrelated to the resident, or potential resident, only to the extent that the contribution is not a condition of admission, expedited admission, or continued stay in the facility.

(c) Protection of Legal Rights. (1) Each resident shall have the right to:

(i) exercise his or her rights as a resident of the facility and as a citizen or resident of the United States and New York State including the right to vote, with access arranged by the facility and to this end may voice grievances without discrimination or reprisal for voicing the grievances, and have a right of action for damages or other relief for deprivations or infringements of his or her right to adequate and proper treatment and care established by any applicable statute, rule, regulation or contract; (ii) recommend changes in policies and services to facility staff and/or to any outside representatives, free of interference, coercion, discrimination, restraint or reprisal from the facility and to obtain prompt efforts by the facility to resolve grievances the resident may have, including those with respect to the behavior of other residents;

(iii) exercise his or her individual rights or have his or her rights exercised by a person authorized by state law;

(iv) inspect all records including clinical records pertaining to himself or herself within 24 hours after an oral or written request to the facility and, after receipt of such records for inspection, to purchase at a cost which is the lower of the cost incurred by the facility in production of the record or 75 cents per page, photocopies of the records or any portions of them upon request and two working days advance notice to the facility. The designated representative who has authority to make health care decisions for the resident shall likewise have access to the resident's records in accordance with this subparagraph, State law and the rights of a competent resident to deny such access. A resident or such designated representative shall not be denied access to the clinical records solely because of inability to pay.

(v) examine the results of the most recent survey of the facility conducted by federal or State surveyors including any statement of deficiencies, any plan of correction in effect with respect to the facility and any enforcement actions taken by the Department of Health. The results shall also be made available by the facility for examination. They shall be made available in a place readily accessible to residents and designated

representatives without staffing assistance;

(vi) receive information from agencies acting as resident advocates, and be afforded the opportunity to contact these agencies;

(vii) be free from verbal, sexual, mental or physical abuse, corporal punishment and involuntary seclusion, and free from chemical and physical restraints except those restraints authorized in accordance with section 415.4 of this Part;

(viii) exercise his or her civil and religious liberties, including the right to independent personal decisions and knowledge of available choices, which shall not be infringed; and

(ix) request, or have the resident's designated representative request, and be provided information concerning his or her specific assignment to a patient classification category as contained in Appendix 13-A of this Title, entitled, "Patient Categories and Case Mix Indices Under Resource Utilization Group (RUG-II) Classification System."

(2) With respect to its responsibilities to the resident the facility shall:

(i) furnish a written description of legal rights which includes:

(a) a description of the manner of protecting personal funds, under subdivision (h) of section 415.26 of this Part; and

(b) a statement that the resident may file a complaint with the facility or the New York State Department of Health concerning resident abuse, neglect, mistreatment and misappropriation of resident property in the facility. The statement shall include the name, address and telephone number of the office established by the Department to receive complaints and of the State Office for the Aging Ombudsmen Program;

(ii) promptly notify the resident and the resident's designated representative when there is:

(a) a change in room. Except when the medical condition of the resident requires an immediate room change or an emergency situation has developed, such change in room shall require prior notice and consultation with the resident as well as reasonable accommodation of any resident needs or preferences;

(b) a change in roommate assignment which shall be acceptable, where possible, to all affected residents; or

(c) a change in resident rights under Federal or State law or regulations as specified in this section;

(iii) record and periodically update the address and phone number of the resident's designated representative;

(iv) provide immediate access to any resident by the following:

(a) any representative of the Secretary of Health and Human Services;

(b) any representative of the Department of Health;

- (c) the resident's responsible physician;
 - (d) ombudsmen who are duly certified and designated by the State Office for the Aging;
 - (e) representatives of the Commission on Quality of Care for the Mentally Disabled which is responsible for the protection and advocacy system for developmentally disabled individuals and mentally ill individuals; (f) immediate family or other relatives of the resident, subject to the resident's right to deny or withdraw consent at any time, and
 - (g) others who are visiting with the consent of the resident, subject to reasonable restrictions and the resident's right to deny or withdraw consent at any time;
 - (v) post the names, addresses and telephone numbers of all pertinent state client advocacy groups and provide reasonable access to any resident by any entity or individual that provides health, social, legal or other services to the resident, subject to the resident's right to deny or withdraw consent at any time;
 - (vi) comply with the provisions of Part 411 of this Title regarding Ombudsmen Access to Residential Health Care Facilities; and
 - (vii) inform residents of the facility's visiting hour policies.
- (d) Right to Privacy. Each resident shall have the right to:
- (1) personal privacy and confidentiality of his or her personal and clinical records which shall reflect:
 - (i) accommodations, medical treatment, written and telephone communications, personal care, associations and communications with persons of his or her choice, visits, and meetings of family and resident groups. Resident and family groups shall be provided with private meeting space and residents shall be given access to a private area for visits or solitude. Such requirement shall not require the facility to provide a private room for each resident; and
 - (ii) the resident's right to approve or refuse the release of personal and clinical records to any individual outside the facility except when:
 - (a) the resident is transferred to another health care institution; or
 - (b) record release is required by law;
 - (2) privacy in written communications, including the right to:
 - (i) send and receive mail promptly that is unopened; and
 - (ii) have access to stationery, postage and writing implements at the resident's own expense; and
 - (3) regular access to the private use of a telephone that is wheelchair accessible and usable by hearing impaired

and visually impaired residents.

(e) Right to Clinical Care and Treatment. (1) Each resident shall have the right to:

(i) adequate and appropriate medical care, and to be fully informed by a physician in a language or in a form that the resident can understand, using an interpreter when necessary, of his or her total health status, including but not limited to, his or her medical condition including diagnosis, prognosis and treatment plan. Residents shall have the right to ask questions and have them answered;

(ii) refuse to participate in experimental research and to refuse medication and treatment after being fully informed and understanding the probable consequences of such actions;

(iii) choose a personal attending physician from among those who agree to abide by all federal and state regulations and who are permitted to practice in the facility;

(iv) be fully informed in advance about care and treatment and of any changes in that care or treatment that may affect the resident's well-being;

(v) participate in planning care and treatment or changes in care and treatment. Residents adjudged incompetent or otherwise found to be incapacitated under the laws of the State of New York shall have such rights exercised by a designated representative who will act in their behalf in accordance with State law; and

(vi) self-administer drugs if the interdisciplinary team, as defined by Section 415.11, has determined for each resident that this practice is safe.

(2) With respect to its responsibilities to the resident, the facility shall:

(i) inform each resident of the name, office address, phone number and specialty of the physician responsible for his or her own care.

(ii) except in a medical emergency, consult with the resident immediately if the resident is competent, and notify the resident's physician and designated representative within 24 hours when there is:

(a) an accident involving the resident which results in injury requiring professional intervention;

(b) a significant improvement or decline in the resident's physical, mental, or psychosocial status in accordance with generally accepted standards of care and services;

(c) a need to alter treatment significantly; or

(d) a decision to transfer or discharge the resident from the facility as specified in subdivision (h) of this section; and

(iii) provide all information a resident or the resident's designated representative when permitted by State law, may need to give informed consent for an order not to resuscitate and comply with the provisions of section 405.43 of this Subchapter regarding orders not to resuscitate. Upon resident request the facility shall furnish a

copy of the pamphlet, "Do Not Resuscitate Orders - A Guide for Patients and Families". (f) Residential Rights. Each resident shall have the right to:

(1) refuse to perform services for the facility. The resident may perform such services, if he or she chooses, only when:

(i) there is work available in the facility that the resident is capable of safely performing;

(ii) the facility has documented the need or desire for work in the plan of care;

(iii) the plan specifies the nature of the services performed and whether the services are voluntary or paid;

(iv) compensation for paid services is at or above prevailing rates; and

(v) the resident agrees to the work arrangement described in the plan of care;

(2) retain, store securely and use personal possessions, including some furnishings, and appropriate clothing, as space permits, unless to do so would infringe upon the rights or health and safety of the resident or other residents in which case the facility shall explore alternatives through discussion with the resident, the resident council or interdisciplinary care team, and provide or assist in the arrangement of storage for possessions. The resident shall have the right to locked storage space in his or her room;

(3) share a room with his or her spouse, relative or partner when these residents live in the same facility and both consent to the arrangement. If a spouse, relative or partner resides in a location out of the facility, the resident shall be assured of privacy for visits;

(4) participate in the established residents' council;

(5) meet with, and participate in activities of social, religious and community groups at his or her discretion; and

(6) receive, upon request, kosher food or food products prepared in accordance with the Hebrew orthodox religious requirements when the resident, as a matter of religious belief, desires to observe Jewish dietary laws.

(g) Financial Rights. (1) Each resident shall have the right to manage his or her financial affairs or authorize in writing the facility to manage personal finances in accordance with paragraph (5) of subdivision (h) of section 415.26 of this Part. The facility may not require residents to deposit their personal funds with the facility;

(2) With respect to its responsibilities to the resident, the facility shall:

(i) inform each resident who is entitled to Medicaid benefits, in writing, at the time of admission to the nursing home or, when the resident becomes eligible for Medicaid of:

(a) the items and services that are included in nursing home services under the State plan and for which the resident may not be charged;

- (b) those other items and services that the facility offers and for which the resident may be charged, and the amount of charges for those services; and
- (c) the clear distinction between the two lists required by clauses (a) and (b) of this subparagraph;
- (ii) inform each resident when changes are made to the items and services specified in clauses (a) and (b) of subparagraph (i) of this paragraph;
- (iii) inform each resident verbally and in writing before, or at the time of admission, and periodically when changes occur during the resident's stay, of services available in the facility and of charges for those services, including any charges for services not covered by sources of third party payment or by the facility's basic per diem rate; and
- (iv) prominently display in the facility written information, and provide to residents and potential residents oral and written information about how to apply for and use Medicare and Medicaid benefits, and how to receive refunds for previous payments covered by such benefits as well as a description of the requirements and procedures for establishing eligibility for Medicaid, including the right to request an assessment which will determine the extent of a couple's non-exempt resources at the time of institutionalization and attribute to the community spouse an equitable share of resources which cannot be considered available for payment toward the cost of the institutionalized spouse's medical care in his or her process of spending down to Medicaid eligibility levels.
- (h) Transfer and discharge rights. Transfer and discharge shall include movement of a resident to a bed outside of the certified facility whether that bed is in the same physical plant or not. Transfer and discharge shall not refer to movement of a resident to a bed within the same certified facility. (1) With regard to the transfer or discharge of residents, the facility shall:
- (i) permit each resident to remain in the facility, and not transfer or discharge the resident from the facility unless such transfer or discharge is made in recognition of the resident's rights to receive considerate and respectful care, to receive necessary care and services, and to participate in the development of the comprehensive care plan and in recognition of the rights of other residents in the facility. (a) The resident may be transferred only when the interdisciplinary care team, in consultation with the resident or the resident's designated representative, determines that:
- (1) the transfer or discharge is necessary for the resident's welfare and the resident's needs cannot be met after reasonable attempts at accommodation in the facility;
- (2) the transfer or discharge is appropriate because the resident's health has improved sufficiently so the resident no longer needs the services provided by the facility; or
- (3) the health or safety of individuals in the facility would otherwise be endangered, the risk to others is more than theoretical and all reasonable alternatives to transfer or discharge have been explored and have failed to safely address the problem.
- (b) Transfer and discharge shall also be permissible when the resident has failed, after reasonable and appropriate notice, to pay for (or to have paid under Medicare, Medicaid or third party insurance) a stay at the

facility. For a resident who becomes eligible for Medicaid after admission to a facility the facility may charge a resident only allowable charges under Medicaid. Such transfer or discharge shall be permissible only if a charge is not in dispute, no appeal of a denial of benefits is pending, or funds for payment are actually available and the resident refuses to cooperate with the facility in obtaining the funds.

(c) Transfer or discharge shall also be permissible when the facility discontinues operation and has received approval of its plan of closure in accordance with subdivision (i) of Section 401.3 of this Subchapter.

(ii) ensure complete documentation in the resident's clinical record when the facility transfers or discharges a resident under any of the circumstances specified in subparagraph (i) of this paragraph. The documentation shall be made by:

(a) the resident's physician and interdisciplinary care team, as appropriate, when transfer or discharge is necessary under subclause (1) or (2) of clause (a) of subparagraph (i) of this paragraph; and

(b) a physician when transfer or discharge is necessary due to the endangerment of the health of other individuals in the facility under subclause (3) of clause (a) of subparagraph (i) of this paragraph;

(iii) before it transfers or discharges a resident:

(a) notify the resident and designated representative of the transfer or discharge and the reasons for the move in writing and in a language and manner they understand;

(b) record the reasons in the resident's clinical record; and

(c) include in the notice the items described in subparagraph (v) of this paragraph;

(iv) provide the notice of transfer or discharge required under subparagraph (iii) of this paragraph at least 30 days before the resident is transferred or discharged, except that notice shall be given as soon as practicable before transfer or discharge under the following circumstances:

(a) the safety of individuals in the facility would be endangered;

(b) the health of individuals in the facility would be endangered;

(c) the resident's health improves sufficiently to allow a more immediate transfer or discharge;

(d) an immediate transfer or discharge is required by the resident's urgent medical needs; or

(e) the transfer or discharge is being made in compliance with a request by the resident.

(v) include in the written notice specified in subparagraph (iii) of this paragraph the following:

(a) for transfers or discharges a statement that the resident has the right to appeal the action to the State Department of Health in accordance with paragraphs (2) and (3) of this subdivision. The statement shall include a

current phone number for the Department which can be used to initiate an appeal;

(b) the name, address and telephone number of the State long term care ombudsman;

(c) for nursing facility residents who are mentally ill or who have developmental disabilities, the mailing address and telephone number of the Commission on Quality of Care for the Mentally Disabled which is responsible for the protection and advocacy of such individuals; and

(d) a statement that, if the resident appeals the transfer or discharge to the Department of Health within 15 days of being notified of such transfer or discharge, the resident may remain in the facility pending an appeal determination. This clause shall not apply to transfers or discharges based on clauses (a), (b), (d) or (e) of subparagraph (iv) of this paragraph; and (vi) provide sufficient preparation and orientation to residents to ensure safe and orderly transfer or discharge from the facility including an opportunity to participate in deciding where to go.

(2) Appeals of transfer and discharge decisions to the Department of Health as permitted by clause (a) of subparagraph (v) of paragraph (1) of this subdivision shall be in accordance with the following:

(i) the resident has the right to:

(a) a pre-transfer on-site appeal determination under the auspices of the Department of Health, provided that the resident has appealed the transfer or discharge within 15 days of the notice, except in cases involving imminent danger to others in the facility, and

(b) remain in the facility pending an appeal determination, or

(c) a post-transfer appeal determination within 30 days of transfer if the resident did not request an appeal determination prior to transfer, or

(d) return to the facility to the first available bed if the resident wins the appeal; and

(e) examine his/her medical records.

(ii) the presiding officer shall have the power to obtain medical and psychosocial consultations,

(iii) the nursing home shall have the burden of proof that the transfer is/was necessary and the discharge plan appropriate,

(iv) in cases involving imminent danger to others in the facility, an involuntary transfer may be arranged before a hearing. However, the facility shall be required to hold the resident's bed until after the hearing decision. If the transfer is found to be appropriate, the facility may charge a private pay resident for the time the bed was held. If the transfer is found to be inappropriate, the facility shall readmit the resident to his or her bed on a priority basis,

(v) the department shall conduct a review and render a decision on the appeal as required in clause (a) of subparagraph (i) of this paragraph within 15 days of the request.

(3) If an appeal decision rendered after discharge finds the discharge or transfer to be inappropriate, the facility shall readmit the resident prior to admitting any other person.

(4) The facility shall establish and implement a bed-hold policy and a readmission policy that reflect at least the following:

(i) At the time of admission and again at the time of transfer for any reason, the facility shall verbally inform and provide written information to the resident and the designated representative that specifies:

(a) the duration of the bed-hold policy during which the resident is permitted to return and resume residence in the facility; and

(b) the facility's policies regarding bed-hold periods, which must be consistent with subparagraph (iii) of this paragraph, permitting a resident to return.

(ii) At the time for therapeutic leave, a nursing home shall provide written notice to the resident and the designated representative, which specifies the duration of the bed-hold policy described in subparagraph (i) of this paragraph.

(iii) A nursing home shall establish and follow a written policy under which a resident whose hospitalization or therapeutic leave exceeds the bed hold period is readmitted to the facility immediately upon the first availability of a bed in a semi-private room if the resident:

(a) requires the services provided by the facility; and

(b) is eligible for Medicaid nursing home services.

(iv) A nursing home shall establish and follow a written policy under which a resident who has resided in the nursing home for 30 days or more and who has been hospitalized or who has been transferred or discharged on therapeutic leave without being given a bed-hold is readmitted to the facility immediately upon the first availability of a bed in a semi-private room if the resident:

(a) requires the services provided by the facility; and

(b) is eligible for Medicaid nursing home services.

(5) With regard to the assurance of equal access to quality care, the facility shall establish and maintain identical policies and practices regarding transfer, discharge and the provision of all required services for all individuals regardless of source of payment.

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Effective Date: 04/17/96

Title: Section 415.30 - General records

415.30 General records. The nursing home shall maintain information necessary to permit the production of the following records immediately upon request and any other records required by the provisions of this Chapter:

- (a) a chronological listing of residents admitted, by name, with identifying information and the place from which the resident is admitted or transferred;
- (b) a chronological listing of residents discharged, by name, including the reason for discharge, adequate identifying information and the place to which the resident is discharged or transferred;
- (c) a daily census record consisting of a summary report of the daily resident census with cumulative figures for each month and each year;
- (d) a resident personal nonmedical record consisting of an appropriate record for each resident, including identification of next of kin, family and sponsor, all details of the referral and admission and nonmedical correspondence and papers concerning the resident;
- (e) a general fiscal record for each resident, including copies of all agreements or contracts, account records, and a current inventory of personal property held in safekeeping;
- (f) an accident and incident record which shall include a clear description of every accident and any other incident involving behavior of a resident or staff member that poses a threat to a resident or staff member, the resident's version of the accident or incident unless the resident objects or is unable to give a report due to his/her medical condition, names of individuals involved and a description of medical and other services provided, by whom such are provided, and the steps taken to prevent recurrence, with a copy of the resident's version as reported given to the resident and/or the resident's designated representative;
- (g) personnel records for each employee, including the administrator, containing all available pre-employment information, orientation and full in-service record;
- (h) personnel policies, including statements of all policies affecting personnel and a job description for each staff position;
- (i) financial records which identify all income by source and describe all expenditures by category;
- (j) records for nursing service administration, including:
 - (1) a nursing service organization chart;
 - (2) a master plan for staffing; and
 - (3) a nursing service policies and procedures manual;
- (k) records for the dietary service, including:

- (1) a plan for organization, management and day-to-day operation;
 - (2) a master plan and weekly work schedules for staffing;
 - (3) a current diet manual;
 - (4) written and dated menus for normal and therapeutic diets, as served; and
 - (5) receipted invoices for food and supplies;
- (l) records for activities program, including:
- (1) name and qualifications of the activities director;
 - (2) a current roster of residents participating in the program as well as a record of resident attendance and participation at each activity for the preceding twelve months; and
 - (3) service policies and procedures;
- (m) records for each specialized rehabilitative therapy service, including:
- (1) service policies and procedures;
 - (2) a statistical summary, including but not limited to the frequency, type and duration of treatments given, number of residents treated and number of residents admitted and discharged from the service; and
 - (3) service budgets and equipment inventory;
- (n) a record of staff medical policies, including any bylaws, rules and regulations adopted by the nursing home; and
- (o) transfer or affiliation agreements consisting of all contracts, agreements, arrangements, understandings, and records of all efforts to establish same with hospitals, nursing homes, home health agencies, and other health institutions, agencies and services regarding the transfer of residents between the nursing home and such institutions or agencies.

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Title: Section 415.31 - New York State RHCF nurse aide registry

415.31 New York State RHCF nurse aide registry. (a) Content. The New York State RHCF Nurse Aide Registry shall include but not be limited to the following information concerning each certified nurse aide as applicable/appropriate:

- (1) full name of nurse aide, including maiden name and/or other surnames used;
- (2) address of nurse aide when certified/recertified;
- (3) date of birth;
- (4) social security number;
- (5) name and date of state approved training and competency program(s) successfully completed;
- (6) certification number of nurse aide with a descriptive modifier indicating how the nurse aide obtained certification;
- (7) most recent recertification date of nurse aide;
- (8) final findings of instances of resident abuse, mistreatment or neglect against a nurse aide with date of hearing or finding;
- (9) the nursing home employer at the time of certification/recertification and date of employment by that employer;
- (10) a record of criminal conviction for resident abuse, mistreatment, neglect or misappropriation of resident property against a nurse aide and the date of conviction; and
- (11) a statement by the nurse aide disputing the findings or conviction that may not exceed 150 words, nor contain information which identifies other persons.

(b) Fees. The New York State RHCF Nurse Aide Registry shall be supported and maintained by charging fees in accordance with Public Health Law Section 2803-j.

(c) Access. The New York State RHCF Nurse Aide Registry shall be accessible by telephone, during the hours established by the Department, or in writing.

(d) Obtaining information by telephone. The New York State RHCF Nurse Aide Registry shall provide the following information upon request to residential health care facilities, nurse aide agencies/employment organizations and nurse aide registries maintained by other states in response to a telephone inquiry;

- (1) Telephone verification that the individual is a certified nurse aide;

(2) an indication of findings of resident abuse, mistreatment or neglect or criminal convictions of resident abuse, mistreatment, neglect or misappropriation of resident property by a nurse aide; and

(3) follow-up documentation as described in subdivision (e) of this section.

(e) Obtaining written information. New York State RHCF Nurse Aide Registry shall provide the following information upon the receipt of a written request, in accordance with the provisions of the Freedom of Information Law:

(1) verification that the individual is a certified nurse aide, the certification number and date of certification/recertification;

(2) copies of final findings of resident abuse, mistreatment or neglect by a nurse aide and a statement from the nurse aide disputing the findings, if any; and

(3) a report of a criminal conviction for resident abuse, mistreatment, neglect or misappropriation of resident property and the date of the conviction.

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Title: Section 415.36 - Long-term inpatient rehabilitation program for head-injured residents

415.36 Long-term inpatient rehabilitation program for head-injured residents. (a) Definition. A head injury program shall mean a planned combination of services provided in a nursing home unit approved by the commissioner pursuant to Part 710 of this Title as a provider of specialized services for head-injured residents on a designated resident care unit of at least 20 beds. The head-injury program shall be designed specifically to serve medically stable, traumatically brain-injured individuals with an expected length of stay from 3 to 12 months. The program shall provide goal-oriented, comprehensive, interdisciplinary and coordinated services directed at restoring the individual to the optimal level of physical, cognitive and behavioral functioning. The population served shall consist primarily of individuals with traumatically acquired, nondegenerative, structural brain damage resulting in residual deficits and disability. The program shall not admit or retain individuals who are determined to be a danger to self or others.

(b) General requirements. The nursing home shall ensure:

(1) the development and implementation of a planned and systematic program for monitoring and assessing the quality and appropriateness of resident care to assure care is provided in accordance with current standards of professional practice. The quality assurance process shall define methods for the identification and selection of clinical and administrative problems to be reviewed with written documentation of such reviews. The process shall include but not be limited to reviews of clinical records, resident and family complaints and suggestions, incident reports and the resident's response to discharge plans. There shall be documentation that recommendations are followed up, action is taken to resolve identified problems and results of such action are assessed periodically;

(2) sufficient space, equipment and facilities are available to support the clinical, educational and administrative functions of the program in accordance with standards set forth in Parts 711 and 713 of this title;

(3) transfer agreements are in effect with other facilities, in accordance with section 400.9 of this Title for the acceptance of referrals or the transfer of head-injured residents in need of services not available at the facility;

(4) the development and consistent application of written admission and continued stay criteria for this service which include but are not limited to the use of a generally recognized classification system for measuring each individual's physical, affective, behavioral and cognitive level of functioning and the family's capabilities and functioning, and are consistent with the following requirements:

(i) a resident admitted for long-term rehabilitation shall be a person who has suffered a traumatic brain injury with structural nondegenerative brain damage, is medically stable, is not in a persistent vegetative state, demonstrates potential for physical, behavioral and cognitive rehabilitation and may evidence moderate to severe behavior abnormalities. The resident must be capable of exhibiting at least localized responses by reacting specifically but inconsistently to stimuli;

(ii) a resident admitted for coma management shall be a person who has suffered a traumatic brain injury with structural nondegenerative brain damage and is in a coma. The resident may be completely unresponsive to any stimuli or may exhibit a generalized response by reacting inconsistently and nonpurposefully to stimuli in a nonspecific manner; and

- (iii) a resident who has diffuse brain damage cause by anoxia, toxic poisoning, cerebral vascular accident, or encephalitis may be admitted to this program if considered appropriate for coma management and long-term rehabilitation;
- (5) records are maintained for at least two years identifying persons who were determined by the facility to be ineligible for admission under the head injury program. The records should indicate the reason for ineligibility and any referral action taken;
- (6) inservice and continuing education programs which address the medical, physical, cognitive, psychosocial and behavioral needs of head injured residents are conducted on a regular basis for all personnel caring for such residents;
- (7) educational programs are conducted for personnel not providing direct care but who come in contact on a regular basis with head-injured residents. The programs should familiarize personnel with the specific needs of these residents; and
- (8) education and counseling services are available and offered to the residents and families as needed.
- (c) Program management and staffing. There shall be distinct staffing for the direct care services in the head injury program unit.
- (1) The program shall be administered by a program director who has at least two years of clinical or administrative experience in head injury rehabilitation programs. The program director has specific responsibilities which include but are not limited to: (i) administrative direction and oversight of the program;
- (ii) ongoing review of the program and implementation of program changes as identified; and
- (iii) development and implementation of educational programs on an ongoing basis for staff working with head injured residents.
- (2) A physician who has advanced training and experience in the care of the head injured shall be responsible for the medical direction and medical oversight of the head injury program.
- (3) A qualified specialist in physical medicine and rehabilitation or a physician who has training and experience in the care and rehabilitation of head injured patients or residents shall be responsible for the medical management of each resident.
- (4) Head injury programs admitting and retaining residents who also require treatment for psychiatric disorders shall have on staff qualified specialists in psychiatry sufficient in number to meet the needs of these residents. A qualified specialist in psychiatry shall be designated to assist in the development and implementation of policies and procedures governing the provision of services for residents with psychiatric disorders, including criteria for transfer of such residents to an appropriate program which is licensed under the Mental Hygiene Law.
- (5) A primary interdisciplinary team of health care professional with special interest, training, experience and

expertise in head injury rehabilitation shall be responsible for the assessment, coordinated program and care planning, and direct services for each head injured resident. The interdisciplinary team members shall be specifically assigned to serve head injured resident and the team shall include as a minimum the following types of health care professionals:

- (i) physician;
- (ii) registered professional nurse;
- (iii) physical therapist;
- (iv) occupational therapist;
- (v) speech-language pathologist;
- (vi) social worker;
- (vii) dietitian;
- (viii) therapeutic recreation specialist; and
- (ix) clinical psychologist with at least one year of training in neuropsychology.

(6) Nursing services for the head injury unit shall be under the direction of a registered professional nurse with experience in the provision of rehabilitation nursing for head injured patients or residents.

(7) There shall be at least one registered professional nurse with experience in rehabilitation nursing assigned to each shift on the head injury unit.

(8) Consultative services of qualified specialists shall be available as needed to the head injury program in accordance with resident needs.

(9) Depending upon types of residents being served and individual resident's needs, the program shall provide or make formal arrangements for vocational rehabilitation services and special education services.

(d) Interdisciplinary care planning. (1) A member of the interdisciplinary team managing the resident shall be designated to:

- (i) coordinate the overall plan of care and services and identify unmet needs for each resident including discharge and follow-up plans;
- (ii) serve as a liaison among resident, family and staff to ensure that resident and family concerns are addressed; and
- (iii) serve as a liaison with educational, social and vocational resources in the community which are serving the resident.

(2) A written, comprehensive care plan shall be developed and implemented which establishes rehabilitation goals for each resident. The plan shall be developed on admission by the interdisciplinary team and the attending physician in consultation with the resident, the resident's family and outside agencies, as necessary. The care plan shall be reviewed at least every 14 days and modified according to the resident's needs by the interdisciplinary team. The comprehensive care plan is based upon total and ongoing integrated, interdisciplinary assessments which shall address as a minimum, medical and neurological status, emotional and psychiatric status, nutritional status, the developmental needs of children and adolescents, sensorimotor capacity, cognitive, perceptual and communicative capacity, affect and mood, activities of daily living skills, educational or vocational capacities, sexuality issues and concerns, family counseling and community reintegration needs and recreation and leisure time interests.

(3) A written discharge plan shall be developed within 30 days of admission for each resident as part of the overall care plan and shall include input from all professionals caring for the resident, the resident's family, and as appropriate, any outside agency or resource that will be involved with the resident following discharge.

(4) The family and resident shall receive preparation for discharge through the facility's educational and counseling services. (5) Provision shall be made by the facility for the follow-up of each resident after discharge to assess the resident's response to the discharge plan.

(e) Utilization review monitoring. The facility shall participate with the commissioner or his designee in a program of resident care and services monitoring which shall include but not be limited to review of admissions, care and services provided, continued stays, and discharge planning. The facility shall furnish such records and reports at such frequency as the commissioner or his designee may require and shall make available members of the interdisciplinary resident care team for case conferences as the commissioner or his designee deems necessary.

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Title: Section 415.37 - Services for residents with Acquired Immune Deficiency Syndrome (AIDS)

415.37 Services for residents with Acquired Immune Deficiency Syndrome (AIDS).

(a) **Applicability.** (1) This section applies to a nursing home approved by the commissioner pursuant to Part 710 of this Title as a provider of specialized services for residents with AIDS. Such facility shall provide comprehensive and coordinated health services and programs in accordance with the requirements set forth in this section and this Part, unless a contrary requirement is contained in this section.

(2) For purposes of these regulations, AIDS shall mean acquired immune deficiency syndrome and other human immunodeficiency virus (HIV) related illness.

(b) **General requirements.** The nursing home shall ensure that:

(1) the facility is staffed and equipped to manage the care and treatment of residents with AIDS requiring nursing home care;

(2) reserved;

(3) a written transfer agreement exists with a designated AIDS center or other hospital for the transfer of residents in need of emergency or acute inpatient care services;

(4) special services are provided to residents in need thereof. Such special services shall include, as a minimum, substance abuse services, case management, HIV education, risk reduction, mental health services and pastoral counseling. These special services may be provided directly by the facility or through a formal arrangement;

(5) a written, comprehensive care plan is developed and implemented for each resident by an interdisciplinary team of health-care professionals in coordination with the case manager and in consultation with the resident or the resident's legal representative. The interdisciplinary team shall include health-care professionals as appropriate to the needs of the AIDS resident, but as a minimum shall include the attending physician, a registered professional nurse and a social worker. The resident care plan is reviewed at least every month by the interdisciplinary team and modified as necessary;

(6) in-service and continuing education programs, which address the medical, psychological, social problems and care needs specific to persons with AIDS, are conducted for all nursing home personnel on a regular basis but not less than every three months. A record of the programs attended shall be maintained for each employee;

(7) staff counseling and supportive services are made available to personnel to address problems related to the care of persons with AIDS; and

(8) as part of the facility's infection control program, infection control policies and procedures specific to AIDS are developed and implemented.

(c) **Staffing requirements.** The nursing home shall ensure that:

- (1) specialty oversight of the AIDS program, including the development of policies and procedures, is provided by a physician who has experience in the care and clinical management of persons with AIDS;
- (2) the health care of each resident is under the continuing supervision of an attending physician who sees and evaluates the resident whenever necessary;
 - (i) physician visits for residents who are assessed as requiring a skilled level of nursing care shall not be less frequent than once per week; and
 - (ii) physician visits for residents who are assessed as requiring an intermediate level of nursing care based on their ambulant status and other relevant medical factors, shall not be less frequent than once per month;
- (3) the facility makes provision for onsite physician coverage sufficient to meet the medical needs of residents seven days a week. This coverage may be part of the routine physician visits or in addition to such visits;
- (4) nursing services for the AIDS program are under the supervision of a registered professional nurse with experience in the care and management of persons with AIDS; and
- (5) each resident is evaluated by rehabilitation therapy staff to include, as a minimum, physical therapy and occupational therapy staff. Based on the evaluation, a plan of care is developed which establishes restoration or maintenance rehabilitation goals.

Volume: C

Effective Date: 04/03/91

Title: Section 415.38 - Long-term ventilator dependent residents

415.38 Long-term ventilator dependent residents. Facilities which admit and care for residents who require nursing home care and continuous or intermittent use of a ventilator shall comply with the following additional requirements pertinent to the care of those residents.

(a) General. The facility shall develop and implement admission, resident care management, transfer and discharge policies and procedures that promote delivery of medical, nursing and respiratory care services consistent with generally accepted standards of professional practice.

(1) Residents shall be congregated within the facility in a single nursing care unit.

(2) Services shall be directed at restoring each resident to his or her optimal level of functioning and assisting each resident to achieve maximum independence from mechanical ventilation.

(3) The facility shall have a transfer agreement with a general hospital which:

(i) is located within twenty minutes travel time of the facility;

(ii) is equipped and staffed for the acute care and management of ventilator dependent patients; and

(iii) has granted privileges to pulmonary care physicians to admit and care for ventilator dependent residents who may require hospital admission.

(4) Laboratory, mental health and diagnostic radiology services appropriate to the needs of the residents shall be readily available either directly or by arrangement.

(5) The facility shall have an effective program of preventive and periodic maintenance of ventilator equipment which meets or exceeds the manufacturer's requirements for the equipment and prevents the spread of infections and communicable disease.

(b) Resident care services:

(1) Physician supervision:

(i) the care of the resident shall be directed by a physician who is a qualified specialist in pulmonology; and

(ii) this physician or other physicians qualified by training and pertinent experience in the care and clinical management of persons requiring respiratory care and requiring use of ventilators shall be available to attend to such residents seven days-a-week, twenty-four hours-a-day. One of these physicians shall see and evaluate the resident as often as necessary but not less than every other week.

(2) All resident care staff shall receive orientation and training appropriate to the care of the ventilator dependent residents to whom they are assigned.

- (3) One or more registered professional nurses on each shift shall be assigned to provide care to ventilator dependent residents.
- (4) Respiratory therapists shall be available as needed to meet the needs of the residents.
- (5) Rehabilitation therapy services shall be available at the facility to meet the needs of the residents.
- (6) The facility shall maintain specific supplies appropriate to meeting the care needs of the residents.
- (7) Residents shall be assessed as to their ability to be weaned from their ventilatory dependence. Those residents who are assessed as potentially able to be weaned from dependence on support with mechanical ventilation or whose daily use of ventilator support may be reduced shall receive an active program of therapy and other supportive services designed for that resident to reduce or eliminate his or her need for use of a ventilator.
- (8) Residents shall be assessed as to their ability to be discharged to home or to a home-like setting with or without supportive services. When such potential is identified, the facility shall initiate an active program of therapy and other supportive services designed to assist the resident in the transition to the new setting. Facility discharge planning staff shall arrange for any home modifications, equipment or assistance expected to be required of the resident in the new setting and document these arrangements in the resident clinical record.

Volume: C

Effective Date: 03/16/94

Title: Section 415.39 - Specialized programs for residents requiring behavioral interventions

415.39 Specialized programs for residents requiring behavioral interventions.

(a) General.

(1) Specialized programs for residents requiring behavioral interventions ("the program") shall mean a discrete unit with a planned combination of services with staffing, equipment and physical facilities designed to serve individuals whose severe behavior cannot be managed in a less restrictive setting. The program shall provide goal-directed, comprehensive and interdisciplinary services directed at attaining or maintaining the individual at the highest practicable level of physical, affective, behavioral and cognitive functioning.

(2) The program shall serve residents who are a danger to self or others and who display violent or aggressive behaviors which are typically exhibited as physical or verbal aggression such as clear threats of violence. This behavior may be unpredictable, recurrent for no apparent reason, and typically exhibited as assaultive, combative, disruptive or socially inappropriate behavior such as sexual molestation or fire setting.

(3) The program shall be located in a nursing unit which is specifically designated for this purpose and physically separate from other facility residents. The unit shall be designed in accordance with the provisions as set forth in Subpart 713-2 of this Title.

(4) The facility shall have a written agreement with an inpatient psychiatric facility licensed under the Mental Hygiene Law to provide for inpatient admissions and consultative services as needed.

(5) In addition to the implementation of the quality assessment and assurance plan for this program as required by section 415.27 of this Part, the facility shall participate with the commissioner or his or her designee in a review of the program and resident outcomes. The factors to be reviewed shall include but not be limited to a review of admissions, the care and services provided, continued stays, and discharge planning. The facility shall furnish records, reports and data in a format as requested by the commissioner or his or her designee and shall make available for participation in the review, as necessary, members of the interdisciplinary resident care team.

(b) Admission.

(1) The facility shall develop written admission criteria which are applied to each prospective resident. As a minimum, for residents admitted to the program, there shall be documented evidence in the resident's medical record that:

(i) the resident's behavior is dangerous to him or herself or to others;

(ii) the resident's behavior has been assessed according to severity and intensity;

(iii) within 30 days prior to the date of application to the program, the resident has displayed:

(a) verbal aggression which constitutes a clear threat of violence towards others or self; or

- (b) physical aggression which is assaultive or combative and causes or is likely to cause harm to others or self; or
- (c) persistently regressive or socially inappropriate behavior which causes actual harm.
- (iv) various alternative interventions have been tried and found to be unsuccessful;
- (v) the resident cannot be managed in a less restrictive setting; and
- (vi) the prospective resident has the ability to benefit from such a program.

(2) Prior to admission, the facility shall fully inform the resident and the resident's designated representative both orally and in writing about the program plan and the policies and procedures governing resident care in this unit. Such policies and procedures shall at a minimum include a statement that the resident's right to leave or be discharged from the program shall be consistent with the rights of other residents in the facility.

(c) Assessment and Care Planning.

(1) The interdisciplinary team shall have determined preliminary approaches and interventions to the severe behavior and recorded them in the resident care plan prior to admission to the unit.

(2) Each resident's care plan shall include care and services which are therapeutically beneficial for the resident and selected by the resident when able and as appropriate. The care plan shall be prepared by the interdisciplinary team, as described in section 415.11 of this Part, which shall include psychiatrist, psychologist, or social worker participation as appropriate to the needs of the resident.

(3) Based on the resident's response to therapeutic interventions, the care plan including the discharge plan shall be reviewed and modified, as needed, but at least once a month.

(d) Discharge.

(1) A proposed discharge plan shall be developed within 30 days of admission for each resident as part of the overall care plan and shall include input from all professionals caring for the resident, the resident and his or her family, as appropriate, and any outside agency or resource that will be involved with the resident following discharge. (2) When the interdisciplinary team determines that discharge of a resident to another facility or community-based program is appropriate, a discharge plan shall be implemented which is designed to assist and support the resident, family and caregiver in the transition to the new setting. Program staff shall be available post-discharge to act as a continuing resource for the resident, family or caregiver.

(3) The resident shall be discharged to a less restrictive setting when he or she no longer meets the admission criteria for this program as stated in subdivision (b) of this section.

(4) A resident discharged to an acute care facility shall be accompanied by a member of the program's direct care staff during transfer. He or she shall be given priority readmission status to the program as his or her condition may warrant.

(5) There shall be a written transfer agreement with any nursing home of origin which allows for priority readmission to such transferring facility when a resident is capable of a safe discharge.

(e) Resident services and staffing requirements.

(1) The program shall consist of a variety of medical, behavioral, counseling, recreational, exercise, and other services to help the resident control or redirect his or her behavior through interventions carried out in a therapeutic environment provided on-site.

(2) There shall be dedicated staffing in sufficient numbers to provide for the direct services in the unit and to allow for small group activities and for one-on-one care.

(3) The unit shall be managed by a program coordinator who is a licensed or certified health care professional with previous formal education, training and experience in the administration of a program concerned with the care and management of individuals with severe behavioral problems. The program coordinator shall be responsible for the operation and oversight of the program. Other responsibilities of the program coordinator shall include:

(i) the planning for and coordination of direct care and services;

(ii) developing and implementing inservice and continuing education programs, in collaboration with the interdisciplinary team, for all staff in contact with or working with these residents;

(iii) participation in the facility's decisions regarding resident care and services that affect the operation of the unit; and

(iv) ensuring the development and implementation of a program plan and policies and procedures specific to this program.

(4) A physician who has specialized training and experience in the care of individuals with severe behavioral or neuropsychiatric conditions shall be responsible for the medical direction and medical oversight of this program and shall assist with the development and evaluation of policies and procedures governing the provision of medical services in this unit.

(5) A qualified specialist in psychiatry who has clinical experience in behavioral medicine and experience working with individuals who are neurologically impaired shall be available on staff or a consulting basis to the residents and to the program.

(6) A clinical psychologist with at least one year of training in neuropsychology shall be available on staff or a consulting basis to the residents and to the program.

(7) A social worker with experience associated with severe behavioral conditions shall be available either on staff or a consulting basis to work with the residents, staff and family as needed.

(8) Other than the program coordinator, there shall be at least one registered professional nurse deployed on each shift in this unit who has training and experience in caring for individuals with severe behaviors.

(9) A full-time therapeutic recreation specialist shall be responsible for the therapeutic recreation program.

(10) The facility shall ensure that all staff assigned to the direct care of the residents have pertinent experience or have received training in the care and management of individuals with severe behaviors.

(11) The facility shall ensure that educational programs are conducted for staff not providing direct care but who come in contact with these residents on a regular basis such as housekeeping and dietary aides. The programs shall familiarize staff with the program and the residents.

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Effective Date: 04/01/92

Title: Section 415.4 - Resident behavior and facility practices

415.4 Resident behavior and facility practices. The facility shall provide each resident with considerate and respectful care designed to promote the resident's independence and dignity in the least restrictive environment commensurate with the resident's preference and physical and mental status.

(a) Physical and Chemical Restraints. The facility and all medical, nursing, and other professional staff shall assure that:

(1) the resident is free, consistent with subdivision (l) of section 415.12 of this Part, from any psychotropic drug administered for purposes of discipline or convenience, and not required to treat the resident's medical conditions or symptoms; and

(2) physical restraints, any manual method or physical or mechanical device, material or equipment attached or adjacent to the resident's body that the individual cannot remove easily which restricts freedom of movement or normal access to one's body, are:

(i) used only to protect the health and safety of the resident and to assist the resident to attain and maintain optimum levels of physical and emotional functioning;

(ii) an integral part of the interdisciplinary care plan that is individualized as to the type of restraint, release schedules, type of exercise, necessary skin care and ambulation to be provided, and is intended to lead to less restrictive treatment to manage the problem for which the restraint is applied;

(iii) used only in unusual circumstances and only after all reasonable less restrictive alternatives have been considered and rejected for reasons related to the resident's well-being which shall be documented showing evidence of consultation with appropriate professionals such as social workers and physical therapists. Less restrictive measures that would not clearly jeopardize the resident's safety shall not be rejected before a trial to demonstrate whether a more restrictive restraint would promote greater functional independence;

(iv) not used for staff convenience, for purposes of discipline or as substitutes for direct care, activities and other services;

(v) an enabler of the highest practicable physical, mental or psychosocial well-being; and

(vi) implemented only after the resident or designated representative, to the extent permitted by state law, agrees to this treatment alternative, except in an emergency situation in accordance with paragraph (6) of this subdivision. If the resident or designated representative withdraws agreement to the treatment after implementation, the usage shall be stopped.

(3) When physical restraints are used:

(i) they are used in accordance with paragraph (2) of this subdivision and are time limited. They are used for specified periods of time, properly applied allowing for some body movement and not impairing circulation;

(ii) they are monitored closely as specified in paragraph (5) of this subdivision; and

(iii) all plans for restraints are reviewed at a frequency determined by the resident's condition or more frequently if requested by the resident or designated representative. The clinical record shall include documentation of periodic reevaluation of the need for the restraint and efforts made to substitute other measures.

(4) Policies and procedures regarding the ordering and use of physical restraints and the recording, reporting, monitoring and review and modification thereof are:

(i) incorporated into the inservice education programs of the facility, with changes made in such programs when policies and procedures are modified; and

(ii) made known to all medical, nursing and other appropriate resident care personnel in advance of implementation.

(5) When physical restraints are used the resident is:

(i) released as frequently as necessary to meet resident care needs, but at least every two hours except when asleep in bed, then released as indicated by the type of restraint and by the residents' condition;

(ii) provided with changes of position, ambulation or exercise at the time of release; and

(iii) observed at least as frequently as at the time of dressing and undressing for any evidence of adverse effects, including but not limited to circulatory problems or skin abrasions.

(6) In an emergency situation a physical restraint may only be used if it is:

(i) approved by the medical director, attending physician or nursing director, or in his or her absence, by a registered professional nurse;

(ii) used for that specific emergency and for a limited period of time with physician consultation regarding the physical measure or safety device obtained within 24 hours;

(iii) applied under the direction of a licensed nurse who documents in the clinical record the circumstances necessitating the physical restraint and the resident's response; and (iv) monitored frequently by a licensed nurse until the resident is seen by a physician,

(7) There are written policies specifying and defining each type of physical restraint that is acceptable and available in the facility and the purposes for which each shall be used. Locked restraints shall not be considered acceptable.

(b) Staff treatment of residents. The nursing home shall develop and implement written policies and procedures that prohibit mistreatment, neglect or abuse of residents and misappropriation of resident property.

(1) The facility shall:

- (i) not use, or permit verbal, mental, sexual or physical abuse, including corporal punishment, or involuntary seclusion of residents; and
 - (ii) not employ individuals who have:
 - (a) been found guilty of abusing, neglecting or mistreating individuals by a court of law; or
 - (b) had a finding entered into the New York State Nurse Aide Registry concerning abuse, neglect or mistreatment of residents or misappropriation of their property.
 - (iii) report any knowledge it has of actions by a court of law against an employee which would indicate unfitness for service as a nurse aide or other facility staff to the New York State Nurse Aide Registry or to appropriate licensing authorities.
- (2) The facility shall ensure that alleged violations involving mistreatment, neglect or abuse, including injuries of unknown source, are reported immediately to the administrator of the facility and, when required by law or regulation, to the Department of Health in accordance with Section 2803-d of the Public Health Law and Part 81 of this Title through established procedures.
- (3) The facility shall document that all alleged violations are thoroughly investigated and shall prevent further potential abuse while the investigation is in progress.
- (4) The results of all investigations shall be reported to the administrator or his or her designated representative or to other officials in accordance with State law and if the alleged violation is verified, effective corrective action shall be taken.

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Effective Date: 05/05/93

Title: Section 415.40 - Extended care of residents with traumatic brain injury

415.40 Extended care of residents with traumatic brain injury. (a) Definitions.

(1) An extended care resident with traumatic brain injury (TBI) shall mean a person who is at least three months post-injury and who has been diagnosed as having a cognitive and/or physical condition that has resulted from traumatically acquired, non-degenerative, structural brain damage, or anoxia, and who in addition:

(i) has participated in an intensive inpatient rehabilitation program for persons with TBI in a hospital or nursing home; and

(ii) has been assessed by a neurologist or psychiatrist who determined that the individual would no longer benefit from an intensive rehabilitation program.

(2) TBI residents requiring extended care services may be congregated in one nursing unit or placed with residents on other nursing units, whichever best serves the resident's choice and needs.

(b) Resident care.

(1) The facility shall develop, implement and update admission, resident care, transfer and discharge policies and procedures that promote the delivery of medical, nursing and rehabilitative care services consistent with generally accepted standards of professional practice for the extended care of residents with TBI.

(2) Services shall be provided to maintain each extended care resident with TBI at his or her optimal level of physical, affective, behavioral and cognitive functioning.

(3) There shall be sufficient nursing and social work staff to work with both the extended care resident with TBI and the resident's family.

(4) Rehabilitation therapy services shall be available at the facility to meet the assessed rehabilitative needs of the extended care resident with TBI and shall be utilized to maintain or improve the present level of functioning and to prevent deterioration in the individual's physical, affective, behavioral and cognitive level of functioning.

(5) Resident care staff and other staff members who have regular contact with the extended care resident with TBI shall receive orientation and training concerned with extended care residents with TBI.

(c) Resident assessment and care planning. Facilities that admit an extended care resident with TBI shall comply with the following:

(1) In accordance with section 415.11 of this Part, the facility shall periodically conduct comprehensive assessments of each resident's needs. For those residents who are assessed as potentially able to benefit from restorative rehabilitation therapy services, the facility shall arrange for those services or shall transfer the resident to an appropriate rehabilitation program for TBI individuals.

(2) A professionally recognized classification system for measuring each brain injured individual's physical,

affective, behavioral and cognitive level of functioning shall be consistently used as part of the comprehensive resident assessment and as a basis for the development of the resident's comprehensive care plan.

(3) A physician with training and experience in caring for persons with TBI shall participate in the interdisciplinary team assessments and care planning of each resident.

(4) There shall be sufficient numbers of rehabilitation, nursing, activity, and social work staff to accommodate the needs of these residents.

(5) When potential for discharge to home or a home-like setting is identified, the facility shall initiate an active program of therapy and other supportive services designed to assist the resident and family in the transition to the new setting.

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Effective Date: 04/17/96

Title: Section 415.5 - Quality of life

415.5 Quality of life. The facility shall care for its residents in a manner and in an environment that promotes maintenance or enhancement of each resident's quality of life.

(a) Dignity. The facility shall promote care for residents in a manner and in an environment that maintains or enhances each resident's dignity and respect in full recognition of his or her individuality.

(b) Self-determination and participation. The resident shall have the right to:

(1) choose activities, schedules, and health care consistent with his or her interests, assessments and plans of care;

(2) interact with members of the community both inside and outside the facility; and

(3) make choices about aspects of his or her life in the facility that are significant to the resident.

(c) Participation in resident and family groups.

(1) A resident shall have the right to organize and participate in resident groups in the facility;

(2) A resident's family shall have the right to meet in the facility with the families of other residents in the facility;

(3) The facility shall provide a resident or family group, if one exists, with private space;

(4) Staff or visitors shall be allowed to attend meetings at the group's invitation;

(5) The facility shall provide a designated staff person responsible for providing assistance and responding to written requests that result from group meetings;

(6) When a resident or family group exists, the facility shall listen to the views and act upon the grievances and recommendations of residents and families concerning proposed policy and operational decisions affecting resident care and life in the facility.

(d) Participation in other activities.

(1) A resident shall have the right to participate in social, religious, and community activities that do not interfere with the rights of other residents in the facility.

(2) The facility shall arrange for opportunities for religious worship and counseling for any residents requesting such services.

(e) Accommodation of needs. A resident shall have the right to:

(1) reside and receive services in the facility with reasonable accommodation of individual needs and preferences,

except when the health or safety of the individual or other residents would be endangered; and

(2) receive notice before the resident's room or roommate in the facility is changed.

(f) Activities.

(1) The facility shall provide for an ongoing program of activities designed to meet, in accordance with the comprehensive resident assessment, the interests and the physical, mental and psychosocial well-being of each resident. The activities program shall:

(i) encourage the resident's voluntary choice of activities and participation; and

(ii) promote and maintain the resident's sense of usefulness to self and others, make his or her life more meaningful, stimulate and support the desire to use his or her physical and mental capabilities to the fullest extent and enable the resident to maintain a sense of usefulness and self-respect.

(2) The activities program shall be directed by a qualified professional who:

(i) is a qualified therapeutic recreation specialist who is eligible for certification as a therapeutic recreation specialist by a recognized accrediting body on or after August 1, 1989; or

(ii) has 2 years of experience in an age-appropriate social or recreational program within the last 5 years, 1 of which was full-time in a patient or resident activities program in a health care setting; or

(iii) is a qualified occupational therapist or occupational therapy assistant.

(3) The activities program director shall be responsible to the administrator or his or her designee for administration and organization of the activities program and shall:

(i) assist in the selection and evaluation of activities program staff and volunteers;

(ii) assign duties and supervise all activities staff and assigned volunteers;

(iii) ascertain, initially from the resident's attending physician, and on an ongoing basis from other appropriate professional staff, which residents are not permitted for specific documented medical reasons, to participate in certain activities;

(iv) develop and prepare with the resident and designated representative, as appropriate, a written plan for individual, group and independent activities in accordance with his or her needs, interests and capabilities, and in recognition of his or her mental and physical needs and interests, as well as education and experiences.

(v) incorporate the activities into the resident's interdisciplinary care plan;

(vi) periodically, and at least quarterly, review with the resident, designated representative and staff, as appropriate his or her activities program participation and revise the plan as necessary; (vii) coordinate and

incorporate the activities program with the resident's schedule of other services through discussions with the interdisciplinary care team;

(viii) develop a monthly activities schedule based upon individual and group needs, interests and capabilities considering the special needs of residents including but not limited to dementias, physical handicaps, visual, hearing and speech deficiencies and wheelchair or bed restrictions;

(ix) post the current monthly activities schedule where it is accessible to residents and staff and can be easily read and provide a copy to residents upon request; and

(x) include in the resident's clinical record a quarterly assessment of the resident's degree of participation in, response to and benefit from the activities program.

(4) The facility shall:

(i) employ such additional qualified personnel responsible to the activities director, as are needed;

(ii) provide a planned program to include individual, group and independent programs for all residents at various times of the day and evening seven days of the week;

(iii) provide safe and adequate space and an adequate number and variety of equipment and supplies for the conduct of the on-going program; and

(iv) develop, facilitate access and implement programs to encourage residents to establish and maintain community contacts.

(g) Social Services.

(1) The facility shall provide for a social service program to meet the psychosocial needs of the individual resident which will provide services, based upon a comprehensive assessment, which will assure the maximum attainable quality of life for the residents, the residents' emotional and physical well-being, self-determination, self respect and dignity. Such services shall include:

(i) conducting an initial admissions assessment and interview with the resident and family to evaluate the appropriateness of placement and identify the need for special services;

(ii) interpreting the residents' rights to family and staff;

(iii) advocating for the resident with personal and social problems and problems involved with institutionalization;

(iv) facilitating needed communication with other disciplines on behalf of the residents, including medical, nursing, dietary, rehabilitation and psychiatric services;

(v) coordinating and monitoring needed available services for individual residents to assure optimum level of emotional, physical and psychological well-being and independence based upon educational background;

- (vi) involving the resident, other disciplines and administration as appropriate regarding matters such as bed retention, room change, transfer and discharge;
 - (vii) interpreting residents' needs and behaviors and extending professional intervention to all levels of staff suggesting positive approaches, such as alternatives to the use of restraints and psychotropic drugs.
 - (viii) initiating and facilitating small group meetings of residents, family and staff directed at a fuller understanding of the institutionalized resident and fuller joint participation in improving the residents' emotional and physical well-being;
 - (ix) initiating and participating in interdisciplinary meetings and team conferences;
 - (x) providing assistance and support to residents' family members;
 - (xi) arranging for residents and families to meet with Department of Health surveillance staff as necessary;
 - (xii) participating, if requested by residents, in the organization and on-going functioning of the resident and family councils;
 - (xiii) making available social work staff at varying schedules, including weekends and evenings;
 - (xiv) coordinating and facilitating the referral of residents for needed and requested services and outside resources not available in the facility; and
 - (xv) organizing bereavement counseling for roommates, families and other affected individuals.
- (2) The facility shall employ a qualified social worker. Facilities with more than 120 beds shall employ such individual on a full time basis; facilities with 120 beds or fewer shall employ such individual on a full or part time basis. A qualified social worker for purposes of this Part is an individual who:
- (i) holds a masters degree in social work or is a Certified Social Worker, and has pertinent experience in a health care setting;
 - (ii) holds a bachelor's degree in social work, or in a related field, and has regular access through a contract which meets the provisions of subdivision (e) of section 415.26 of this Part with a person who meets the requirement of subparagraph (i) of this paragraph; or
 - (iii) had four years of social work experience in a nursing home in New York State prior to October 1, 1990, as a social work assistant or case aide and has regular access through a contract which meets the provisions of subdivision (e) of section 415.26 of this Part with a person who meets the requirement of subparagraph (i) of this paragraph.
- (h) Environment. The facility shall provide:
- (1) a safe, clean, comfortable and homelike environment, allowing the resident to use his or her personal belongings to the extent possible;
 - (2) housekeeping and maintenance services necessary to maintain a sanitary, orderly and comfortable interior;

(3) clean bed and bath linens that are in good condition;

(4) comfortable and safe temperature levels; and

(5) for the maintenance of comfortable sound levels.

Volume: C

NEW YORK

SUBPART 713-1
STANDARDS OF CONSTRUCTION FOR NEW EXISTING NURSING HOMES
(Statutory authority: Public Health Law, Section 2803)

Effective Date: 12/29/2010

Title: Section 713-1.1 - Applicability

713-1.1 Applicability.

This Subpart sets forth minimum construction and physical environment standards applicable to nursing home facilities built, to portions of nursing homes facilities renovated or altered prior to August 25, 1975 and to nursing home construction projects approved by the commissioner or department prior to August 25, 1975.

Title: Section 713-1.2 - Pertinent standards

713-1.2 Pertinent standards.

Nursing homes shall comply with all pertinent requirements, technical standards and codes set forth or incorporated by reference into Part 711 of this Title, including, but not limited to, Chapter 19, "Existing Health Care Occupancies", of NFPA 101, Life Safety Code, 2000 edition, as referenced in section 711.2(a) of this Title.

Title: Section 713-1.3 - Nursing units

713-1.3 Nursing units.

Each nursing unit shall include the following service areas and shall meet the following minimum requirements:

- (a) A nurses' station.
- (b) A nurses' call system that can register a call from each resident's bedside, toilet and bathing facilities to the nurses' station. The call system shall also register a visual signal at each resident's doorway, the clean room, soiled workroom and nourishment station on the nursing unit.
- (c) A minimum of one clean utility room and one soiled utility room on each resident floor.
- (d) A storage and preparation area for drugs and biologicals.
- (e) Storage area, adequate for resident needs and equipment. This space may be located in any accessible section of the facility.
- (f) There shall be a maximum of four certified beds in any resident bedroom.

(g) Single resident bedrooms shall have a minimum usable floor area of one hundred square feet per bed, exclusive of closets, toilets and vestibules. Multi-resident bedrooms shall have a minimum usable floor area of eighty square feet per bed, exclusive of closets, toilets and vestibules.

(h) Resident bedrooms shall be designed and equipped for adequate nursing care, comfort and privacy of the residents and shall comply with the following:

(1) Placement of residents' beds shall be such that a bed may be approached from at least one side and one end. No bed shall be closer than three feet to a window, radiator, or an adjacent bed.

(2) All beds in multi-resident rooms shall have flame-retardant cubicle curtains for resident privacy.

(3) Resident bedrooms shall be arranged and furnished so that it shall be possible to move a resident from a bed to a stretcher and in or out of the room without moving other beds in the room.

(4) A closet or locker, measuring at least eighteen inches by eighteen inches by sixty inches high or the equivalent thereof, acceptable to the department, shall be provided for each resident and shall be located within, or directly adjacent to each resident bedroom.

(5) A handwashing facility shall be provided within or adjacent to each resident bedroom.

(6) Every resident bedroom shall have an exit access door leading directly to a corridor, which leads to an exit. One adjacent room may intervene, but this shall be limited to a lounge or anteroom.

(i) Each resident bedroom shall be equipped with or shall be conveniently located near adequate toilet and bathing facilities. Centralized toilets and bathing facilities, if provided, shall be on the same floor as the resident bedrooms served. At least one centralized toilet shall be provided for every eight resident beds in rooms without adjacent toilet facilities to serve the occupants of the room.

(j) Each resident bedroom shall have direct access to an outside exposure. Windowsills shall not be higher than three feet above the finished floor, and shall be above grade.

Title: Section 713-1.4 - Isolation rooms

713-1.4 Isolation rooms.

A nursing home shall have at least one single bed isolation room that is ventilated to the outside and includes a private toilet and handwashing facilities, equipped with other than hand controls.

Title: Section 713-1.5 - Treatment, examination and personal care rooms

713-1.5 Treatment, examination and personal care rooms.

(a) A nursing home shall have at least one treatment or examining room that is accessible to all residents by means of a corridor or elevator, and equipped with a handwashing facility. A treatment room shall not be required in a facility where all resident rooms are in single rooms.

(b) A nursing home shall have a minimum of one personal care room.

Title: Section 713-1.6 - Nutrition and dining services

713-1.6 Nutrition and dining services.

(a) A nursing home shall have at least one room of adequate size and appropriately furnished and designed for resident dining and other resident activities. If a multipurpose room is used for dining and other resident activities, there shall be sufficient space to accommodate all activities and prevent their interference with each other.

(b) Kitchen and dietary service areas shall comply with the requirements set forth in Part 14 of this Title (State Sanitary Code).

Title: Section 713-1.7 - Administrative areas and elevators

713-1.7 Administrative areas and elevators.

(a) Office space shall be provided as required by the size of the facility, and the number of persons employed in administrative positions, to be used for business transactions, medical records and administration and admitting and discharge. Space shall also be provided for use by the director of nursing services. At least one toilet and lavatory shall be provided for staff and public use.

(b) Nursing home facilities shall include elevators as follows:

(1) Facilities with certified resident beds or resident services on two or more floors shall provide at least one elevator.

(2) Facilities with one hundred one to two hundred certified beds above the first floor shall provide at least two elevators.

(3) Facilities with more than two hundred certified beds above the first floor shall provide at least three elevators.

(4) The minimum platform size of a single elevator, where such elevator is required, shall

measure at least four feet six inches by seven feet. Where a second elevator is required by this section, its platform shall measure at least four feet by six feet.

Title: Section 713-1.8 - Details and finishes

713-1.8 Details and finishes.

Details and finishes shall comply with the requirements set forth in section 712.-1.26 of this Title and with the following:

- (a) Corridors used by residents shall be equipped with firmly secured handrails on both sides.
- (b) Resident toilets and bathing facilities shall be equipped with grab bars, firmly secured to the walls and/or fixtures, for the convenient use of the residents.
- (c) All floor, ceiling and wall surfaces shall be easily cleanable, and designed for the maintenance of a comfortable, sanitary environment for each resident. This shall not apply to ceilings in boiler rooms, mechanical and building equipment rooms, administration and similar spaces that are not typically occupied by residents.
- (d) At least one janitor's closet shall be provided in each facility.

Title: Section 713-1.9 - Mechanical requirements

713-1.9 Mechanical requirements.

- (a) Boilers shall have the capacity to supply the normal requirements of all steam and hot water systems and equipment. The number and arrangement of boilers shall be such that when one boiler breaks down or when routine maintenance requires that one boiler be temporarily taken out of service, the capacity of the remaining boilers shall be at least seventy percent of the total required capacity.
- (b) The heating system shall be capable of maintaining all occupied areas at a minimum temperature of seventy-five degrees Fahrenheit.
- (c) Resident bedrooms shall have operable windows that can be used for ventilation.
- (d) Bathing rooms, soiled workrooms, soiled linen rooms and janitors' closets shall have mechanical exhaust ventilation or a wall or, if approved by the department, window exhaust fan with back-draft louvers.
- (e) Toilet rooms and physical therapy rooms shall have mechanical exhaust or window exhaust fan with back-draft louvers or, if approved by the department, operable windows which can be used for ventilation.

(f) Kitchen areas shall have a mechanical ventilating system to maintain an equal supply and exhaust and a minimum of ten air changes per hour. Dishwashing areas shall have an exhaust system with a minimum of ten air changes per hour. If all outside air is used, a filter with at least thirty five percent efficiency shall be installed in the system. Supply air for the dishwashing area may be taken from the kitchen. All exhaust air shall be discharged directly to the outdoors.

(g) Supply air for central ventilation systems for resident care areas using outdoor air shall be equipped with filters having an efficiency of thirty five percent.

(h) Nursing homes shall include an incinerator to treat infectious wastes or other department approved methods of infectious waste disposal. Incinerators and refuse chutes shall comply with NFPA 82, Standard on Incinerators and Waste and Linen Handling Systems and Equipment, as referenced in section 711.2(a) of this Title, and shall meet the requirements for approval of the Department of Environmental Conservation.

(i) All handwashing fixtures used by medical and nursing staff and food handlers shall be trimmed with valves that can be operated without the use of hands. Hand operated faucets may be fitted on lavatories in residents' rooms and residents' toilets.

(j) Bedpan-flushing devices shall be provided on each resident floor.

(k) Vacuum breakers shall be installed on hose bibs and on all fixtures to which hoses or tubing can be attached, such as janitor's sinks and bedpan-flushing attachments.

(l) Water supply systems shall be provided to supply water at sufficient pressure to operate all fixtures and equipment.

(m) Domestic hot water systems shall provide adequate hot water at each outlet at all times. Hot water temperature at fixtures used by residents shall not exceed one hundred ten degrees Fahrenheit.

(n) Building sewers shall discharge into a community sewerage system, if available, or a department approved sewage treatment system.

Title: Section 713-1.10 - Electrical requirements

713-1.10 Electrical requirements.

(a) Each resident bedroom shall have at least one duplex electrical receptacle per bed and an additional receptacle on another wall. If electric beds are used, an additional receptacle is required at the head of each bed. Duplex receptacles for general use shall be installed approximately fifty feet apart in all corridors.

(b) Resident rooms shall have general lighting and night lighting; a reading light shall be

provided for each resident.

(c) An emergency generator shall be provided that is capable of providing energy to operate the following: lighting for all means of egress; equipment to maintain fire detection, alarm and extinguishing systems; life-support systems; water, sewage and sump pumps; refrigerators and freezers; and, minimal general lighting, and heating. In facilities with all-electric kitchens, a ratio of three duplex receptacles per nursing unit shall be provided in the kitchen for food preparation unless a prior approved emergency food preparation plan is in effect.

(d) Fire signal systems consisting of an electrically supervised fire alarm system and a detection system shall be provided as follows:

(1) The fire alarm signal shall be coded to indicate location of the station operated and shall be connected to the fire department protecting the facility or to a central station. Any alarm signal in the system shall sound a general alarm audible throughout the facility.

(2) A coded fire detection system that is connected to the fire alarm system of the facility shall be provided in boiler rooms and attached garages.

(3) Each resident sleeping room shall be protected by an automatic smoke and heat detection system that includes an approved and operational automatic smoke and heat detector in such room. A facility with one or more resident sleeping rooms that are protected by an automatic smoke detection system, but do not have an automatic heat detection system, and otherwise complies with the requirements of this subparagraph, shall not be required to add an automatic heat detector to such system in such rooms.

Title: Section 713-1.11 - Requirements for long term ventilator programs

713-1.11 Requirements for long term ventilator programs.

(a) Each bedroom occupied by a resident receiving ventilator care shall comply with applicable criteria set forth in section 713-1.3 of this Subpart and shall include the following:

(1) adequate space for a bedside mechanical ventilator for each bed;

(2) adequate space for wheelchair access to all functional areas of the room as well as for its storage and parking when not in use;

(3) adequate space for oxygen administration and suction equipment for each resident;

(4) a wheelchair accessible toilet room with adequate space for staff to assist residents;
and,

(5) at least one duplex outlet per bed that is connected to the emergency electrical service.

(b) One isolation room shall be provided on each nursing unit where ventilator dependent residents are housed.

(c) Facilities with long term ventilator programs shall provide:

(1) a conference room for in-service education and training of respiratory care staff;

(2) an easily accessible treatment room equipped with facilities for the administration of oxygen and suction;

(3) adequate office space for staff serving ventilator dependent residents;

(4) adequate storage and maintenance space to ensure routine servicing of ventilators and related equipment;

(5) dining space that is wheelchair accessible; and,

(6) adequate therapy space for respiratory rehabilitation.

Title: SubPart 713-2 - Standards for nursing home construction projects completed or approved between August 25, 1975 and July 1, 1990

**SUBPART 713-2 STANDARDS FOR NURSING HOME CONSTRUCTION
PROJECTS COMPLETED OR APPROVED BETWEEN AUGUST 25, 1975 AND
JULY 1, 1990**

(Statutory authority: Public Health Law Section 2803)

Title: Section 713-2.1 - Applicability

713-2.1 Applicability.

(a) This Subpart sets forth minimum construction and physical environment standards applicable to: (1) nursing home facilities built and to portions of nursing home facilities renovated or altered pursuant to department or commissioner approval granted between August 25, 1975 and July 1, 1990; and (2) other nursing home facility construction projects that did not require department or commissioner approval and were completed between August 25, 1975 and July 1, 1990.

(b) This Subpart applies to skilled nursing facilities. Chronic disease hospitals shall comply with the requirements for general hospitals set forth in Part 712 of this Title, except that the functional requirements shall be modified as required by the department, to satisfy the specific needs of the chronic disease program.

Title: Section 713-2.2 - Pertinent standards

713-2.2 Pertinent standards.

Nursing homes shall comply with all pertinent requirements, technical standards and codes set forth or incorporated by reference into Part 711 of this Title, including, but not limited to, Chapter 19, "Existing Health Care Occupancies", of NFPA 101, Life Safety Code, 2000 edition, which is referenced in more detail in section 711.2(a) of this Title.

Title: Section 713-2.3 - Minimum bed capacities

713-2.3 Minimum bed capacities.

Unless the commissioner approves fewer beds, a nursing home unit of a hospital shall have a minimum of thirty certified beds and a freestanding nursing home facility shall have a minimum of sixty certified beds.

Title: Section 713-2.4 - Space and area requirements

713-2.4 Space and area requirements.

The commissioner may approve modifications or deletions in space requirements set forth in this Subpart when nursing home services or facilities are permitted to be shared. The sizes of the various departments will depend upon program requirements and organization of services within the facility. Some functions requiring separate spaces or rooms may be combined, provided that the resulting plan will not compromise the best standards of safety and of medical and nursing practices.

Title: Section 713-2.5 - Nursing units

713-2.5 Nursing units.

(a) The number of certified beds on a nursing unit shall not exceed sixty unless additional services are provided. At least two-thirds of the total certified beds in any facility shall be located in rooms designed for one or two beds. At least one-tenth of the total certified beds in any facility shall be located in single bedrooms, each equipped with a private bath and toilet.

(b) Each resident bedroom shall meet the following requirements:

(1) The maximum room capacity shall be four residents.

(2) The minimum room areas exclusive of toilet rooms, closets, lockers, wardrobes, alcoves, or vestibules shall be one hundred twenty five square feet in single bedrooms and one hundred square feet per bed in multi-bed rooms.

(3) Each room shall have a window that can be opened without the use of tools. The windowsills shall not be higher than three feet above the finished floor and shall be above grade.

(4) A nurses' calling system shall be provided.

(5) One lavatory shall be provided in each resident room. The lavatory may be omitted from a single or a double bedroom when a lavatory is located in an adjoining toilet room, which serves that room only.

(6) Each resident shall have access to a toilet room without entering the general corridor area. One toilet room shall serve no more than four certified beds and no more than two resident rooms. The toilet room shall contain a water closet and a lavatory. The lavatory may be omitted only from a toilet room that serves not more than two single bedrooms if each such single bedroom contains a lavatory.

(7) Each resident shall have a wardrobe, locker, or closet with minimum clear dimensions of one foot ten inches by one foot eight inches. An adjustable clothes rod and shelf shall be provided.

(8) Visual privacy shall be provided for each resident in multi-bed rooms with non-combustible cubicle curtains.

(9) No resident bedroom shall be located more than one hundred twenty feet from the soiled workroom or the soiled holding room, or the clean work room or clean holding room.

(c) The following service areas shall be located in or be readily available to each nursing unit:

(1) A nurses' station with space for nurses' charting, doctors' charting, and storage for administrative supplies.

(2) A lounge and toilet room(s) for nursing staff.

(3) Individual closets or compartments for the safekeeping of coats and personal effects of nursing personnel. These shall be located convenient to the duty station of personnel or in a central location.

(4) Nursing homes that do not have exclusively single bedrooms shall have a medical treatment and examination room for residents. This room shall have a minimum floor area of one hundred twenty square feet excluding space for vestibule, toilet, closets, and work counters, whether fixed or movable. The minimum room dimension shall be ten feet. The room shall contain a lavatory or sink equipped for handwashing; a work counter; storage facilities; and a desk, counter or shelf space for writing.

(5) A clean workroom with a work counter, handwashing, and storage facilities or a clean holding room that is part of a system for storage and distribution of clean and sterile supply materials. The clean holding room shall be similar to the clean workroom except that the work counter and handwashing facilities may be omitted.

(6) A soiled workroom that contains a clinical sink or equivalent flushing rim fixture, a sink equipped for handwashing, work counter, waste receptacle, and linen receptacle, or a soiled holding room that is part of an approved system for collection and disposal of soiled materials. The soiled holding room shall be similar to the soiled workroom except that the clinical sink and work counter may be omitted.

(7) A medication preparation room, or self contained medication dispensing unit or a department approved medication dispensing system for the convenient and prompt twenty four hour distribution of medication to residents. If used, a medicine preparation room or unit shall be under the nursing staff's visual control and contain a work counter, refrigerator, and locked storage for biologicals and drugs. A medication dispensing unit may be located at the nurses' station, in the clean workroom, or in an alcove or other space under direct control of the nursing or pharmacy staff.

(8) A separate closet, designated area within the clean workroom or closed cart system for storage of clean linen. If a closed cart system is used, storage may be in an alcove.

(9) A nourishment station that contains a sink equipped for handwashing, equipment for serving nourishment between scheduled meals, a refrigerator and storage cabinets. Ice for residents' service and treatment shall be provided only by ice-maker dispenser units.

(10) A storage room for equipment such as intravenous stands, inhalators, air mattresses, and walkers.

(11) An area out of the path of normal traffic for parking for stretchers and wheelchairs.

(12) At least one bathtub or shower for every twelve beds in rooms that are not otherwise served by bathing facilities. At least one bathtub shall be provided in each nursing unit. Each tub or shower shall be in a room or enclosure with space for the private use of the bathing fixture, for drying and dressing, and for a wheelchair and an attendant. Showers in central bathing facilities shall be at least four feet square, without curbs and designed to permit use by a wheelchair bound resident.

(13) Facilities for the sterilization of equipment and supplies.

(d) Residents' toilet facilities shall comply with the following:

(1) The minimum dimensions of a room containing only a water closet shall be three feet by six feet; additional space shall be provided if a lavatory is located within the same room. Water closets must be conveniently located and usable by wheelchair bound residents.

(2) At least one room with a lavatory and water closet on each nursing floor shall be provided for toilet training. It shall be accessible from the nursing corridor. A clearance of three feet shall be provided at the front and at each side of the water closet.

(3) A toilet room shall be accessible to each central bathing area without going through the general corridor. This may be arranged to serve as the required toilet training facility.

Title: Section 713-2.6 - Resident dining and recreation areas

713-2.6 Resident dining and recreation areas.

(a) Resident dining and recreation areas shall be not less than thirty square feet per certified bed for the first one hundred certified beds and twenty seven square feet per certified bed for all certified beds in excess of one hundred. Additional space shall be provided for visitors who participate in an adult day health care program.

(b) Storage space shall be provided for recreational equipment, within or adjacent to dining room.

(c) Toilets for resident use shall be located within or immediately adjacent to the dining room.

Title: Section 713-2.7 - Physical therapy facilities

713-2.7 Physical therapy facilities.

Physical therapy facilities shall include the following:

(a) Treatment areas with space and equipment for thermotherapy, diathermy, ultrasound and hydrotherapy. Provision shall be made for cubicle curtains around each individual treatment area, handwashing facility(ies) (one lavatory or sink may serve more than one cubicle), and facilities for the collection of soiled linen and other material.

(b) An exercise area.

(c) Storage for clean linen, supplies, and equipment.

(d) Residents' dressing areas, showers, lockers, and toilet rooms, as may be required by the functional program approved by the department.

(e) A service sink.

(f) Wheelchair and stretcher storage.

(g) Office space.

(h) The requirements of subdivisions (c), (d), (e), (f) and (g) of this section may be planned and arranged for shared use by residents receiving occupational therapy and staff if the approved functional program reflects this sharing concept.

Title: Section 713-2.8 - Occupational therapy facilities

713-2.8 Occupational therapy facilities.

Occupational therapy facilities shall include the following:

(a) An activities area with a sink or lavatory and facilities for collection of waste products prior to disposal.

(b) Storage for supplies and equipment.

(c) Residents' toilet rooms, which may be shared with residents receiving physical therapy and staff, if the approved narrative program reflects this sharing concept.

Title: Section 713-2.9 - Personal care rooms

713-2.9 Personal care rooms.

A separate room shall be provided for hair care and grooming needs of residents.

Title: Section 713-2.10 - Dietary facilities

713-2.10 Dietary facilities.

(a) Construction, equipment, and installation of dietary facilities shall comply with the standards in Part 14 of this Title (State Sanitary Code). Food service facilities shall be designed and equipped to meet the requirements of the narrative program. These may consist of an on-site conventional food preparation system, a convenience food service system, or an appropriate combination thereof.

(b) The following functional elements shall be provided in such size as required to implement the type of food service system selected:

(1) A control station for receiving food supplies.

(2) Storage space for four days' supply including cold storage.

(3) Food preparation facilities as required by the narrative program. Conventional food preparation systems require space and equipment for preparing, cooking and baking. Convenience food service systems such as frozen prepared meals, bulk packaged entrees, individual packaged portions, or systems using contractual commissary services will

require space and equipment for thawing, portioning, cooking, or baking.

- (4) Handwashing facility(ies) in the food preparation area.
- (5) Resident meal service space including facilities for tray assembly and distribution.
- (6) Dining area for ambulatory residents, staff, and visitors.
- (7) Ware washing in a room or an alcove separate from food preparation and serving areas. This shall include commercial-type dishwashing equipment. Space also shall be provided for receiving, scraping, sorting, and stacking soiled tableware and for transferring clean tableware to the using areas. A lavatory shall be conveniently available.
- (8) Pot washing facilities.
- (9) Sanitizing facilities and storage areas for cans, carts, and mobile tray conveyors. The sanitizing facilities may be combined with those required for linen services.
- (10) Waste storage facilities in a separate room that is easily accessible to the outside for direct pickup or disposal.
- (11) Office or suitable workspace for the dietitian or the dietary service manager.
- (12) Toilets for dietary staff with handwashing facilities immediately available.
- (13) A janitors' closet located within the dietary department. It shall contain a floor receptor or service sink and storage space for housekeeping equipment and supplies.
- (14) Self-dispensing ice making facilities.

Title: Section 713-2.11 - Administration and public areas

713-2.11 Administration and public areas.

Administration and public areas shall include and comply with the following:

- (a) An entrance at grade level, sheltered from the weather and able to accommodate wheelchairs.
- (b) A lobby, which shall include:
 - (1) storage space for wheelchairs;
 - (2) a reception and information counter or desk;
 - (3) waiting space(s);

(4) public toilet facilities;

(5) public telephone(s); and

(6) drinking fountain(s).

(c) Interview space(s) for private interviews relating to social services, credit and admissions.

(d) General or individual office(s) for business transactions, medical and financial records, and administrative and professional staff.

(e) A multi-purpose room for conferences, meetings and health education purposes including facilities for showing visual aids.

(f) Storage for office equipment and supplies

Title: Section 713-2.12 - Linen services

713-2.12 Linen services.

(a) If linen is to be processed on the site, the following shall be provided:

(1) A laundry processing room with commercial-type equipment that can process seven days' needs within a regularly scheduled work week. Handwashing facilities shall be provided.

(2) A soiled linen receiving, holding and sorting room with handwashing facilities.

(3) Storage for laundry supplies.

(4) A clean linen inspection and mending room or area.

(5) A clean linen storage, issuing and holding room area.

(6) A janitors' closet containing a floor receptor or service sink and storage space for housekeeping equipment and supplies.

(7) Sanitizing facilities and storage area for carts. The sanitizing facilities may be combined with those required for dietary facilities.

(b) If linen is processed off the site, the following shall be provided:

(1) A soiled linen holding room.

(2) Clean linen receiving, holding, inspection and storage room(s).

(3) Sanitizing facilities and storage area for carts. The sanitizing facilities may be combined with those required for dietary facilities.

Title: Section 713-2.13 - Central stores

713-2.13 Central stores.

General storage room(s) shall have a total area of not less than ten square feet per certified bed and shall generally be concentrated in one area.

Title: Section 713-2.14 - Employees' facilities

713-2.14 Employees' facilities.

In addition to employees' facilities such as locker rooms, lounges, toilets or shower facilities called for in certain departments, a sufficient number of such facilities as required to accommodate the needs of all personnel and volunteers shall be provided.

Title: Section 713-2.15 - Janitors' closets

713-2.15 Janitors' closets.

In addition to the janitors' closets called for in certain departments, sufficient janitors' closets shall be provided throughout the facility to maintain a clean and sanitary environment. These shall contain a floor receptor or service sink and storage space for housekeeping equipment and supplies.

Title: Section 713-2.16 - Engineering service and equipment areas

713-2.16 Engineering service and equipment areas.

Engineering service and equipment areas shall include the following:

(a) equipment room(s), which shall consist of room(s) or separate building(s) for boilers, mechanical equipment and electrical equipment;

(b) engineers' quarters providing office or suitable desk space for engineers;

(c) maintenance shop(s);

(d) storage room(s) for building maintenance supplies which may be part of maintenance shop in nursing homes of less than one hundred beds; and

(e) yard equipment storage which shall consist of a separate room or building for year maintenance equipment and supplies.

Title: Section 713-2.17 - Waste processing facilities and services

713-2.17 Waste processing facilities and services.

(a) Space and facilities shall be provided for the sanitary storage and disposal of waste by incineration, mechanical destruction, compaction, containerization, removal or by a combination of these techniques.

(b) A gas, electric or oil-fired incinerator shall be provided on site or by off-site shared services for the complete destruction of infectious waste. Infectious waste shall include, but shall not be limited to, dressings from open wounds, laboratory specimens, and all waste material from isolation rooms. If an incinerator is on site, it shall be located in a separate room or outdoors and shall meet the following requirements:

(1) Design and construction of incinerators and trash chutes shall be in accordance with NFPA 82, Standard on Incinerators and Waste and Linen Handling Systems and Equipment. Further details concerning this referenced material are contained in section 711.2(a) of this Title.

(2) Incinerators shall be designed and installed in accordance with the terms of the permit to construct, issued by the Department of Environmental Conservation.

Title: Section 713-2.18 - Details and finishes

Section 713-2.18 Details and finishes.

A high degree of safety for the occupants shall be provided to minimize the incidence of accidents with special consideration for ambulatory residents to enhance their ability to care for themselves. Hazards such as sharp corners shall be avoided.

(a) Details shall comply with the following requirements:

(1) Compartmentation, corridors, widths, exits, automatic extinguishment systems, and other details relating to fire prevention and fire protection shall comply with requirements applicable to existing health care occupancies set forth in NFPA 101, Life Safety Code, 2000 edition. Further details concerning this referenced material are contained in section 711.2(a) of this Title.

(2) Items such as drinking fountains, telephone booths, vending machines, and portable equipment shall be located so as not to restrict corridor traffic or reduce the corridor width below the required minimum.

(3) All rooms containing bathtubs, sitz baths, showers and water closets that are used or

subject to occupancy by residents shall be equipped with doors and hardware that permit access from the outside in any emergency. When such rooms have only one opening or are small, the doors shall be capable of opening outwards or be otherwise designed to be opened without need to push against a resident who may have collapsed within the room.

(4) The minimum width of all doors to rooms needing access for beds or stretchers shall be three feet eight inches. Doors to resident toilet rooms and other rooms needing access for wheelchairs shall have a minimum width of two feet ten inches.

(5) Doors on all openings between corridors and rooms or spaces subject to occupancy, except elevator doors, shall be swing type. Openings to showers, baths, residents' toilets, and other small wet-type areas not subject to fire hazard are exempt from this requirement.

(6) Windows and other doors which may be frequently left in an open position shall be provided with insect screens.

(7) Windows shall be designed to prevent accidental falls when open, or shall be provided with security screens.

(8) Except for doors to spaces that are not subject to occupancy such as small closets, all doors shall not swing into corridors in a manner that might obstruct traffic flow or reduce the required corridor width. Large walk-in type closets are considered spaces subject to occupancy.

(9) Doors, sidelights, borrowed lights, and windows in which the glazing extends down to within eighteen inches of the floor, thereby creating possibility of accidental breakage by pedestrian traffic, shall be glazed with safety glass, wire glass, or plastic glazing material that will resist breaking and will not create dangerous cutting edges when broken. Similar materials shall be used in wall openings of recreation rooms and exercise rooms unless required otherwise for fire safety. Glazing materials as noted above shall be used for shower doors and bath enclosures.

(10) Where labeled fire doors are required, these shall be certified by an independent testing laboratory as meeting the construction requirements equal to those for fire doors in NFPA 80, Standard for Fire Doors and Fire Windows, 1999 edition. Reference to a labeled door shall be construed to include labeled frame and hardware. Further details concerning the material referenced herein are contained in section 711.2(a) of this Title.

(11) Elevator shaft openings shall have Class B 1-1/2-hour labeled fire doors.

(12) Linen and refuse chutes shall meet or exceed the following requirements:

(i) Service openings to chutes shall not be located in corridors or passageways but shall be located in a room of construction having a fire resistance of not less than two hours. Doors to such rooms shall be not less than Class B 1-1/2-hour labeled fire doors.

(ii) Service openings to chutes shall be approved self-closing Class B 1-1/2-hour labeled fire doors.

(iii) Minimum cross-sectional dimension of gravity chutes shall be not less than two feet.

(iv) Chutes shall discharge directly into collection rooms separate from incinerators, laundry, or other services. Separate collection rooms shall be provided for trash and for linen. The enclosure construction for such rooms shall have a fire resistance of not less than two hours, and the doors thereto shall be not less than Class B 1-1/2 fire doors.

(v) Gravity chutes shall extend through the roof with provisions for continuous ventilation as well as for fire and smoke ventilation. Openings for fire and smoke ventilation shall have an effective area of not less than four feet above the roof and not less than six feet clear of other vertical surfaces. Fire and smoke ventilating openings may be covered with single strength sheet glass.

(13) Dumbwaiters, conveyors and material handling systems shall not open directly into a corridor or exit way but shall open into a room enclosed by construction having a fire resistance of not less than one hour and provided with Class C 3/4 labeled fire doors. Service entrance doors to vertical shafts containing dumbwaiters, conveyors, and material handling systems shall be not less than Class B 1-1/2-hour labeled fire doors. Where horizontal conveyors and material handling systems penetrate fire-rated walls or smoke partitions, such openings must be provided with Class B 1-1/2-hour labeled fire doors for two hour walls and Class C 3/4-hour labeled fire doors for one hour walls or partitions.

(14) Thresholds and expansion joint covers shall be made flush with the floor surface to facilitate use of wheelchairs and carts.

(15) Grab bars shall be provided at all residents' toilets, showers, tubs and sitz baths. The bars shall have one and one-half inch clearance to walls and shall have sufficient strength and anchorage to sustain a concentrated load of two hundred fifty pounds.

(16) Recessed soap dishes shall be provided in showers and bathrooms.

(17) Handrails for use by residents shall be provided on both sides of corridors. A clear distance of one and a half inches shall be provided between the handrail and the wall.

(18) Ends of handrails and grab bars shall be constructed to prevent snagging the clothes of residents.

(19) Location and arrangement of handwashing facilities shall permit their proper use and operation. Particular care should be given to the clearances required for blade-type operating handles. Lavatories intended for use by residents shall be installed to permit use by residents in wheelchairs.

(20) Mirrors shall be arranged for convenient use by residents in wheelchairs as well as by residents in a standing position.

(21) Paper towel dispensers and waste receptacles shall be provided at all handwashing fixtures.

(22) Ceiling heights shall be as follows:

(i) Boiler rooms shall have ceiling clearances not less than two feet six inches above the main boiler header and connecting piping.

(ii) Rooms containing ceiling-mounted equipment shall have height required to accommodate the equipment.

(iii) All other rooms shall have not less than eight foot ceilings except that corridors, storage rooms, toilet rooms, and other minor rooms may be not less than seven feet eight inches. Suspended tracks, rails and pipes located in path of normal traffic shall be not less than six feet eight inches above the floor.

(23) Recreation rooms, exercise rooms, and similar spaces where impact noises may be generated shall not be located directly over resident bed unless special provisions are made to minimize such noise.

(24) Rooms containing heat-producing equipment, such as boiler or heater rooms and laundries, shall be insulated and ventilated to prevent any floor surface above from exceeding a temperature ten degrees Fahrenheit above the ambient room temperature.

(b) Finishes shall comply with the following:

(1) Cubicle curtains and draperies shall be noncombustible and shall pass both the large and small scale test of set forth in NFPA 701, Standard Methods of Fire Tests for Flame Propagation of Textiles and Films, 1999 edition. Further details concerning this material referenced herein are contained in section 711.2(a) of this Title.

(2) Floor materials shall be easily cleanable and have wear resistance appropriate for the location involved. Floors in areas used for food preparation or food assembly shall be water-resistant and greaseproof. Joints in tile and similar material in such areas shall be resistant to food acids. In all areas frequently subject to wet cleaning methods, floor materials shall not be physically affected by germicidal and cleaning solutions. Floors that are subject to traffic while wet, such as shower and bath areas, kitchen and similar work areas, shall have a nonslip surface.

(3) Wall bases in kitchen, soiled workrooms, and other areas which are frequently subject to wet cleaning methods shall be made integral and coved with the floor, tightly sealed within the wall, and constructed without voids that can harbor insects.

(4) Wall finishes shall be washable and the immediate area surrounding plumbing fixtures shall be smooth and moisture resistant. Finish, trim, and wall and floor construction in dietary and food preparation areas shall be free from spaces that can harbor rodents and insects.

(5) Floor and wall penetrations by pipes, ducts and conduits shall be tightly sealed to minimize entry of rodents and insects. Joints of structural elements shall be similarly sealed.

(6) Ceilings throughout the facility shall be easily cleanable. Ceilings in the dietary and food preparation areas shall have a finished ceiling covering all overhead piping and duct work. Finished ceilings may be omitted in mechanical and equipment spaces, shops, general storage areas, and similar spaces, unless required for fire-resistive purposes.

(7) Acoustical ceilings shall be provided for corridors in resident areas, nurses' stations, dayrooms, recreation rooms, dining areas and waiting areas.

Title: Section 713-2.19 - Construction, including fire-resistive requirements

713-2.19 Construction, including fire-resistive requirements.

(a) Every building and every portion thereof shall be designed and constructed to sustain all dead and live load in accordance with accepted engineering practices and standards, including seismic forces, where they apply.

(b) Foundations shall rest on natural solid bearing if a satisfactory bearing is available at reasonable depths. Proper soil-bearing values shall be established in accordance with recognized standards. If solid bearing is not encountered at practical depths, the structure shall be supported on driven piles or drilled piers designed to support the intended load without detrimental settlement, except that one-story buildings may rest on a fill designed by a soils engineer. When engineered fill is used, site preparation and placement of fill shall be done under the direct full-time supervision of the soils engineer. The soils engineer shall issue a final report on the compacted fill operation and certification of compliance with the job specifications. All footings shall extend to a depth not less than one foot below the estimated maximum frost line.

(c) Construction standards for nursing home facilities shall comply with the following:

(1) One-story buildings shall be of Type I, or Type II (222) or (111) construction; buildings with two or more stories shall be of Type I construction. Building construction types shall be as defined in NFPA 220, Standard on Types of Building Construction, 1999 edition. Further details concerning the material referenced herein are contained in section 711.2(a) of this Title.

(2) Enclosures for stairs, elevator shafts, chutes and other vertical shafts, boiler rooms, and storage rooms of one hundred square feet or greater area, shall be of construction

having a fire resistance rating of at least two hours.

(d) Separate freestanding buildings housing the boiler plant, laundry, shops, or general storage may be of Type I, or Type II (222) or (111) construction. Building construction types shall be as defined in NFPA 220, Standard on Types of Building Construction, 1999 edition. Further details concerning the material referenced herein are contained in section 711.2(a) of this Title.

(e) Building insulation materials, unless sealed on all sides and edges, shall have a flame spread rating of twenty five or less and a smoke developed rating of one hundred fifty or less when tested in accordance with NFPA 255, Standard Method of Test of Surface Burning Characteristics of Building Materials, 2000 edition. Further details concerning the material referenced herein are contained in section 711.2(a) of this Title.

(f) An emergency radio communication system shall be provided in each facility. This system shall be self-sufficient in times of emergency and capable of operation without reliance on the building service or emergency electric power supply. It shall also be linked with the available community or State emergency communication network, including connections with police and fire department or system.

Title: Section 713-2.20 - Elevators

713-2.20 Elevators.

All buildings that have residents' facilities such as bedrooms, dining rooms or recreation areas, or critical services, such as diagnostic or therapy areas located on a floor other than the main entrance floor shall have electric or electrohydraulic elevators. All buildings with elevators shall comply with the requirements of this section.

(a) The facility shall have the following minimum number of elevators:

(1) At least one hospital-type elevator shall be installed where one to fifty nine resident beds are located on any floor other than the main entrance floor.

(2) At least two elevators, one of which shall be hospital-type, shall be installed where sixty to two hundred certified resident beds are located on floors other than the main entrance floor, or where the major resident services are located on a floor other than those containing certified resident beds. Elevator service may be reduced for those floors that provide only partial resident services.

(3) At least three elevators, one of which shall be hospital-type shall be installed where two hundred one to three hundred fifty certified resident beds are located on floors other than the main entrance floor, or where a major resident services are located on a floor other than those containing certified resident beds. Elevator service may be reduced for those floors that provide only partial resident services.

(4) For facilities with more than three hundred fifty certified resident beds, the number of elevators shall be determined from a study of the facility plan and the estimated vertical transportation requirements.

(b) Hospital-type elevator cars shall have inside dimensions that will accommodate a resident bed and attendants, and shall be at least five feet wide by seven feet six inches deep. The car door shall have a clear opening of not less than three feet eight inches wide.

(c) Elevators shall be equipped with an automatic leveling device of the two-way automatic maintaining type with an accuracy of one-half inch.

(d) Elevators, except freight elevators, shall be equipped with a two-way special service switch to permit cars to bypass all landing button calls and be dispatched directly to any floor.

(e) Elevator controls, alarm button and telephones shall be accessible to wheelchair occupants.

(f) Elevator call buttons, controls and door safety stops shall be of a type that will not be activated by heat or smoke.

(g) Field inspections and tests shall be made and the owner and licensed operator shall be furnished written certification that the installation meets the requirements set forth in this section and all applicable safety regulations and codes.

Effective Date: 12/29/2010

Title: Section 713-2.21 - Mechanical systems and equipment requirements

713-2.21 Mechanical systems and equipment requirements.

(a) Prior to completion and acceptance of the facility, all mechanical systems shall be tested, balanced and operated to demonstrate to the owner or his or her representative that the installation and performance of these systems conform to the requirements of the plans and specifications. Upon completion of the contract, the owner shall be furnished with a complete set of manufacturers' operating, maintenance, and preventive maintenance instructions, parts lists with numbers and description for each piece of equipment and instructions on the operation and use of systems and equipment.

(b) Thermal insulation and acoustical insulation (if applicable) shall be provided on the following fixtures and equipment within a nursing home facility and shall comply with the following:

(1) boilers, smoke breeching and stacks;

(2) steam supply and condensate return piping;

- (3) hot water piping above one hundred eighty degrees Fahrenheit and all hot water heaters, generators and converters;
 - (4) hot water piping above one hundred twenty five degrees Fahrenheit, which is exposed to contact by residents;
 - (5) chilled water, refrigerant, other process piping and equipment operating with fluid temperatures below ambient dew point;
 - (6) water supply and drainage piping on which condensation may occur;
 - (7) air ducts and casings with outside surface temperatures below ambient dew point; and
 - (8) other piping, ducts, and equipment as necessary to maintain the efficiency of the system.
 - (9) Insulation may be omitted from hot water and steam condensate piping not subject to contact by residents when such insulation is unnecessary for preventing excessive system heat loss or excessive heat gain.
 - (10) Insulation, including finishes and adhesives on the exterior surfaces of ducts, pipes and equipment, shall have a flame spread rating of twenty five or less and a smoke developed rating of one hundred fifty or less as determined by an independent testing laboratory in accordance with NFPA 255, Standard Methods of Test of Surface Burning Characteristics of Building Materials, 2000 edition. Further details concerning the material referenced herein are contained in section 711.2(a) of this Title.
 - (11) Linings in air ducts and equipment including coatings and adhesives, and insulation on exterior surfaces of pipes and ducts in building spaces used as air supply plenums, shall have a flame spread rating of twenty five or less and a smoke developed rating of fifty or less as determined by an independent testing laboratory in accordance with NFPA 255, Standard Method of Test of Surface Burning Characteristics of Building Materials, 2000 edition. Further details concerning the material referenced herein are contained in section 711.2(a) of this Title.
- (c) Steam and hot water systems shall comply with the following:
- (1) Boilers shall have the capacity to supply the normal requirements of all systems and equipment. The number and arrangement of boilers shall be such that when one boiler breaks down or routine maintenance requires that one boiler be temporarily taken out of service, the capacity of the remaining boiler(s) shall be at least seventy percent of the total required capacity.
 - (2) Boiler feed pumps, heating circulating pumps, condensate return pumps and fuel oil pumps shall be connected and installed to provide normal and standby service.

(3) Supply and return mains and risers of cooling, heating and process steam systems shall be valved to isolate the various sections of each system. Each piece of equipment shall be valved at the supply and return ends.

(d) Heating and ventilating systems shall comply with the following:

(1) A minimum design temperature of seventy-five degrees Fahrenheit at winter design conditions shall be provided for all occupied areas.

(2) All air-supply and air-exhaust systems shall be mechanically operated. All fans serving exhaust systems shall be located at the discharge end of the system. The ventilation rates shown in Table 8 shall be considered as minimum acceptable rates and shall not be construed as precluding the use of higher ventilation rates.

(i) Outdoor air intakes shall be located as far as practical but not less than twenty five feet from exhaust outlets of ventilating systems, combustion equipment stacks, medical-surgical vacuum systems, plumbing vent stacks, or from areas which may collect vehicular exhaust and other noxious fumes. The bottom of outdoor air intakes serving central systems shall be located as high as practical but not less than six feet above ground level, or if installed above the roof, three feet above roof level.

(ii) The ventilation systems shall be designed and balanced to provide the pressure relationship as shown in Table 8, below.

**TABLE 8
PRESSURE RELATIONSHIPS AND VENTILATION OF CERTAIN AREAS OF
NURSING HOME FACILITIES**

Area Designation	Pressure relationship to adjacent areas	Minimum air changes of outdoor air per hour supplied to room	Minimum total air changes per hour supplied to room	All air exhausted directly to outdoors	Recirculated within room units
Patient Room	E	2	2	Optional	Optional
Patient Area Corridor	E	2	4	Optional	Optional
Examination & Treatment Room	E	2	6	Optional	Optional
Physical Therapy	N	2	6	Optional	Optional
Occupational Therapy	N	2	6	Optional	Optional
Soiled	N	2	10	Yes	No

workroom or soiled holding					
Clean workroom or clean holding	P	2	4	Optional	Optional
Toilet room	N	Optional	10	Yes	No
Bathroom	N	Optional	10	Yes	No
Janitor closet	N	Optional	10	Yes	No
Sterilizer Equipment room	N	Optional	10	Yes	No
Linen & trash chute room	N	Optional	10	Yes	No
Food Prep Center	E	2	10	Yes	No
Warewashing Room	N	Optional	10	Yes	No
Dietary Day Storage	E	Optional	2	Yes	No
General Laundry	E	2	10	Yes	No
Soiled linen sorting & storage	N	Optional	10	Yes	No
Clean linen storage	P	2	2	Optional	Optional

P=Positive N=Negative E=Equal

(iii) The bottoms of ventilation openings shall be not less than three inches above the floor of any room.

(iv) Corridors shall not be used to supply air to or exhaust air from any room, except that air from corridors may be used to ventilate bathrooms, toilet rooms, janitors' closets, and small electrical or telephone closets opening directly on corridors.

(v) All central ventilation or air conditioning systems shall be equipped with filters having efficiencies no less than those specified in Table 9, below. The filter bed shall be located upstream of the air conditioning equipment, unless a prefilter is employed. In this case, the prefilter shall be upstream of the equipment and the main filter may be located further downstream.

TABLE 9
FILTER EFFICIENCIES FOR CENTRAL VENTILATION AND AIRCONDITIONING
SYSTEMS IN NURSING HOME
FACILITIES

Area Designation	Minimum number of filter beds	Filter efficiency (percent) of main filter bed
Resident Care, Treatment, Diagnostic and Related Areas	1	80*
Food Preparation Areas and Laundries	1	80
Administrative, Bulk Storage and Soiled Holding Areas	1	25

*May be reduced to 35 percent for all outdoor air systems.

(vi) All filter(s) efficiencies shall be average atmospheric dust spot efficiencies tested in accordance with ANSI/ASHRAE Standard 52.2-1999, Method of Testing Air-Cleaning Devices for Removal Efficiency by Particle Size, 1999 edition. Further details concerning this referenced material are contained in section 711.2(b) of this Title.

(vii) Filter frames shall be durable and carefully dimensioned and shall provide an air-tight fit with the enclosing duct work. All joints between filter segments and the enclosing duct work shall be gasketed or sealed to provide seal against air leakage.

(viii) A manometer shall be installed across each filter bed serving central air systems.

(ix) Air handling duct systems shall meet the requirements of NFPA 90A, Standard for the Installation of Air Conditioning and Ventilating Systems, 1999 edition. Further details concerning the material referenced herein are contained in section 711.2(a) of this Title.

(x) Fire and smoke dampers shall be constructed, located and installed in accordance with the requirements of NFPA 90A, Standard for the Installation of Air Conditioning and Ventilating Systems, 1999 edition. Access for maintenance shall be provided at all dampers. Further details concerning the material referenced herein are contained in section 711.2(a) of this Title.

(a) Supply and exhaust ducts which pass through a required smoke barrier and through which smoke can be transferred to another area shall be provided with dampers at the barrier, controlled to close automatically to prevent flow of air or smoke in either direction when the fan, which moves the air through the duct, stops. Dampers shall be equipped with remote control reset devices except that manual reopening will be

permitted if dampers are conveniently located.

(b) Return air ducts which pass through a required smoke barrier shall be provided with a damper at the barrier actuated by smoke or products of combustion (other than heat) detectors. These dampers shall be operated by the detectors used to actuate door closing devices in the smoke partition or by detectors located to sense smoke in the return air duct from the smoke zone

(xi) Exhaust hoods in food preparation centers shall have an exhaust rate of not less than fifty cubic feet per minute per square foot of face area. Face area is defined for this purpose as the open area from the exposed perimeter of the cooking surfaces. All hoods over cooking ranges shall be equipped with grease filters, fire extinguishing systems, and heat actuated fan controls. Cleanout openings shall be provided every twenty feet in horizontal exhaust duct systems serving these hoods.

(xii) Boiler room shall be provided with sufficient outdoor air to maintain combustion rates of equipment and to limit temperature in working stations to ninety-seven degrees Fahrenheit.

(e) All plumbing and other piping systems shall comply with this subdivision.

(1) Plumbing fixtures shall comply with the following:

(i) The material used for plumbing fixtures shall be of non-absorptive acid-resistant material.

(ii) The water supply spout for lavatories and sinks required in resident care areas shall be mounted so that its discharge point is a minimum distance of five inches above the rim of the fixture. All fixtures used by medical and nursing staff, and all lavatories used by residents and food handlers shall be trimmed with valves, which can be operated without the use of hands. Where blade handles are used for this purpose, they shall not exceed four and one-half inches in length, except that handles on clinical sinks shall be not less than six inches long.

(iii) Clinical sinks shall have an integral trap in which the upper portion of a visible trap seal provides a water surface.

(iv) Shower bases and tubs shall provide non-slip surfaces for standing residents.

(2) Water supply systems shall comply with the following:

(i) Systems shall be designed to supply water at sufficient pressure to operate all fixtures and equipment during maximum demand periods.

(ii) Each water service main, branch main, riser and branch to a group of fixtures shall be valved. Stop valves shall be provided at each fixture.

(iii) Backflow preventers (vacuum breakers) shall be installed on hose bibbs, janitors' sinks, bedpan flushing attachments, and on all other fixtures to which hoses or tubing can be attached.

(iv) Flush valves installed on plumbing fixtures shall be of a quiet operating type, equipped with silencers.

(v) Bedpan flushing devices shall be provided in each resident toilet room.

(vi) Water distribution systems shall be arranged to provide hot water at each hot water outlet at all times. Hot water at shower, bathing and handwashing facilities shall not exceed one hundred ten degrees Fahrenheit.

(3) Hot water heaters and tanks shall comply with the following:

(i) The hot water heating system shall have sufficient capacity to supply water at the temperatures and amounts indicated below. Water temperatures shall be taken at hot water point of use or inlet to processing equipment.

(ii) Storage tank(s) shall be fabricated of corrosion-resistant metal or lined with non-corrosive material.

Use	Gallons (per hour per bed)	Liters (per second per bed)	Temperature (degrees Fahrenheit)
Clinical	6-1/2	.007	110
Dietary	4	.004	180
Laundry	4-1/2	.005	180

(4) Drainage systems shall comply with the following:

(i) Insofar as is possible drainage piping shall not be installed within the ceiling, or installed in an exposed location in food preparation centers, food serving facilities, food storage areas, or other critical areas. Special precautions shall be taken to protect these areas from possible leakage or condensation from necessary overhead piping systems.

(ii) Building sewers shall discharge into a community sewage system. Where such a system is not available, a facility providing sewage treatment must conform to applicable local and State regulations.

(5) If used, nonflammable medical gas systems installations shall be in accordance with the requirements of NFPA 99, Standard for Health Care Facilities, 1999 edition. Further details concerning this referenced material are contained in section 711.2(a) of this Title.

(6) If used, clinical vacuum (suction) system installations shall be in accordance with the requirements of Compressed Gas Association, Inc. (CGA) Pamphlet E-10, Maintenance

of Medical Gas and Vacuum Systems in Health Care Facilities. Further details concerning this referenced material are contained in section 711.2(b) of this Title.

Title: Section 713-2.22 - Electrical requirements

713-2.22 Electrical requirements.

(a) All material including equipment, conductors, controls and signaling devices shall be installed to provide a complete electrical system with the necessary characteristics and capacity to supply the electrical facilities shown in the specifications or indicated on the plans. Materials and installation shall conform to NFPA 70, National Electrical Code, 1999 edition, and NFPA 99, Standard for Health Care Facilities. 1999 edition. Further details concerning these referenced materials are contained in section 711.2(a) of this Title. All electrical installations and systems shall be tested to show that the equipment is installed and operates as planned or specified.

(b) Circuit breakers or fusible switches that provide disconnecting means and overcurrent protection for conductors connected to switchboards and panel boards shall be enclosed or guarded to provide a deadfront type of assembly. The main switchboard shall be located in a separate enclosure accessible only to authorized persons. The switchboard shall be convenient for use, readily accessible for maintenance, clear of traffic lanes, and in a dry ventilated space free of corrosive fumes or gases. Overload protective devices shall be suitable for operating properly in ambient temperature conditions.

(c) Panel boards serving lighting and appliance circuits shall be located on the same floor as the circuits they serve. This requirement does not apply to emergency system circuits.

(d) All spaces occupied by people, machinery, equipment within buildings, approaches to buildings and parking lots shall have lighting. Residents' rooms shall have general lighting and night lighting. A reading light shall be provided for each resident. At least one light fixture for night lighting shall be switched at the entrance to each resident room. All switches for control of lighting in resident areas shall be of the quiet operating type.

(e) Receptacles (convenience outlets) shall comply with the following:

(1) Each resident room shall have duplex grounding-type receptacles as follows: one location each side of the head of each bed; one for television, if used; and one on another wall.

(2) Duplex receptacles for general use shall be installed approximately fifty feet apart in all corridors and within twenty-five feet of the ends of corridors.

(f) The electrical circuit(s) to fixed or portable equipment in hydrotherapy units shall be provided with five milliamperere ground fault interrupters.

(g) Nurses' calling systems shall comply with the following:

(1) A call button shall be provided at each resident bedside, which calls to the nurse's station. Two call buttons serving adjacent beds may be served by one calling station. Calls shall register with the floor staff and shall activate a visible signal in the corridor at the resident's door, in the clean workroom, in the soiled workroom, and in the nourishment station of the nursing unit. In multi-corridor nursing units, additional visible signals shall be installed at corridor intersections. In rooms containing two or more calling stations, indicating lights shall be provided at each station. Nurses' calling systems that provide two-way voice communication shall be equipped with an indicating light at each calling station with lights, and remain lighted as long as the voice circuit is operating.

(2) A nurses' call emergency button shall be provided for residents' use at each resident's toilet, bath and shower room.

(h) Emergency electric services shall comply with the following:

(1) To provide electricity during an interruption of the normal electric supply, an emergency source of electricity shall be provided and connected to certain circuits for lighting and power.

(2) The source of this emergency electric service shall be as follows:

(i) an emergency generating set when the normal service is supplied by one or more central station transmission lines; and

(ii) an emergency generating set or a central station transmission line when the normal electric supply is generated on the premises.

(3) Emergency electric service shall be provided to the distribution systems as follows:

(i) Illumination for means of egress, exit signs and exit directional signs as required in NFPA 101, Life Safety Code, 2000 edition. Further details concerning this referenced material are contained in section 711.2(a) of this Title.

(ii) Corridor duplex receptacles in resident areas.

(iii) Nurses' calling systems.

(iv) Equipment necessary for maintaining telephone service.

(v) Elevator service that will reach every resident floor when resident rooms are located on other than ground floor. Throwover facilities shall be provided to allow temporary operation of any elevator for release of persons who may be trapped between floors.

(vi) A fire pump, if installed.

(vii) Equipment for heating resident rooms, except where the facility is served by two or more electrical services supplied from separate generators of a utility distribution network having multiple power input sources and arranged to provide mechanical and electrical separation so that a fault between the facility and the generating sources will not likely cause an interruption of its service feeders.

(viii) General illumination and selected receptacles in the vicinity of the generator set;

(ix) Paging or speaker systems if intended for communication during emergency. Radio transceivers where installed for emergency use shall be capable of operating for at least one hour upon total failure of both normal and emergency power.

(x) Alarm systems, including fire alarms activated at manual stations, water flow alarm devices of sprinkler system if electrically operated, fire- and smoke-detecting systems, and alarms required for nonflammable medical gas systems if installed.

(4) The emergency lighting shall be in operation within ten seconds after the interruption of normal electric power supply. Emergency service to receptacles and equipment may be delayed automatic or manually connected. Receptacles connected to emergency power shall be distinctively marked. When the generator is operated by fuel, which is normally piped underground to the site from a utility distribution system, fuel storage facilities on the site will not be required.

(5) Each resident sleeping room shall be protected by an automatic smoke and heat detection system that includes an approved and operational automatic smoke and heat detector in such room. The detectors shall conform to the applicable provisions of NFPA 72, National Fire Alarm Code, 1999 edition, and shall be electrically connected to the fire alarm system. Additional information regarding this material is available in section 711.2(a) of this Title.

Title: Section 713-2.23 - Physical environment standards for long-term ventilator programs

713-2.23 Physical environment standards for long-term ventilator programs.

(a) Each bedroom occupied by a resident receiving long term ventilator care shall comply applicable criteria in section 713-2.3 of this Subpart and shall provide the following:

(1) adequate space for a bedside mechanical ventilator for each bed;

(2) adequate space for wheelchair access to all functional areas of the room as well as for its storage and parking when not in use;

(3) adequate space for oxygen administration and suction equipment for each resident;

(4) a wheelchair accessible toilet room with adequate space for staff to assist residents; and,

(5) at least one duplex outlet connected to the emergency electrical service per bed.

(b) At least one isolation room shall be provided on each nursing unit where ventilator dependent residents are housed.

(c) Facilities with long term ventilator programs shall provide the following service areas:

(1) a conference room for in-service education and training of respiratory care staff;

(2) a treatment room equipped with facilities for the administration of oxygen and suction;

(3) adequate office space for staff serving ventilator dependent residents;

(4) adequate storage and maintenance space to ensure routine servicing of ventilators and related equipment;

(5) dining space that is wheelchair accessible; and

(6) adequate therapy space for respiratory rehabilitation.

Title: SubPart 713-3 - Standards for nursing home construction projects completed or approved between July 2, 1990 and December 31, 2010

SUBPART 713-3

STANDARDS FOR NURSING HOME CONSTRUCTION PROJECTS COMPLETED OR APPROVED BETWEEN JULY 2, 1990 AND DECEMBER 31, 2010

(Statutory authority: Public Health Law Section 2803)

Title: Section 713-3.1 - Applicability

713-3.1 Applicability.

This Subpart sets forth minimum construction and physical environment standards applicable to: (a) nursing home facilities built and to portions of nursing home facilities altered or renovated pursuant to department or commissioner approval granted between July 2, 1990 and December 31, 2010; and, (b) other nursing home facility construction that does not require commissioner or department approval and is completed prior to December 31, 2010.

Title: Section 713-3.2 - Pertinent standards

713-3.2 Pertinent standards.

Nursing homes shall comply with pertinent requirements, codes and technical standards set forth or incorporated by reference into Part 711 of this Title. Nursing homes that were built and had received an operating certificate prior to September 11, 2003 shall comply with Chapter 19, "Existing Health Care Occupancies", of NFPA 101, Life Safety Code, 2000 edition. Nursing homes built and receiving an initial operating certificate after September 11, 2003 shall comply with Chapter 18, "New Health Care Occupancies" of NFPA 101, Life Safety Code, 2000 edition. These referenced materials are described in more detail in section 711.2(a) of this Title.

Title: Section 713-3.3 - General design criteria

713-3.3 General design criteria.

(a) Nursing homes shall be designed to provide flexibility in order to meet the changing physical, medical and psychological needs of the residents. The facility design shall produce a supportive environment to enhance and extend quality of life for residents. The architectural design, through the organization of functional space, the specification of ergonomically appropriate and arranged furniture, equipment, details and finishes, shall eliminate as many barriers as possible to effective access and use by residents of all space, services, equipment and utilities appropriate for daily living.

(b) Services for resident care shall be contained within the facility or the project narrative shall indicate the manner in which needed services are to be provided. Each space provided within the facility must comply with the requirements outlined in this Subpart. Appropriate modifications or deletions in space requirements required by this Subpart may be made to meet an approved operational program or when support services are permitted to be shared or purchased from facilities other than the facility under review.

(c) The sizes of the various service departments will depend upon operational program objectives and the functional organization of support spaces within the facility such that they maximize the best standards of safety and of medical and nursing practices and a high level of resident amenities.

(d) The physical characteristics of the facility, including interior finishes, shall be designed to meet the unique characteristics and needs of the residents including, but not limited to, visual, olfactory and hearing impairments, temperature requirements, and ambulation.

(e) The resident use areas such as bedrooms, dining areas, lounges and recreational areas shall be designed to facilitate resident identification with surroundings while promoting privacy, dignity, self-identity and self-determination. The interior design of resident use areas shall consider lighting, the use of finish materials, furniture arrangement and equipment, and shall specify ergonomically designed furnishings and equipment in order to promote resident independence and self-propelled ambulation, commensurate with the physical and mental capacity of the residents. Resident toilet rooms shall be provided in

close proximity to these areas and shall be accessible to the physically handicapped. The configuration of these areas shall allow for self-determined socialization and leisure activities. The spaces shall be planned to promote resident use.

Title: Section 713-3.4 - Nursing units

713-3.4 Nursing units.

(a) The layout and location of each nursing unit shall comply with the following:

(1) Nursing units shall be arranged to avoid travel through adjacent nursing units to gain access to resident service areas.

(2) The number of residents in a nursing unit arranged in a linear layout shall not exceed forty. However, the department will consider exceptions to this requirement to enhance the quality of life for residents when a higher number of residents clearly achieves a savings in operational costs, improves resident services and is based upon sub-groups of residents (sub-units).

(3) The maximum travel distance from a resident room door to a staff work area shall not exceed one hundred fifty feet. When sub-units are used, each sub-unit shall be arranged so as to provide access to a bathing room and a soiled workroom or soiled holding room located within, or readily accessible to, the sub-unit.

(4) At least one-tenth of the total number of residents in any facility shall be located in single rooms, with at least one toilet shared between two single rooms.

(5) The need for and the number of required airborne infection isolation room(s) in a nursing facility shall be determined by an infection control risk assessment.

(b) Each resident bedroom shall meet the following requirements:

(1) The maximum room capacity shall be two residents. Changes to the maximum number of two residents per room may be made upon a determination by the department that an alternate room configuration provides a clearly superior resident environment for residents with unusual care requirements. The maximum capacity of single rooms is one resident and such capacity shall not be exceeded.

(2) The net useable area and configuration of each room shall permit wheelchair accessibility. The bedroom shall be designed to permit wheelchair access and a minimum five foot (5'-0") diameter turnaround adjacent to at least one side of each bed. Where one side of a bed is permitted to be placed against a side wall of the room and resident care needs require additional space between the bed and the wall, the room shall be of sufficient dimension to maintain the required five foot (5'-0") turning space. Furniture and equipment intended for resident use shall be made accessible and useable by residents confined to a wheelchair.

(3) Each room shall have a window that can be opened without the use of tools. The windowsills shall not be higher than three feet above the floor and shall be above grade. Windows with operable sashes shall be provided with insect screens. Window openings shall be designed to prevent accidental falls when open, or shall be provided with security screens.

(4) A nurses' calling system shall be provided.

(5) Each resident shall have access to a toilet room without entering the general corridor area. One toilet room shall serve no more than two residents. The toilet room shall contain a water closet and a lavatory. Changes to the number of residents using one toilet room may be made on a case-by-case basis upon a determination by the department that such alternative does not adversely affect resident care and/or as special care needs of resident may require.

(6) Each resident shall have a wardrobe or closet with minimum clear inside dimensions of three feet long by one foot ten inches deep. An adjustable clothes rod and shelf shall be provided at heights useable by residents.

(7) Visual privacy shall be provided for each resident in multi-bed rooms through the use of non-combustible cubicle curtains.

(8) Medical equipment for the care and treatment of residents shall be provided in a resident's room as required by the resident's medical condition. In addition, each resident shall be provided with the following room furnishings:

(i) a bed;

(ii) a dresser and nightstand or a dresser/night stand combination which provides sufficient space for residents' personal effects;

(iii) over-bed tables as may be required;

(iv) a wall tackboard/display panel;

(v) a lockable drawer to personal valuables and storage of medications; and,

(vi) chairs for visitors and socialization.

(c) The service areas described in this subdivision shall be located in or be readily accessible to each nursing unit: The size and location of each service area will depend upon the number and types of residents served and the efficiency of the facility's staffing patterns. Although identifiable spaces are required to be provided for each of the indicated service areas, consideration will be given to design solutions, which would accommodate some services without a specific designation of areas or rooms.

Decentralized service areas within nursing units will be encouraged.

The following service areas shall be provided:

- (1) A staff work station with space for carrying out the administrative functions of the unit.
- (2) Lounge and toilet room(s) for staff.
- (3) Individual closets or lockers for the safekeeping of coats and personal effects of staff. These shall be located convenient to the duty station of personnel or in a central location.
- (4) Room(s) to serve the function of clinical staff office or consultation room for up to four people.
- (5) A clean workroom with a work counter sized to store clean and sterile supplies as required by the functional program, or a clean holding facility that is part of an approved system for storage and distribution of clean and sterile supply materials. The location(s) of the clean workroom and the clean holding facility shall be based on the functional program and physical layout of the nursing unit.
- (6) A soiled workroom that contains a clinical sink or equivalent, flushing rim fixture with a rinsing hose or a bed pan sanitizer, handwashing facilities, work counter, and an area for soiled linen holding and waste receptacle(s) in a number and type as required by the functional program. The location of the soiled workroom shall be based on the functional program and the physical layout of the nursing unit. A soiled holding facility, if not provided within the workroom, shall be part of an approved system for collection and disposal of soiled materials.
- (7) A closet, designated area within the clean workroom or a closed cart system for clean linen storage. If a closed cart system is used, storage may be in an alcove.
- (8) A medication preparation room, self-contained medication dispensing unit, or an equivalent system for convenient and prompt distribution of medications to residents twenty-four hours a day. If used, a medication preparation room or a medication distribution unit shall be under the nursing staff's visual control and contain a work counter, refrigerator, and locked storage for biological and controlled substances.
- (9) A nourishment station that contains a sink equipped for handwashing, equipment for serving nourishment between scheduled meals, a refrigerator, and storage cabinets. Ice for residents shall be provided by self-dispensing ice making unit.
- (10) Storage for equipment in current use shall be provided.
- (11) Sufficient space for the parking and holding of stretchers and wheelchairs shall be located out of the path of normal traffic.

(12) Bathing rooms for scheduled bathing shall be provided on each nursing unit at a ratio of one bathing fixture for each fifteen residents or fraction thereof, who are not otherwise served by bathing facilities within residents' room and shall be located away from public areas of the nursing unit. Each tub or shower shall be in a room or enclosure with space provided for the private use of the bathing fixture, for drying and dressing, and for a wheelchair and an attendant. The dressing area and the showers, without curbs, shall be designed to permit use by a wheelchair resident with staff assistance.

(13) Residents' toilet facilities shall comply with the following:

(i) Each resident toilet room shall be designed to permit wheelchair access and use. The size and configuration of the room, including the placement of fixtures within, shall allow space for staff assistance in transferring a wheelchair resident to the water closet.

(ii) A toilet room shall be accessible to each central bathing area without going through the general corridor.

(14) A minimum of one telephone per nursing unit shall be provided for residents' use. The telephone shall be wheelchair accessible and located to assure privacy of conversation.

Title: Section 713-3.5 - Physical environment standards for long-term care programs for ventilator dependent residents

713-3.5 Physical environment standards for long-term care programs for ventilator dependent residents.

(a) Each bedroom occupied by a resident receiving long term ventilator care shall comply with applicable criteria in section 713-3.4 (b) of this Subpart and shall provide adequate space for a mechanical ventilator and for equipment to be used in the administration of oxygen and suction to each resident. The facility shall have a sufficient number of single rooms to accommodate one-fifth of the facility's total capacity of ventilator dependent residents. If the facility has less than five beds, there must be at least one single room for the treatment of ventilator dependency. At least one single-bedded ventilator care room shall be designed and equipped for use as an infection control room with an additional lavatory conveniently located for staff handwashing, but not within the resident toilet room (a bathing facility may be omitted).

(b) The following service areas shall be readily available:

(1) a conference room for in-service education and training of respiratory care staff;

(2) a treatment room equipped with facilities for the administration of oxygen and suction;

- (3) adequate office space for staff serving ventilator dependent residents;
 - (4) adequate storage and maintenance space to ensure routine servicing of ventilators and related equipment;
 - (5) dining space that is wheelchair accessible; and
 - (6) adequate therapy space for respiratory rehabilitation.
- (d) At least one resident bathing facility shall be equipped with a mechanical lift and space for equipment and staff assistance.

Title: Section 713-3.7 - Units for residents requiring behavioral interventions

713-3.7 Units for residents requiring behavioral interventions.

(a) When provided, behavioral intervention units shall comply with the requirements of a nursing unit in accordance with section 713-3.4 of this Subpart, with the following variations and additional requirements:

- (1) The unit shall be planned as a secure unit that is separate from other units.
- (2) The unit shall be designed for a minimum of fifteen residents and a maximum of twenty residents.
- (3) All resident bedrooms shall be single occupancy.
- (4) Doors to resident bedrooms shall open outward.
- (5) A private toilet room shall be provided for each resident bedroom.
- (6) An exercise room shall be located on the unit and provide a minimum of twenty-five square feet per resident. Additional space shall be provided for storage. Adjacent dedicated resident toilet and showers shall be provided.
- (7) An activity room shall be located on the unit and provide a minimum of thirty-eight square feet per resident. Additional space shall be provided for equipment storage. Adjacent resident toilet and bathing facilities shall be provided.
- (8) A room shall be provided for quieting down periods for over active and acting out residents. The room shall provide a minimum of one hundred twenty five square feet of clear space, and shall be designed and furnished to protect the resident from self-injury. The door to the room shall be provided with a one-way panel with a view of the entire room.
- (9) Conference/counseling rooms sufficient for private family meetings with facility

personnel and for meetings of facility staff shall be provided on the nursing unit. At least one such room shall accommodate up to eight persons.

(10) Adequate on-unit offices shall be provided for staff use.

(11) Resident bathing facilities shall be provided at a ratio of one fixture per seven residents.

(12) In addition to the requirements set forth in section 713-3.21 of this Subpart, details and finishes shall be designed to provide a high degree of safety and security for both residents and staff and shall comply with the following:

(i) Doors to all resident rooms shall be located so as to negate a possible resident hiding space behind the door.

(ii) Doors, which separate the unit from adjacent functional areas of the facility, shall be secure.

(iii) The walls of resident use rooms shall be constructed so as to resist damage.

(iv) The ceilings of resident use rooms shall be constructed to resist damage. The ceiling surface shall be monolithic from wall to wall.

(v) Light switches and electric convenience outlets shall be tamper proof.

(vi) Major room furnishings such as desks, dressers, night tables, and shelving shall be designed and/or installed to minimize the danger of injury to residents and staff.

(vii) Shower heads in resident bathing rooms shall be of a recessed type.

(viii) Operable windows shall be provided with devices that prevent the possibility of accidental falls. The operable sash opening shall be limited to six inches, however, alternate window opening protection may be acceptable, i.e., security screens. Window bars are not permitted.

(ix) An emergency call system for staff use shall be provided in all resident use spaces to permit staff communications in an emergency.

(x) Outside activity areas shall be provided. Resident access to the areas shall be directly from the unit.

Title: Section 713-3.8 - Dementia programs

713-3.8 Dementia programs.

The department will review on a case-by-case basis the architectural designs and interior

finishes which are required to implement special programs for residents with dementia. Any special space requirements or interior features of approved programs will be considered additions to the minimum requirements of this Subpart.

Title: Section 713-3.9 - Communal areas

713-3.9 Communal areas.

Resident communal areas shall be provided and shall include, at a minimum, the following:

(a) Resident dining space shall be provided at a minimum ratio of twenty-eight square feet net useable areas per resident. Dining facilities may be provided in separate satellite dining areas within or adjacent to nursing units to accomplish less densely populated groupings and to be easily accessible to the residents. Toilets accommodating wheelchair residents shall be readily accessible to all dining areas.

(b) Resident recreation and lounge areas shall be provided at a minimum of twelve square feet net usable area per resident. Such spaces may be provided within or adjacent to nursing units to provide for resident accessibility.

(1) Recreation and lounge areas shall be designed and furnished in a home-like manner to encourage resident participation and provide for resident identification with surroundings.

(2) Toilets accommodating wheelchair residents shall be readily accessible to all recreation and lounge areas.

Title: Section 713-3.10 - Physical therapy facilities

713-3.10 Physical therapy facilities.

Physical therapy facilities shall include and comply with the following:

(a) Treatment areas shall have space and equipment commensurate with all approved programs including, but not limited to, thermotherapy, diathermy, ultrasound, and hydrotherapy. Provision shall be made for cubicle curtains around each individual treatment area, handwashing facility(ies) (one lavatory or sink may serve more than one cubicle), and facilities for the collection of soiled linen and other material.

(b) An exercise area.

(c) Storage for clean linen, supplies, and equipment.

(d) Residents' dressing areas, showers, lockers, and toilet rooms, as may be required by the approved program.

(e) A service sink.

(f) Wheelchair and stretcher storage.

(g) Office space.

(h) The requirements of subdivisions (c), (d), (e),(f) and (g) of this section may be planned and arranged for shared use by occupational therapy residents and staff if the approved program reflects this sharing concept.

(i) If there is an approved adult day health care program, additional space and equipment may be included.

Title: Section 713-3.11 - Occupational therapy facilities

713-3.11 Occupational therapy facilities.

Occupational therapy facilities shall include and comply with the following:

(a) An activities area with space and equipment commensurate with department approved programs. Provision shall be made for sink or lavatory, and facilities for collection of waste products prior to disposal.

(b) Storage for supplies and equipment.

(c) Residents' toilet rooms that may be shared with residents receiving physical therapy residents if the approved narrative program reflects this sharing concept.

(d) If there is an approved adult day health care program, operating on premises, the department may require that additional space and equipment be provided.

Title: Section 713-3.12 - Hair and grooming areas

713-3.12 Hair and grooming areas.

Separate room(s) shall be provided for hair care and grooming needs of residents.

The space and equipment provided shall be commensurate with the number of residents within the facility. At least one sink for staff handwashing shall be provided that is trimmed with valves that are operable without the use of hands. There shall be another sink that may be used to wash hair. Resident toilets shall be readily accessible to the hair and grooming area(s).

Title: Section 713-3.13 - Dietary facilities

713-3.13 Dietary facilities.

(a) Construction, equipment and installation of dietary facilities shall comply with the standards in Part 14 of this Title (State Sanitary Code). Food service facilities shall be designed and equipped to meet the nutritional requirements of the residents. Dietary facilities shall consist of an on-site food preparation system, a contractual convenience food service system, or an appropriate combination thereof.

(b) The following functional elements shall be provided in such size as required to implement the type of food service system selected:

(1) A control station for receiving food supplies.

(2) Storage space for four days' supply including cold storage.

(3) Food preparation facilities as required by the program. Conventional food preparation systems shall include space and equipment for preparing, cooking, and baking. Convenience food service systems such as frozen prepared meals, bulk packaged entrees, individual packaged portions, or systems using contractual commissary services shall include space and equipment for thawing, portioning, cooking or baking.

(4) Staff handwashing facilities located within the food preparation area.

(5) Resident meal service space including facilities for tray assembly and distribution.

(6) A dining area for ambulatory residents, staff and visitors.

(7) Space for dishwashing equipment in a room or an alcove separate from food preparation and serving areas. This shall include commercial-type dishwashing equipment. Space also shall be provided for receiving, scraping, sorting and stacking soiled tableware and for transferring clean tableware to the using areas. A lavatory shall be conveniently available for handwashing.

(8) Pot washing facilities.

(9) Sanitizing facilities and storage areas for cans, carts and mobile tray conveyors. The sanitizing facilities may be combined with those required for linen services.

(10) Waste storage facilities in a separate room that is easily accessible to the outside for direct pickup or disposal.

(11) Office or suitable workspace for the dietitian or the dietary service manager.

(12) Toilets for dietary staff with handwashing facilities immediately adjacent to the work area.

(13) A janitor's closet located within the dietary department. The closet shall contain a floor receptor or service sink and storage space for housekeeping equipment and supplies.

(14) Self-dispensing ice-making facilities.

Title: Section 713-3.14 - Administration and public areas

713-3.14 Administration and public areas.

Administration and public areas shall include and comply with the following:

(a) A main entrance at grade level sheltered from the weather that can accommodate wheelchairs.

(b) A lobby, which shall include:

(1) a reception and information counter or desk;

(2) waiting space(s) with seating areas;

(3) public toilet facilities, which are wheelchair accessible;

(4) public telephone(s);

(5) drinking fountain(s); and

(6) a bulletin board.

(c) Interview space(s) for private interviews relating to social services, credit arrangements and admissions.

(d) General or individual office(s) for business transactions, medical and financial records, and administrative and professional staff.

(e) A multi-purpose room for conferences, meetings and health education purposes, including facilities for showing visual aids.

(f) Storage for office equipment and supplies.

(g) An equipped clinical nurses aide training facility if the nursing home provides training support or a training program for nurses aides.

Title: Section 713-3.15 - Linen services

713-3.15 Linen services.

(a) If linen is to be processed on the site, the following shall be provided:

(1) A laundry processing room with commercial type equipment that can process seven days' needs within a regularly scheduled workweek. Handwashing facilities shall be provided.

(2) A soiled linen receiving, holding and sorting room with handwashing facilities.

(3) Storage for laundry supplies.

(4) Clean linen inspection, storage and issuing room(s).

(5) A janitors' closet containing a floor receptor or service sink and storage space for housekeeping equipment and supplies.

(6) Sanitizing facilities and storage area for carts. The sanitizing facilities may be combined with those required for dietary facilities.

(b) If linen is processed off the site, the following shall be provided:

(1) A soiled linen holding room.

(2) Clean linen receiving, holding, inspection and storage room(s).

(3) Sanitizing facilities and storage area for carts. The sanitizing facilities may be combined with those required for dietary facilities.

Title: Section 713-3.16 - Central stores

713-3.16 Central stores.

General storage rooms shall have a total area of not less than twelve square feet per resident and not less than ninety cubic feet in volume per resident. Storage of not-in-use institutional furniture, equipment, and supplies shall generally be concentrated in one centralized area. Storage of out-of-season clothing and residents' belongings not currently in use may be decentralized in close proximity to nursing units.

Title: Section 713-3.17 - Employees' facilities

713-3.17 Employees' facilities.

In addition to employees' facilities such as locker rooms, lounges, toilets or shower facilities called for in certain departments, a sufficient number of such facilities as are required to accommodate the needs of all personnel and volunteers shall be provided. An outdoor smoking area shall be designated.

Title: Section 713-3.18 - Janitors' closets

713-3.18 Janitors' closets.

In addition to the janitors' closets called for in certain departments, sufficient janitors' closets shall be provided throughout the facility to maintain a clean and sanitary environment. These shall contain a floor receptor or service sink and storage space for housekeeping equipment and supplies.

Title: Section 713-3.19 - Engineering service and equipment areas

713-3.19 Engineering service and equipment areas.

Engineering service and equipment areas shall include and comply with the following:

- (a) Equipment room(s), which shall consist of room(s) or separate building(s) for boilers, mechanical equipment and electrical equipment;
- (b) engineers' quarters providing office or suitable desk space for engineer;
- (c) maintenance shop(s);
- (d) storage room(s) for building maintenance supplies which may be part of maintenance shop in nursing homes of less than one hundred residents; and
- (e) yard equipment storage, which shall consist of a separate room or building for yard maintenance equipment and supplies.

Title: Section 713-3.20 - Waste processing services, storage and treatment

713-3.20 Waste processing services, storage and treatment.

Space and facilities shall be provided for waste storage and removal. Where on-site treatment is by incineration, or other approved method, appropriate additional space and facilities shall be provided.

Title: Section 713-3.21 - Details and finishes

713-3.21 Details and finishes.

Details and finishes shall be designed to provide a high degree of safety for the occupants and shall minimize the incidence of accidents with special consideration for residents who will be ambulatory. Hazards such as sharp corners shall be avoided.

- (a) All details shall comply with the following requirements:

(1) Compartmentation, corridors widths, exits, automatic extinguishment systems, and other details relating to fire prevention and fire protection shall comply with requirements of NFPA 101, Life Safety Code, 2000 edition. Further details concerning this referenced material are contained in section 711.2(a) of this Title.

(2) Items such as drinking fountains, telephone booths, vending machines, and portable equipment shall be located so as not to restrict corridor traffic or reduce the corridor width below the required minimum.

(3) All rooms containing bathtubs, sitz baths, showers or water closets that are subject to use or occupancy by residents, shall be equipped with doors and hardware which will permit access from the outside in any emergency. When such rooms have only one opening or are small, the doors shall be capable of opening outwards or be otherwise designed to be opened without need to push against a resident who may have collapsed within the room.

(4) The minimum width of all openings to rooms needing access for beds or stretchers shall be three feet eight inches.

(5) Doors on all openings between corridors and rooms or spaces subject to occupancy, except elevator doors, shall be swing type. Opening to showers, baths, residents' toilets, and other small wet-type areas not subject to fire hazard are exempt from this requirement.

(6) Doors, except doors to spaces such as small closets that are not subject to occupancy, shall not swing into corridors in a manner that might obstruct traffic flow or reduce the required corridor width. Large walk-in type closets are considered spaces subject to occupancy.

(7) Doors, sidelights, borrowed lights, and windows in which the glazing extends down to within eighteen inches of the floor, thereby creating possibility of accidental breakage by pedestrian traffic, shall be glazed with safety glass, wire glass, or plastic glazing material that will resist breaking and will not create dangerous cutting edges when broken. Similar materials shall be used in wall openings of recreation rooms and exercise rooms unless required otherwise for fire safety. Glazing materials as noted above shall be used for shower doors and bath enclosures.

(8) Thresholds and expansion joint covers shall be made flush with the floor surface to facilitate use of wheelchairs and carts.

(9) Grab bars shall be provided for all residents' showers, tubs and sitz baths. All grab bars shall have sufficient strength and anchorage to sustain a concentrated load of two hundred fifty pounds.

(10) Recessed soap dishes shall be provided in showers and bathrooms.

(11) Handrails for use by residents shall be provided on both sides of corridors. A clear distance of one and a half inches shall be provided between the handrail and the wall.

(12) Ends of handrail and grab bars shall be constructed to prevent snagging the clothes of residents.

(13) The location and arrangement of handwashing facilities shall permit their proper use and operation. Particular care shall be given to the clearances required for blade-type operating handles. Lavatories intended for use by residents shall be installed to permit use by residents in wheelchairs.

(14) Mirrors shall be arranged for convenient use by residents in wheelchairs as well as by residents in a standing position.

(15) Paper towel dispensers and waste receptacles shall be provided at all handwashing fixtures.

(16) Ceiling heights shall be as follows:

(i) Boiler rooms shall have ceiling clearances not less than two feet six inches above the main boiler header and connecting piping.

(ii) Rooms containing ceiling-mounted equipment shall have height required to accommodate the equipment.

(iii) All other rooms shall have not less than seven feet ten inch ceilings. Suspended tracks, rails and pipes located in path of normal traffic, including resident room vestibule ceilings, shall be not less than six feet eight inches above the floor.

(17) Recreation rooms, and similar spaces where impact noises may be generated shall not be located directly over resident bed areas unless special provisions are made to minimize such noise.

(18) Rooms containing heat-producing equipment, such as boiler or heater rooms, and laundries, shall be insulated and ventilated to prevent any floor surface above from exceeding a temperature ten degrees Fahrenheit above the ambient room temperature.

(b) Finishes shall include and comply with the following:

(1) Floor materials shall be easily cleanable and have wear resistance appropriate for the location involved. Floors in areas used for food preparation or food assembly shall be water-resistant and grease-proof. Joints in tile and similar material in such areas shall be resistant to food acids. In all areas frequently subject to wet cleaning methods, floor materials shall not be physically affected by germicidal and cleaning solutions. Floors that are subject to traffic while wet, such as shower and bath areas, kitchen and similar work areas, shall have a non-slip surface.

(2) Wall bases in kitchen, soiled workrooms, and other areas which are frequently subject to wet cleaning methods shall be made integral and coved with the floor, tightly sealed within the wall, and constructed without voids that can harbor insects.

(3) Wall finishes shall be washable and, in the immediate area of plumbing fixtures, shall be smooth and moisture resistant. Finish, trim, and wall and floor construction in dietary and food preparation areas shall be free from spaces that can harbor rodents and insects.

(4) Floor and wall penetrations by pipes, ducts and conduits shall be tightly sealed to minimize entry of rodents and insects. Joints of structural elements shall be similarly sealed.

(5) Ceilings throughout the facility shall be easily cleanable. Dietary and food preparation areas shall have finished ceilings covering all overhead piping and duct work. Finished ceilings may be omitted in mechanical and equipment spaces, shops, general storage areas, and similar spaces, unless required for fire-resistive purposes.

(6) Acoustical ceilings and acoustical wall treatment, including acoustical in-wall insulation as required, shall be provided for corridors in resident areas, nurses' stations, dayrooms, recreation rooms, dining areas and waiting areas to reduce ambient noise in resident living and sleeping areas.

Title: Section 713-3.22 - Construction, including fire-resistive requirements

713-3.22 Construction, including fire-resistive requirements.

(a) Every building and every portion thereof shall be designed and constructed to sustain all dead and live loads in accordance with accepted engineering practices and standards, including seismic forces where they apply.

(b) Foundations shall rest on natural solid bearing if a satisfactory bearing is available at reasonable depths. Proper soil-bearing values shall be established in accordance with recognized standards. If solid bearing is not encountered at practical depths, the structure shall be supported on driven piles or drilled piers designed to support the intended load without detrimental settlement, except that one-story buildings may rest on a fill designed by a soils engineer. When engineered fill is used, site preparation and placement of fill shall be done under the direct full-time supervision of the soils engineer. The soils engineer shall issue a final report on the compacted fill operation and certification of compliance with the job specifications. All footings shall extend to a depth not less than one foot below the estimated maximum frost line.

(c) An emergency radio communication system shall be provided in each facility. This system shall be self-sufficient in time of emergency and capable of operation without reliance on the building service or emergency electric power supply. It shall also be linked with the available community or State emergency communication network,

including connections with police and fire department or system.

Title: Section 713-3.23 - Elevators

713-3.23 Elevators.

(a) All buildings having resident facilities such as bedrooms, dining rooms, recreation areas, critical services such as diagnostic and therapy functions located on other than the main entrance floor shall have at least two electric or electrohydraulic elevators, one of which shall be of the hospital-type. Engineering studies of the facility design and location of resident service areas including an analysis of peak loads and waiting time to determine the elevator needs for handling residents, staff, the public, food, and supplies shall be submitted to the department for approval prior to the completion of design development drawings.

(1) Hospital-type elevator cars shall have inside dimensions that will accommodate a resident bed and attendants, and shall be at least five feet wide by seven feet six inches deep. The car door shall have a clear opening of not less than three feet eight inches wide.

(2) Elevators shall be equipped with an automatic leveling device of the two-way automatic maintaining type with an accuracy of one-half inch.

(3) Elevators, except freight elevators, shall be equipped with a two-way special service switch to permit cars to bypass all landing button calls and be dispatched directly to any floor.

(4) Elevator controls, alarm button and telephones shall be accessible to persons in wheelchairs.

(5) Elevator call buttons, controls and door safety stops shall be of a type that will not be activated by heat or smoke.

(b) The nursing home operator shall conduct or arrange for a third party to conduct field inspections and tests of elevators. The licensed operator of the nursing home facility shall obtain and maintain written certification that the installation meets the requirements set forth in this section and all applicable safety regulations and codes.

(c) The operation of elevators shall conform to NFPA 99, Standard for Health Care Facilities, 1999 edition, "Essential Electrical Distribution Requirements - Type II Systems". Further details concerning this referenced material are contained in section 711.2(a) of this Title.

Effective Date: 12/29/2010

Title: Section 713-3.24 - Mechanical systems and equipment

713-3.24 Mechanical systems and equipment.

(a) Prior to completion and acceptance of the facility, all mechanical systems shall be tested, balanced and operated to demonstrate to the licensed operator or owner or his or her representative that the installation and performance of these systems conform to the requirements of the approved plans and specifications. Upon completion of the contract, the owner and licensed operator shall be furnished with a complete set of manufacturers' operating, maintenance, and preventive maintenance instructions, parts lists with numbers and descriptions for each piece of equipment. The licensed operator shall obtain instructions on the operation of systems and equipment as required.

(b) Thermal insulation and acoustical insulation (if applicable) shall be provided on the following fixtures and equipment in the nursing home facility and shall comply with the following:

(1) boilers, smoke breeching and stacks;

(2) steam supply and condensate return piping;

(3) hot water piping above one hundred eighty (180) degrees Fahrenheit and all hot water heaters, generators and converters;

(4) hot water piping above one hundred twenty five degrees Fahrenheit which is exposed to contact by residents;

(5) chilled water, refrigerant, other process piping and equipment operating with fluid temperatures below ambient dew point;

(6) water supply and drainage piping on which condensation may occur;

(7) air ducts and casings with outside surface temperatures below ambient dew point; and,

(8) other piping, ducts, and equipment as necessary to maintain the efficiency of the system.

(9) Insulation may be omitted from hot water and steam condensate piping not subject to contact by residents when such insulation is unnecessary for preventing excessive system heat loss or excessive heat gain.

(c) Steam and hot water systems shall comply with the following:

(1) Boilers shall have the capacity to supply the normal requirements of all systems and equipment. Boilers shall have the capacity, based on the net ratings published by the Hydronics Institute or another generally accepted national standard approved by the commissioner, which is adequate to assure resident safety and comfort, to supply not less than seventy percent of the normal requirements of all systems and equipment. Their

number and arrangements shall accommodate facility needs despite the breakdown or routine maintenance of any one boiler. The capacity of the remaining boiler(s) shall be sufficient to provide hot water service for clinical, dietary, and resident use; steam for dietary purposes, and heating for general resident rooms. However, reserve capacity for facility space heating is not required in geographic areas where a design dry-bulb temperature of twenty five degrees Fahrenheit (minus four degrees Celsius) or more represents not less than ninety nine percent of the total hours in any one heating month.

(2) Boiler feed pumps, heating circulating pumps, condensate return pumps and fuel oil pumps shall be connected and installed to provide normal and standby service.

(3) Supply and return mains and risers of cooling, heating and process steam systems shall be valved to isolate the various sections of each system. Each piece of equipment shall be valved at the supply and return ends.

(d) Heating, cooling and ventilating systems for resident occupied areas of the facility shall comply with the following minimum standards except where other minimum standards are shown on Table 8 of this subdivision:

(1) Heating systems shall provide for a minimum temperature of seventy five degrees Fahrenheit at design temperature. Cooling systems shall be designed to permit a maximum temperature of eighty degrees Fahrenheit at design temperature.

(2) All air-supply and air-exhaust systems shall be mechanically operated. All fans serving exhaust systems shall be located at the discharge end of the system. The ventilation rates shown in Table 8 of this subdivision shall be considered as minimum acceptable rates and shall not be construed as precluding the use of higher ventilation rates provided such higher rates do not result in undesirable air velocity in resident-use areas.

(i) Outdoor air intakes shall be located as far as practical, but not less than twenty five feet, from exhaust outlets of ventilating systems, combustion equipment stacks, medical-surgical vacuum systems, plumbing vent stacks, or from areas which may collect vehicular exhaust and other noxious fumes. The bottom of outdoor air intakes serving central systems shall be located as high as practical but not less than six feet above ground level, or if installed above the roof, three feet above roof level.

(ii) The ventilation systems shall be designed and balanced to provide the pressure relationship as shown in Table 8, below.

TABLE 8

PRESSURE RELATIONSHIPS AND VENTILATION OF NURSING HOME FACILITIES

Area designation	Pressure relationship adjacent	Minimum air changes of outdoor	Minimum total air changes per	All air exhausted directly to	Recirculated within room units

	areas	air per hour supplied to room	hour supplied to room	outdoors	
Resident Room	E	2	2	Optional	Optional
Resident Area Corridor	E	2	4	Optional	Optional
Examination and Treatment Room	E	2	6	Optional	Optional
Physical Therapy	N	2	6	Optional	Optional
Occupational Therapy	N	2	6	Optional	Optional
Soiled Workroom or Soiled Holding	N	2	10	Yes	No
Clean Workroom or Clean Holding	P	2	4	Optional	Optional
Toilet Room	N	Optional	10	Yes	No
Bathroom	N	Optional	10	Yes	No
Janitors' Closets	N	Optional	10	Yes	No
Sterilizer Equipment Room	N	Optional	10	Yes	No
Linen and Trash Chute Rooms	N	Optional	10	Yes	No
Food Preparation Center	E	2	10	Yes	No
Warewashing Room	N	Optional	10	Yes	No
Dietary Day Storage	E	Optional	2	Yes	No
Laundry, General	E	2	2	Yes	No

Soiled Linen Sorting and Storage	N	Optional	10	Yes	No
Clean Linen Storage	P	2	2	Optional	Optional

P=Positive N=Negative E=Equal

(iii) The bottoms of ventilation openings shall be not less than three inches above the floor of any room.

(iv) Corridors shall not be used to supply air to or exhaust air from any room, except that air from corridors may be used to ventilate bathrooms, toilet rooms, janitors' closets, and small electrical or telephone closets opening directly on corridors.

(v) All central ventilation or air conditioning systems shall be equipped with filters having efficiencies no less than those specified in Table 9 of this subdivision, below. The filter bed shall be located upstream of the air conditioning equipment, unless a prefilter is employed. In this case, the prefilter shall be upstream of the equipment and the main filter may be located further downstream.

**TABLE 9
FILTER EFFICIENCIES FOR CENTRAL VENTILATION AND AIR
CONDITIONING SYSTEMS
IN NURSING HOME FACILITIES**

Area Designation	Minimum number of filter beds	Filter efficiency (percent) main filter bed
Resident Care, Treatment Diagnostic & Related Areas	1	80*
Food Preparation Areas and Laundries	1	80
Administrative, Bulk Storage and Soiled Holding Areas	1	25

* May be reduced to thirty five percent for all outdoor air systems.

(vi) All filter(s) efficiencies shall be average atmospheric dust spot efficiencies tested in accordance with ANSI/ASHRAE Standard 52.2-1999, Method of Testing Air-Cleaning Devices for Removal Efficiency by Particle Size, 1999 edition. Further details concerning this referenced material are contained in section 711.2(b) of this Title (a) Filter frames shall be durable and carefully dimensioned and shall provide an air-tight fit with the

enclosing duct work. All joints between filter segments and the enclosing duct work shall be gasketed or sealed to provide seal against air leakage. A manometer shall be installed across each filter bed serving central air systems.

(vii) Exhaust hoods in food preparation centers shall have an exhaust rate of not less than fifty cubic feet per minute per square foot of face area. Face area is defined for this purpose as the open area from the exposed perimeter of the cooking surfaces. All hoods over cooking ranges shall be equipped with grease filters, fire extinguishing systems, and heat actuated fan controls. Cleanout openings shall be provided every twenty feet in horizontal exhaust duct systems serving these hoods.

(viii) Boiler rooms shall be provided with sufficient outdoor air to maintain combustion rates of equipment and to limit temperature in working stations to ninety seven degrees Fahrenheit.

(e) All plumbing systems and other piping systems shall be designed and installed in accordance with the requirements of the local or municipal building code authority having jurisdiction.

(1) Plumbing fixtures shall comply with the following:

(i) The material used for plumbing fixtures shall be of non-absorptive acid-resistant material.

(ii) The water supply spout for lavatories and sinks required in resident care areas shall be mounted so that its discharge point is a minimum distance of five inches above the rim of the fixture. All fixtures used by medical and nursing staff, and all lavatories used by residents and food handlers shall be trimmed with valves, which can be operated without the use of hands. Where blade handles are used for this purpose, they shall not exceed four and one-half inches in length, except that handles on clinical sinks shall be not less than six inches long.

(iii) Clinical sinks shall have an integral trap in which the upper portion of a visible trap seal provides a water surface.

(iv) Shower bases and tubs shall provide non-slip surfaces for standing residents.

(2) Water supply systems shall comply with the following:

(i) Water in sufficient quantity shall be provided that is of a quality, which conforms to Part 5 of this Title.

(ii) Systems shall be designed to supply water at sufficient pressure to operate all fixtures and equipment during maximum demand periods.

(iii) Each water service main, branch main, riser and branch to a group of fixtures shall be valved. Stop valves shall be provided at each fixture.

(iv) Backflow preventers (vacuum breakers) shall be installed on hose bibs, janitors sinks, bedpan flushing attachments, and on all other fixtures to which hoses or tubing can be attached.

(v) Flush valves installed on plumbing fixtures shall be of a quiet operating type, equipped with silencers.

(vi) Water distribution systems shall be narrated to provide hot water at each hot water outlet at all times. Hot water at shower, bathing and handwashing facilities shall not exceed one hundred ten degrees Fahrenheit.

(3) Hot water heating systems shall comply with the following:

(i) The hot water heating system shall have sufficient capacity to supply water at the temperatures and amounts indicated below. Water temperatures shall be taken at hot water point of use or inlet to processing equipment.

(ii) Storage tank(s) shall be fabricated of corrosion-resistant metal or lined with non-corrosive material.

	Clinical	USE Dietary	Laundry
Gallons (per hour per resident)	6 1/2	4	4 1/2
Liters (per second per resident)	.007	.004	.005
Temperature (F)	110 *	180	180

*Maximum

(4) Drainage systems shall comply with the following requirements:

(i) Insofar as possible, drainage piping shall not be installed within the ceiling nor installed in an exposed location in food preparation centers, food serving facilities, food storage areas, and other critical areas. Special precautions shall be taken to protect these areas from possible leakage or condensation from necessary overhead piping systems.

(ii) Building sewers shall discharge into a community sewage system. Where such a system is not available, a facility providing sewage treatment must conform to applicable local and state regulations.

(5) If used, nonflammable medical gas systems installations shall be in accordance with the requirements of NFPA 99, Standard for Health Care Facilities, 1999 edition. Further

details concerning this reference material are contained in section 711.2(a) of this Title.

(6) If used, clinical vacuum system installations shall be in accordance with the requirements of NFPA 99, Standard for Health Care Facilities, 1999 edition, and Compressed Gas Association Inc. (CGA) Pamphlet E-10: Maintenance of Medical Gas and Vacuum Systems in Health Care Facilities, third edition. Further details concerning these reference materials are contained in section 711.2 of this Title.

Title: Section 713-3.25 - Electrical Requirements

713-3.25 Electrical Requirements.

(a) All material including equipment, conductors, controls and signaling devices shall be installed to provide a complete electrical system with the necessary characteristics and capacity to supply the electrical facilities shown in the specifications or indicated on the plans. Materials and installation shall conform to NFPA 70, National Electric Code, 1999 edition and NFPA 99, Standard for Health Care Facilities, 1999 edition. Further details concerning these referenced materials are contained in section 711.2(a) of this Title. All electrical installations and systems shall be tested to show that the equipment is installed and operates as planned or specified.

(b) Circuit breakers or fusible switches that provide disconnecting means and overcurrent protection for conductors connected to switchboards and panel boards shall be enclosed or guarded to provide a deadfront type of assembly. The main switchboard shall be located in a separate enclosure accessible only to authorized persons. The switchboard shall be convenient for use, readily accessible for maintenance, clear of traffic lanes, and in a dry ventilated space free of corrosive fumes or gases. Overload protective devices shall be suitable for operating properly in ambient temperature conditions.

(c) Panel boards serving lighting and appliance circuits shall be located on the same floor as the circuits they serve. This requirement does not apply to emergency system circuits.

(d) All spaces occupied by people, machinery, equipment within buildings, approaches to buildings, and parking lots shall have lighting commensurate with intended use. Residents' rooms shall have general lighting and night lighting. A reading light shall be provided for each resident. At least one light fixture for night lighting shall be switched at the entrance to each resident room. All switches for control of lighting in resident areas shall be of the quiet operating type.

(e) Receptacles (convenience outlets) shall comply with the following:

(1) Each resident room shall have duplex grounding-type receptacles as follows: one located near each side of the head of each bed; one for television if used; and one on another wall.

(2) Duplex receptacles for general use shall be installed approximately fifty feet apart in

all corridors and within twenty five feet of ends of corridors.

(f) The electrical circuit(s) to fixed or portable equipment in hydrotherapy units shall be provided with five milliamperes ground fault interrupters.

(g) Nurses' calling systems shall comply with the following:

(1) In resident occupied areas, each room shall be served by at least one calling station and each resident shall be provided with a call device. Two call devices serving adjacent beds may be served by one calling station. Calls shall register with the floor staff and shall activate a visible signal in the corridor at the residents' door, in the clean workroom, in the soiled workroom, and in the nourishment station of the nursing unit. In multi-corridor nursing units, additional visible signals shall be installed at corridor intersections, in rooms containing two or more calling stations, indicating lights shall be provided at each station. Nurses' calling systems that provide two-way voice communication shall be equipped with an indicating light at each calling station with lights, and remain lighted as long as the voice circuit is operating.

(2) A nurse's call emergency device shall be provided for residents' use at each residents' toilet, bath and shower.

(3) Alternate technologies can be considered for emergency or nurse call systems. If radio frequency systems are used, consideration should be given to electromagnetic compatibility between internal and external sources. The department will consider the use of alternate technologies on a case-by-case basis and may approve the use of such technology if resident safety is assured.

(h) Emergency electric services shall comply with the following requirements:

(1) To provide electricity during an interruption of the normal electric supply, an emergency source of electricity shall be provided and connected to certain circuits for lighting and power.

(2) The source of this emergency electric service shall be as follows:

(i) an emergency generating set when the normal service is supplied by one or more central station transmission lines; and,

(ii) an emergency generating set or a central station transmission line when the normal electric supply is generated on the premises.

(3) Emergency electrical service shall be provided to the distribution systems as follows:

(i) Illumination for means of egress and for exit signs and exit directional signs as required in NFPA101, Life Safety Code, 2000 edition. Further details concerning this referenced material are contained in section 711.2(a) of this Title.

- (ii) Corridor duplex receptacles in resident areas.
 - (iii) Nurses' calling systems.
 - (iv) Equipment necessary for maintaining telephone service.
 - (v) Elevator service that will reach every resident floor when resident rooms are located on other than the ground floor. Throwover facilities shall be provided to allow temporary operation of any elevator for release of persons who may be trapped between floors.
 - (vi) A fire pump, if installed.
 - (vii) Equipment for heating resident rooms, except where the facility is served by two or more electrical services supplied from separate generators of a utility distribution network having multiple power input sources and arranged to provide mechanical and electrical separation so that a fault between the facility and the generating sources will not likely cause an interruption of its service feeders.
 - (viii) General illumination and selected receptacles in the vicinity of the generator set.
 - (ix) Paging or speaker systems if intended for communication during emergency. Radio transceivers where installed for emergency use shall be capable of operating for at least one hour upon total failure of both normal and emergency power.
 - (x) Alarm systems, including fire alarms activated at manual stations, water flow alarm devices of sprinkler system if electrically operated, fire and smoke detecting systems, and alarms required for non-flammable medical gas systems if installed.
 - (xi) Walk-in refrigerator and freezer.
 - (xii) Electric duplex outlets for all resident rooms, communal areas and service areas serving residents requiring ventilator care.
- (4) The emergency lighting shall be in operation within ten seconds after the interruption of normal electric power supply. Emergency service to receptacles and equipment may be delayed automatic or manually connected. Receptacles connected to emergency power shall be distinctively marked. When the generator is operated by fuel, which is normally piped underground to the site from a utility distribution system, fuel storage facilities on the site will not be required.
- (5) Each resident sleeping room shall be protected by an automatic smoke and heat detection system which includes an approved and operational automatic smoke and heat detector in such room. The detector shall conform to the applicable provisions of NFPA 72, National Fire Alarm Code, 1999 edition. Further details concerning this referenced material are contained in section 711.2(a) of this Title.

Title: Section 713-3.26 - Compliance with more current standards

713-3.26 Compliance with more current standards.

Notwithstanding any provision to the contrary in this title, a licensed operator or applicant, when submitting a construction project application for approval, may elect to comply with all applicable requirements of Subpart 713-4 in lieu of complying with this Subpart.

Title: SubPart 713-4 - Standards for nursing home construction after December 31, 2010

SUBPART 713-4

STANDARDS FOR NURSING HOME CONSTRUCTION AFTER DECEMBER 31, 2010

(Statutory authority: Public Health Law Section 2803)

Title: Section 713-4.1 - Applicability

713-4.1 Applicability.

This Subpart sets forth minimum construction and physical environment standards applicable to nursing home facilities built and to portions of nursing home facilities altered or renovated pursuant to department or commissioner approval granted on or after January 1, 2011 and to other nursing home construction projects not requiring such approval that are completed on or after January 1, 2011.

Title: Section 713-4.2 - General requirements

713-4.2 General requirements.

Nursing homes shall be designed to provide flexibility in order to meet the changing physical, medical and psychological needs of the residents. The facility design shall produce a supportive environment to enhance and extend quality of life for residents. The architectural design, through the organization of functional space, the specification of ergonomically appropriate and arranged furniture, equipment, details and finishes, shall eliminate as many barriers as possible to effective access and use by residents of all space, services, equipment and utilities appropriate for daily living.

Title: Section 713-4.3 - Pertinent standards

713-4.3 Pertinent standards.

Nursing homes shall comply with all pertinent requirements, technical standards and codes set forth or incorporated by reference into Part 711 of this Title, including but not limited to, Chapter 18, "New Health Care Occupancies", of NFPA 101, Life Safety Code, 2000 edition, which is described in more detail in Section 711.2(a) of this Title. Nursing

home facilities shall also comply with the Chapter 4.2, "Specific Requirements for Nursing Facilities", of Part 4, "Residential Health Care Facilities", of Guidelines for the Design and Construction of Health Care Facilities, 2010 edition, except where such guidelines and standards are inconsistent with the requirements of this Subpart. The Guidelines for the Design and Construction of Health Care Facilities, 2010 edition, is described in more detail in section 711.2(b)(7) of this Title.

Title: Section 713-4.4 - Resident units

713-4.4 Resident units.

(a) The number of residents in a resident unit arranged in a linear layout shall not exceed forty. However, the Department will consider exceptions to this requirement to enhance the quality of life for residents when a higher number of residents clearly achieves a savings in operational costs, improves resident services and is based upon sub-groups of residents (sub-units).

(b) When sub-units are used, each sub-unit shall be arranged so as to provide access to a bathing room and a soiled workroom or soiled holding room located within, or readily accessible to, the unit.

(c) At least one-tenth of the total residents in any facility shall be located in single rooms. Each room shall have a window that can be opened without the use of tools. The windowsills shall not be higher than two feet eight inches above the finished floor to facilitate views to the exterior for residents seated in wheelchairs, and shall be above grade.

(d) Each resident shall have a wardrobe or closet with minimum clear inside dimensions of three feet by one foot ten inches deep. Drawer space may be provided as part of the wardrobe, as long as hanging space measuring two feet wide by one foot ten inches deep by five feet high, accessible to the resident, is maintained.

Title: Section 713-4.5 - Physical environment standards for long-term care programs for ventilator dependent residents

713-4.5 Physical environment standards for long-term care programs for ventilator dependent residents.

(a) Each resident room for ventilator care shall provide adequate space for a mechanical ventilator and for equipment to be used in the administration of oxygen and suction, which must be available from a central location and piped to each bed, to each resident. A facility shall have a sufficient number of single rooms to accommodate one-fifth of the facility's total capacity of ventilator dependent residents. If the facility has less than five beds certified for ventilator care, there must be at least one single room for the treatment

of ventilator dependency. At least one single-bedded ventilator care room shall be designed and equipped for use as an infection control room with an additional lavatory conveniently located for staff handwashing, but not within the resident toilet room (a bathing facility may be omitted). If the facilities risk assessment indicates the facility is at high or intermediate risk for airborne infections, the infection control room shall be in compliance with the requirements for airborne infection isolation room(s) in Section 2.1-2.4.2, "Airborne Infection Isolation (AII) Room", of Part 2, "Hospitals", of Guidelines for Design and Construction of Health Care Facilities, 2010 edition, as described in more detail in section 711.2(b)(7) of this Title.

(b) The following service areas shall be readily available:

- (1) adequate office space for staff serving ventilator dependent residents;
- (2) staff unit workstation shall be of sufficient size to accommodate multiple disciplines;
- (3) adequate storage and maintenance space to ensure routine servicing as required by program for ventilators and related equipment; this room shall contain provisions for hand washing;
- (4) dining space that is accessible; and
- (5) adequate therapy space for rehabilitation.

(c) At least one resident bathing facility shall be equipped to accommodate a stretcher-type bathing apparatus, and space for equipment and staff assistance. The entrance shall have a clear opening of at least forty-five inches (45") to accommodate residents utilizing multiple equipment, such as ventilators and infusion pumps.

Title: Section 713-4.7 - Units for residents requiring neurobehavioral interventions

713-4.7 Units for residents requiring neurobehavioral interventions.

(a) These dedicated and discrete units shall be either Neurobehavioral Units, or Neurobehavioral Step-down Units. When provided, these separate units shall comply with Section 4.2-2.2, "Resident Unit", of Part 4, "Residential Health Care Facilities", of the Guidelines for Design and Construction of Health Care Facilities, 2010 edition, as described in more detail in section 711.2(b)(7) of this Title, and with the following variations and additional requirements:

- (1) Each Neurobehavioral Unit shall be designed for a minimum of fifteen residents and a maximum of twenty residents and shall be planned as a secure unit. All resident bedrooms in Neurobehavioral Units shall be single occupancy.
- (2) Each Neurobehavioral Step-down Unit shall be limited to a maximum of twenty certified beds, and shall not be a secure unit. This unit shall be monitored for elopement

however, with a delayed egress system on all unit doors. Neurobehavioral Step-down Units shall provide single occupancy resident rooms for at least ten percent of the unit capacity. For the balance of the unit, the maximum number of beds in a resident room shall be two.

(3) Doors to resident bedrooms shall open outward.

(4) A private toilet room shall be provided for each resident bedroom.

(5) An exercise room shall be located on the unit and provide a minimum of twenty-five net square feet per resident. Additional space shall be provided for storage. Adjacent dedicated resident toilet and showers shall be provided.

(6) An activity room shall be located on the unit and provide a minimum of thirty-eight net square feet per resident. Additional space shall be provided for equipment storage. Adjacent resident toilet and bathing facilities shall be provided.

(7) Each Neurobehavioral Step-down Unit shall be provided at least one separate enclosed room providing a distraction-free treatment environment with visual and auditory separation from adjacent spaces and functions. This space shall accommodate a maximum of eight persons, for activities for functional living skills or cognitive skill development.

(8) Conference/counseling rooms sufficient for private family meetings with facility personnel and for meetings of facility staff shall be provided on the nursing unit. At least one room shall accommodate up to eight persons.

(9) Adequate on-unit offices shall be provided for staff use.

(10) Resident bathing facilities shall be provided at a ratio of one fixture per seven residents.

(11) Details and finishes shall be designed to provide a high degree of safety and security for both residents and staff.

(i) Doors to all resident rooms shall be located so as to negate a possible resident hiding space behind the door.

(ii) Doors, which separate the Neurobehavioral Units from adjacent functional areas of the facility shall be secure. Delayed egress doors shall be sufficient for Neurobehavioral Step-down Units.

(iii) The walls of resident use rooms shall be constructed so as to resist damage.

(iv) The ceilings of resident use rooms shall be constructed to resist damage. The ceiling

surface shall be monolithic from wall to wall.

(v) Light switches and electric convenience outlets shall be tamper proof.

(vi) Major room furnishings such as desks, dressers, night tables, and shelving shall be designed and/or installed to minimize the danger of injury to residents and staff.

(vii) Shower heads in resident bathing rooms shall be of a recessed type.

(viii) Operable windows shall be provided with devices, which will prevent the possibility of accidental falls. The operable sash opening shall be limited to six inches, however, alternate window opening protection may be acceptable, i.e., security screens. Window bars are not permitted.

(ix) An emergency call system for staff use shall be provided in all resident use spaces to permit staff communications in an emergency.

(x) Secure outside activity areas shall be provided. Resident access to the areas shall be directly from the unit.

Title: Section 713-4.8 - Communal areas

713-4.8 Communal areas.

Resident communal areas shall be designed and furnished to encourage resident use.

(a) Toilets accommodating wheelchair residents shall be readily accessible to all communal areas.

(b) Resident Dining: Dining areas shall:

(1) Provide adequate space for resident dining in accordance with the functional program, including residents in wheelchairs when applicable.

(2) Provide adequate clear space for residents to access and leave their tables without disturbing other residents.

(3) Include adequate clearances for residents in wheel chairs and/or other mobility devices.

(4) Provide clear and unobstructed lanes for servers and food carts.

(5) Include space for attendants to assist residents who cannot feed themselves.

(6) Be permitted to be located in separate satellite dining areas within or adjacent to nursing units to accomplish less densely populated groupings and to be easily accessible

to the residents.

(7) Provide toilet facilities accommodating wheelchair residents that are readily accessible to all dining areas.

(8) Be permitted to be used for other activities in accordance with the functional program.

(b) Recreation and lounge areas shall:

(1) Provide adequate space for resident activities in accordance with the functional program.

(2) Be sufficient in number and configuration to allow for varying sizes of resident groups and separate and distinct activities.

Title: Section 713-4.9 - Support Services

713-4.9 Support Services.

(a) Construction, equipment and installation of dietary facilities shall comply with the standards in Part 14 of this Title.

(b) General storage rooms shall have a total area of not less than twelve net square feet per resident and not less than ninety cubic feet in volume per resident. Storage of not-in-use institutional furniture, equipment and supplies shall generally be concentrated in one centralized area. Storage of out-of-season clothing and residents' belongings not currently in use may be decentralized in close proximity to nursing units.

(c) In addition to employees' facilities such as locker rooms, lounges, toilets or shower facilities called for in certain departments, a sufficient number of such facilities as are required to accommodate the needs of all personnel and volunteers shall be provided.

Title: Section 713-4.10 - Details and finishes

713-4.10 Details and finishes.

(a) Doors to all rooms containing bathtubs, sitz baths, showers and toilets for resident use shall be hinged or sliding. When such rooms have only one opening, the door shall be designed to be opened without need to push against a resident who may have collapsed within the room.

(b) The minimum width of all openings to rooms needing access for beds or stretchers shall be at minimum three feet eight inches.

(c) Floors in wet areas, such as bathing/shower facilities, shall be pitched to floor drains to prevent any run-off to areas outside the room.

(d) Acoustical treatment shall be provided between corridors in resident areas, nurse's stations, dayrooms, recreation rooms, dining areas and waiting areas and resident rooms to reduce ambient noise in resident living and sleeping areas. The STC (Sound Transmission Classification) between those spaces shall not be less than fifty-one and the NRC (Noise Reduction Coefficient) shall not be less than sixty-five for ceilings in those spaces.

Section 96.1 Definitions. The following definitions shall apply to this Subchapter unless the context otherwise requires:

(a) Board means the Board of Examiners of Nursing Home Administrators as provided for in article 28-D of the Public Health Law.

(b) Department means the New York State Department of Health.

(c) Commissioner means the Commissioner of Health of the State of New York.

(d) Secretary means the officer or employee of the department designated by the commissioner to act as secretary to the board.

(e) Advisory council means the body broadly representative of the health professions and the public established by the commissioner pursuant to subdivision 8 of section 2896-a of the Public Health Law.

(f) Nursing home administrator means an individual who has fulfilled all of the requirements of and has been duly granted a license by the New York State Board of Examiners of Nursing Home Administrators.

(g) Nursing home means a facility issued an operating certificate as a nursing home pursuant to article 28 of the Public Health Law.

(h) License means certification of an applicant who has met the requirements of the law, rules and regulations entitling him to serve, act, practice and otherwise hold himself or herself out as a duly licensed nursing home administrator.

(i) Temporary license means a license issued by the Board, under such conditions and limitations as it shall determine, for a single period not to exceed six months to an applicant of good moral character and suitability, over twenty-one years of age, who meets such other standards as are established by the Board, who has paid the application fee as specified in Public Health Law Article 28-D and who is designated by the owner, operator or other governing authority to administer a facility during a

period when due to resignation, death or incapacity or for some other reason the position of nursing home administrator has been unexpectedly vacated. Such temporary licensee shall be subject to the supervision of a licensed and currently registered New York State nursing home administrator as determined by the Board. This provision may not be used in conjunction with or to extend the provisions of section 415.26(a) of this title permitting the facility to operate without a licensed and registered administrator for a period greater than six months.

(j) Practice of nursing home administration means planning, organizing, directing, managing the operation and implementing the policies of, a nursing home, including but not limited to making operating decisions, ensuring fiscal responsibility, providing general supervision, employing and discharging staff, programming and ongoing evaluation of the care and services provided in the nursing home to ensure the health and safety of the residents, visitors and staff and, where appropriate, integrating the services of the nursing home with the community's health resources.

(k) Course of study in nursing home administration means a course or courses of study, including completion of a Board approved Administrator-in-Training (AIT) program or Board approved alternative, in institutional administration approved by the Board.

(l) Registration means the biennial registration as required by all licensed nursing home administrators pursuant to the provisions of codes, rules and regulations established by the Board. Only licensed nursing home administrators with a current registration may practice nursing home administration.

(m) Unethical conduct, for the purpose of section 2897 of the Public Health Law, shall include, but not be limited to:

(1) violation of any of the provisions of law pertaining to the licensing and registration of nursing home administrators or the rules and regulations of the Board pertaining thereto;

(2) violation of any of the provisions of law or codes, rules or regulations of the

licensing authority or agency of the State having jurisdiction of the operation and licensing of nursing homes;

(3) conviction of a crime;

(4) practicing fraud, deceit or misrepresentation in securing or procuring a nursing home administrator license or registration;

(5) practicing fraud, deceit or misrepresentation in the capacity of a nursing home administrator;

(6) immoral conduct while engaged in the practice of nursing home administration; immoral behavior indicating an unfitness to practice nursing home administration; or immoral conduct permitted by a nursing home administrator in a nursing home under his/her supervision;

(7) willful falsification, destruction or theft of property or records related to the practice of nursing home administration;

(8) committing acts of misconduct in the operation of a nursing home;

(9) habitual drunkenness;

(10) addiction to the use of narcotic drugs;

(11) wrongfully transferring or surrendering possession, either temporarily or permanently, of a license or certificate as a nursing home administrator to any other person;

(12) being guilty of fraudulent, misleading or deceptive advertising;

(13) falsely impersonating another licensee of a like or different name;

(14) failure to exercise true regard for the safety, health and life of

patients/residents;

(15) unauthorized disclosure of information relating to a patient/resident or his or her records; and

(16) unlawful discrimination in respect to patients/residents, employees or staff.

(n) Administrator of Record (AOR) means the individual who is charged with and has responsibility for the general administration of a nursing home, whether or not such individual has an ownership interest in such home, and whether or not his or her function and duties are shared with one or more other individuals.

(1) Each nursing home must designate one New York State licensed and currently registered nursing home administrator as the facility AOR consistent with the requirements of 10 NYCRR Section 415.26(a).

(2) In the case of an acting administrator, appointed under the provisions of 10 NYCRR 415.26(a)(3), the AOR shall be the supervising administrator designated pursuant to such provisions.

(o) Qualifying field experience shall mean the verified full-time, minimum of 35 hours per week, service on the staff of a qualifying Article 28 in-patient health care facility as defined by the Board, in an administrative position within the five-year period preceding approval of the licensure application.

(1) Such experience must be obtained above the department head level but not above the AOR, requiring the candidate to actively participate in the day-to-day administration, direction, and operation of the facility at the facility level requiring the daily supervision of the department heads of multiple (2 or more) major departments or services areas.

(2) The position must include substantial supervisory responsibilities for patient care and facility staff and be compensated at a salary commensurate with the level of responsibility claimed.

(3) At least one major department or service area must directly impact on the provision of patient care or services. Major department and services areas with direct impact on the provision of patient care or services as defined by the Board for the purpose of licensure experience are:

(a) Dietary/food services,

(b) Nursing services,

(c) Rehabilitation services (including all of physical therapy, occupational therapy, speech and audio therapy and recreational therapy) and

(d) Social Services (including all of admissions, discharge planning and social service program).

(p) Active participation in the administration, direction and operation of a qualifying health care facility shall mean the daily participation in the management decisions that affect multiple (2 or more) major departments or service areas as defined in this Part, within the facility and directly impacts the provision of care and services to the patients in the facility.

(q) Code of Ethics for New York State Nursing Home Administrators shall mean the expectations of conduct for licensed nursing home administrators adopted by the Board. The Code of Ethics should not be construed as all-encompassing or as denial of the existence of other responsibilities or practices.

Section 96.2 - Board of examiners; general powers

96.2 Board of examiners; general powers. (a) The board by majority vote of the whole number shall adopt and amend rules and regulations, to be certified by the commissioner prior to filing with the Secretary of State, to effectuate the provisions and purposes of article 28-D of the Public Health Law.

(b) The board shall take such actions as may be necessary to enable the State to meet the requirements set forth in section 1908 of the Social Security Act, the Federal rules and regulations promulgated thereunder and other pertinent Federal authority.

Section 96.3 - Board of examiners; officers and duties

96.3 Board of examiners; officers and duties. (a) The term of office of the members of the Board shall be three years and shall expire on June 30 three years from the year of the appointment. No more than three (3) Board members may be appointed for a term that expires during the same year.

(b) The Board shall select from among its members a chair and vice-chair at least one of which shall be a licensed and currently registered New York State nursing home administrator.

(c) The chair shall preside at all meetings of the Board and shall sign all official documents of the Board.

(d) In addition to the duties imposed by law, the secretary shall attend all meetings of the board; keep a full and complete record of the minutes of said meetings; notify the members of the board of the time and place fixed for meetings of the board; maintain the records pertaining to licenses and this Part; countersign all licenses and certificates of registration and official certification of approval and certification issued by the board.

(e) The secretary shall conduct all correspondence for the board, shall issue all notices of meetings and hearings, shall have custody of all books, records and property of the board and shall perform all duties pertaining to the office of the secretary.

96.4 Licenses and registrations. (a) An applicant for a license as a nursing home administrator who has met the qualifications prescribed by article 28-D of the Public Health Law and this Part and who has passed the examination required by such article shall be issued a license by the Board certifying that such applicant has met

the requirements of the law and rules and regulations entitling him or her to serve, act, practice and otherwise hold himself or herself as a duly licensed nursing home administrator.

(b) Commencing January 1, 1972 and biennially thereafter, every licensee shall register with the board. Every licensee issued a license during a biennial registration period shall register with the board within 30 days following the issuing date of the license. The application for registration shall contain such information as may be specified by the board or commissioner, including name, address, age, practice status, employer, and continuing education training taken. The commissioner shall issue a certificate of registration to those persons possessing a valid license and who meet the requirements of article 28-D of the Public Health Law.

(c) The department shall issue a biennial registration card to each duly licensed nursing administrator upon the submission of a complete and accurate application for registration in a form and manner determined by the Board.

(d) Every person entitled to engage in the practice of nursing home administration in the State shall permanently display in his or her principal place of employment his or her license to practice nursing home administration and shall have his or her current biennial registration card readily available while engaged in the practice of nursing home administration.

(e) The current biennial registration card must be exhibited when requested by any of the following:

(1) An officer or employee of the department, county or city health department, or other governmental agency engaged in the administration or enforcement of the Public Health Law, the Sanitary Code, the New York City Health Code or other laws, and rules and regulations pertaining to nursing homes or,

(2) an employer in whose employ the licensee practices or intends to practice nursing home administration.

96.5 Admission to the examination. (a) An applicant shall be determined qualified and eligible to take the examination for licensing as a nursing home administrator when the applicant has successfully documented to the Board that he or she has met or exceeded the age, moral character and suitability, education including courses of study, and experience qualifications for licensure as established by the Board.

(b) An applicant for examination who does not qualify shall be given written notification by the Board of his or her lack of qualification and the reasons therefor. Within 30 days of the mailing of such notification, the applicant may petition the Board in writing for a review of his or her application.

(c) A candidate for licensure who does not receive a passing grade on his or her licensing examination within five years of notification by the Board of his/her eligibility to sit for the examination shall be required to reapply and requalify under the then current laws and rules and regulations. The candidate shall be permitted to take the licensing examination no more than three times during the five-year period of eligibility.

96.6 Grading of examination. (a) Every candidate for a nursing home administrator license shall be required to pass an examination, as determined by the Board, for such license with a minimum grade determined by the Board.

(b) The Board shall determine the method of grading and shall apply the method uniformly to all candidates taking that examination.

(c) The Board shall not disclose the percentage ratings of candidates by individual identity to any of its officers or employees responsible for determining the final grading of an examination until such determination has been made.

96.7 Petition for admission to examination. (a) Prior to submission of a petition under subdivision 2 of section 2896-c of Article 28-D of the Public Health Law, an applicant shall be required to have been denied admission to examination after formal application under section 2896-c.

(b) The Board may decline to entertain such petition on the basis of a finding that the applicant, either

(1) fails to meet the requirements of paragraphs (a) or (b) of subdivision 1 of section 2896-c of article 28-D of the Public Health Law; or

(2) has practiced in violation of or otherwise has violated any provision of article 28-D of the Public Health Law.

(c) The Board, in the review of a petition, shall consider among other factors:

(1) the length and quality of the petitioner's training and experience in his or her field;

(2) the extent of the petitioner's administrative and supervisory duties in his or her relevant employment;

(3) the extent to which the petitioner has taken refresher or advanced course-work or otherwise evidenced a continuous effort to maintain or improve his or her technical skill; and

(4) the professional reputation of the petitioner as evidenced by books and articles published, offices held in professional organizations, and professional honors received.

(d) The petitioner shall complete such forms, prepare such affidavits, and obtain such documents in support of his or her petition as the Board deems necessary. The Board may require the petitioner to appear personally before the board or a committee thereof.

(e) Immediately upon the granting of a petition for admission to examination and the payment of the prescribed fee, a petitioner shall be subject to all of the provisions pertaining to an applicant contained in article 28-D of the Public Health Law.

96.8 Courses of study; standards for approval.

(a) The applicant shall provide official documentation acceptable to the Board of successful completion of a Baccalaureate or higher level degree from an accredited educational institution acceptable to the Board including, or supplemented by, a Board approved Administrator-In-Training (AIT) Program of at least 12 months full-time experience based upon the standard definition of full-time utilized in the facility but not less than 1820 clock hours duration and at least 15 credit hours of required course work acceptable to the Board, completed at an accredited post-secondary educational institution in the following five areas:

(1) Nursing home facility administration (at least three (3) semester credit-hours) at the course level equivalent to 300 or higher, and

(2) Health care financial management (at least three (3) semester credit-hours) at the course level equivalent to 300 or higher, and

(3) Legal issues in health care (at least three (3) semester credit-hours), and

(4) Gerontology (at least three (3) semester credit-hours), and

(5) Personnel management (at least three (3) semester credit-hours).

(b) The applicant also shall provide official documentation acceptable to the Board of the successful completion of a structured internship conducted in a qualifying nursing home that meets the following requirements:

(1) The internship program is Board approved and is completed in a training site that has a valid operating certificate issued by the New York State Department of Health and shall be under the full-time supervision of a New York State licensed and currently registered nursing home administrator.

(i) The training site shall have at least 80 beds that are certified to participate in the Title XVIII (Medicare) and Title XIX (Medicaid) programs and meet the definition of a nursing home under Public Health Law Article 28;

(ii) The nursing home shall have an acceptable surveillance history for the previous two years and have no formal enforcement action pending or in progress against it.

(iii) The applicant shall have no financial interest in the training site or be related to any person that has a financial interest in the training site.

(iv) The applicant may complete his or her internship at a facility where the applicant is employed. In such case, payment of salary or wages by the facility to the employed applicant is not prohibited.

(2) The internship is conducted under the direct supervision of a preceptor who is the AOR of the nursing home;

(i) The preceptor shall have held a New York State nursing home administrator license for at least two years and shall hold a current registration certificate.

(ii) The preceptor shall have had at least three years of full-time experience as the AOR of a nursing home during the last five years, including at least one year in a New York State nursing home eligible for approval as a training site.

(iii) The preceptor shall not have had his or her nursing home administrator license annulled, suspended, revoked, surrendered or forfeited, nor shall the preceptor have otherwise been disciplined by the Board or have any formal disciplinary action pending or in progress against him or her.

(iv) The preceptor shall not be related to the applicant.

(3) The approval of the internship shall be withdrawn if the preceptor relinquishes his or her AOR responsibilities at the training site.

(4) The internship must have been completed within the previous ten (10) years prior to the applicant's eligibility to take the licensure examination; and

(5) The applicant can not accept an appointment as Acting Administrator of any nursing home (residential health care facility) pursuant to 10 NYCRR 415.26(a)(3) during the period inclusively falling within the dates of the internship. The acceptance of such an appointment will result in the disqualification of the internship; and

(6) The internship meets or exceeds the requirements and guidelines for the Administrator in Training (AIT) Program established and adopted by the Board.

(i) The preceptor shall submit the internship to the Board for review and approval in the manner and format specified by the Board.

(ii) The internship must be approved by the Board prior to commencement unless the internship was completed as part of a degree program where the applicant was awarded such degree. In such case, it is the responsibility of the applicant to provide the Board with all required documentation and information pertaining to the completed internship necessary to conduct the review of the degree program internship.

(7) The applicant may, at the discretion of the Board, substitute the internship with two (2) years of verified full-time qualifying field experience in a licensed nursing home.

96.9 Approved courses of study; registration.

(a) The Board shall establish an acceptable course content outline for each of the five required courses specified in Section 96.8 of this part identifying the minimum subject areas and topics required to provide the applicant with the knowledge and skills necessary to serve as a nursing home administrator.

(b) The content outlines shall be made available to accredited academic institutions

seeking prior approval by the Board of their course(s) for the purpose of licensure.

(c) Academic institutions seeking prior approval of their course(s) shall follow the requirements set forth in Section 96.10 of this Part.

(d) The Board shall maintain a listing, available upon request, of approved courses offered by accredited academic institutions in each of the five subject areas, as such courses are approved by the Board.

(e) Applicants may submit course materials for review by the Board if the course does not have such prior approval. Courses approved in this manner shall be added to the listing of approved courses.

96.10 Training agencies; administration, organization and faculty. (a) An accredited academic institution applying for approval of the course of study, degree program or course work in nursing home administration shall apply all data necessary for a complete evaluation of the administration, organization, faculty, physical facilities, student policies, curriculum and instruction and such other information and records as the Board may require which pertain to the course of study, degree program or course work.

(b) The Board shall be notified promptly of any proposed substantial changes in the approved degree program, course work or course of study, including on-line or correspondence courses, to obtain continued approval by the board.

(c) A site inspection of an academic institution or training agency or its affiliate may be made by an officer of the Board or a representative acceptable to the Board.

96.11 Continuation on education requirements.

(a) In order to qualify for registration for each biennial registration period beginning on or after January 1, 2008, a licensed nursing home administrator shall attain 48 clock hours of continuation or continuing education credit acceptable to the Board,

which shall be attained during the two-year period immediately preceding the registration period or, attained during the preceding two-year period prior to the registration effective date, if registration is requested during an ongoing registration period.

(b) The licensed nursing home administrator is responsible for participating in continuation education programs acceptable to the Board and maintaining records of programs attended for at least two-years past the end of the subsequent registration period.

(c) The licensed nursing home administrator shall provide documentation, in the form and manner established by the Board, of the acceptable continuation education attended during each biennial registration period during the two-year period immediately preceding the registration period or the effective registration date, if registration is requested during an ongoing registration period.

96.12 Applicants holding an out-of-state nursing home administrators license.

(a) An individual holding a valid and current nursing home administrator license from another state seeking a New York State nursing home administrator license must submit a complete licensure application and pay all applicable fees.

(b) The applicant must disclose all nursing home administrator and other professional licenses or comparable authorization granted or issued by any and all states, territories, possessions or foreign governments regardless of the status of such license(s).

(c) To obtain a New York State nursing home administrator license the applicant must demonstrate to the Board that the applicant:

(i) is 21 years old or older;

(ii) is of good moral character and suitability;

(iii) is in receipt of a Baccalaureate or higher level degree from an accredited educational institution. The accrediting body must be recognized by the NYS Department of Education and acceptable to the Board. Official sealed school transcripts must be received by the Board directly from the educational institution;

(iv) has performed successfully on the national nursing home administrator examination by passing this examination within three (3) attempts in any five (5) year period.

(v) has submitted satisfactory documentation that any and all other nursing home administrator licenses or comparable authorization granted to the applicant by other states, territories, possessions or foreign governments have not been suspended, revoked or otherwise restricted for any reason. Such documentation must be received by the Board directly from the licensing or authorizing agency. The Board retains the right and authority to review and assess the magnitude of any such discipline and solely determine the eligibility of the applicant for licensure; and

(vi) has submitted satisfactory verification from the applicant's employer(s) that the applicant has full-time (at least 35 hours per week) experience of at least two (2) years in the preceding five (5) years prior to submission of application, as the AOR in an out-of-state nursing home operated in full compliance with applicable state and federal Title 18 and 19 laws, rules and regulations.

(d) The Board retains the right and authority to review and assess the submitted application and documentation including the magnitude of any such discipline and solely determine the applicant's eligibility for licensure.

96.13 Notification of change of address or employment.

A duly licensed and currently registered nursing home administrator shall notify the Board of any change of his or her title, place of employment, home address or home telephone number within 10 days of such change.