

PART II *Organization and Management*

Section 10.0 *Governing Body or Other Legal Authority*

- 10.1 Each facility shall have an organized governing body or other legal authority, responsible for:
- a) the management and fiduciary control of the operation and maintenance of the facility; and
 - b) the conformity of the facility with all federal, state and local rules and regulations relating to fire, safety, sanitation, communicable and reportable diseases, resident quality of care and quality of life, and other relevant health and safety requirements and with all rules and regulations herein.
 - c) the administration of a policy of non-discrimination in the provision of services to residents and the employment of persons without regard to race, color, creed, national origin, gender, religion, sexual orientation, age, handicapping condition or degree of handicap, in accordance with Title VI of the Civil Rights Act of 1964; U.S. Executive Order #11246 entitled "Equal Employment Opportunity", U.S. Department of Labor regulations; Title V of the Rehabilitation Act of 1973, as amended; the Rhode Island Fair Employment Practices Act, Rhode Island General Laws Chapter 28-5-1 *et seq.*; the Americans with Disabilities Act; and any other federal or state laws relating to discriminatory practices.
- 10.2 The governing body or other legal authority shall provide facilities, personnel and other resources necessary to meet resident and program needs and also:
- a) describe the structure of the facility's governing body, including functional and staff organizational charts;
 - b) provide names and affiliations of members of the facility's governing body;
 - c) provide a copy of the organization's charter, constitution and/or by-laws.
- 10.3 The governing body or other legal authority shall designate a licensed administrator in accordance with reference 8 and shall establish by-laws or policies to govern the organization of the facility, to establish authority and responsibility, to identify program goals, and to provide for an annual evaluation of administrator performance.
- 10.4 The governing body or other legal authority shall adopt a written policy statement relating to conflict of interest on the part of members of the governing body receiving financial gain from ownership, medical staff and employees who may influence corporate decisions.
- 10.5 The governing body or other legal authority, through the administrator, shall be responsible for the procurement of a sufficient number of trained, experienced and competent personnel to provide appropriate care and supervision for all residents and to ensure that their personal needs are met.

Section 11.0 *Quality Improvement Program*

- 11.1 Pursuant to section 23-17-12.11 of the Rhode Island General Laws, as amended, each licensed nursing facility shall develop and implement a quality improvement program and establish a quality improvement committee. The governing body shall ensure that this program is effective, ongoing, facility-wide and shall have a written plan of implementation.
- 11.2 Each licensed nursing facility shall designate a qualified individual, who shall be determined by the facility's administrator, to coordinate and manage the nursing facility's quality improvement program.
- 11.3 The nursing facility's quality improvement committee shall include at least the following members:
- The nursing facility administrator;
 - The director of nursing;
 - The medical director;
 - A social worker; and
 - A representative of dietary services.
- 11.4 The quality improvement committee shall meet at least quarterly; shall maintain records of all quality improvement activities; and shall keep records of committee meetings that shall be available to the Department during any on-site visit.
- 11.5 The quality improvement committee for a nursing facility shall annually review and approve the quality improvement plan for the nursing facility. Said plan shall be available to the public upon request.
- 11.6 Each nursing facility shall establish a written quality improvement plan that shall be reviewed by the Department during the facility's annual survey and that includes:
- a) program objectives;
 - b) oversight responsibility (e.g., reports to the governing body);
 - c) facility-wide scope;
 - d) involvement of all resident care disciplines/services; and
 - e) provides criteria to monitor nursing care, including medication administration;
 - f) prevention and treatment of decubitus ulcers;
 - g) dehydration, and nutritional status and weight loss or gain;
 - h) accidents and injuries;
 - i) unexpected deaths;
 - j) changes in mental or psychological status; and
 - k) any other data necessary to monitor quality of care;
 - l) and includes methods to identify, evaluate, and correct problems.
- 11.7 All resident care services, including services rendered by a contractor, shall be evaluated.
- 11.8 The facility shall take and document appropriate remedial action to address problems identified through the quality improvement program. The nursing facility administrator shall take appropriate remedial actions based on the recommendations of the nursing facility's quality improvement committee. The outcome(s) of the remedial action shall be documented and submitted to the governing body for their consideration.

- 11.9 The Director may not require the quality improvement committee to disclose the records and the reports prepared by the committee except as necessary to assure compliance with the requirements of this section.
- 11.10 Good faith attempts by the quality improvement committee to identify and correct quality deficiencies will not be used as a basis for sanctions.
- 11.11 If the Department determines that a nursing facility is not implementing its quality improvement program effectively and that quality improvement activities are inadequate, the Department may impose sanctions on the nursing facility to improve quality of resident care including mandated hiring of, directly or by contract, an independent quality consultant acceptable to the Department.

Health Care Quality Program

- 11.12 All nursing facilities licensed under Chapter 23-17 of the Rhode Island General Laws, as amended, shall meet all applicable requirements of the ***Rules and Regulations Related to the Health Care Quality Program (R23-17.17-QUAL)*** promulgated by the Department.

Section 12.0 Administrator

- 12.1 Every facility shall have a full-time administrator licensed in accordance with reference 8, who shall be directly responsible to the governing body or other legal authority for its management and operation, and shall provide liaison between the governing body, medical and nursing staff and other professional staff.
- a) When the administrator does not spend full-time in the facility, a substitute shall be designated only with the approval of the licensing agency.
 - b) In the absence of the administrator, a person shall be designated or authorized in writing, as a substitute on an interim basis.
 - c) A substitute must be licensed in Rhode Island as a nursing home administrator.
- 12.2 The administrator shall be responsible to ensure that services required by residents shall be available on a regular basis and provided in an appropriate environment in accordance with established policies.
- 12.3 The administrator shall be responsible for maintaining accurate time records on all personnel and for posting the work schedule of all direct resident care personnel on a weekly basis. Time records shall be retained by the facility for no less than three years.
- 12.4 Health care facilities shall provide the licensing agency with prompt notice of pending and actual labor disputes/actions which would impact delivery of patient care services including, but not limited to, strikes, walk-outs, and strike notices. Health care facilities shall provide a plan, acceptable to the Director, for continued operation of the facility, suspension of operations, or closure in the event of such actual or potential labor dispute/action.

12.5 The licensing agency shall be notified of any change of the administrator of a facility.

Section 13.0 *Medical Director and Attending Physicians*

13.1 The governing body or other legal authority shall designate a physician to serve as medical director. The medical director shall be a physician licensed to practice in Rhode Island in accordance with the provisions of reference 27 herein. Upon appointment, the name of the medical director shall be submitted to the Department. Each time a new medical director is appointed, the name of said physician shall be reported promptly to the Department. The medical director's Rhode Island medical license number, medical office address, telephone number, emergency telephone number, hospital affiliation and other credentialing information shall be maintained on file at the facility and updated as needed.

Duties and Responsibilities of the Medical Director

13.2 Responsibilities of the medical director shall include, but not be limited to:

- a) coordination of medical care in the facility,
- b) ensuring completion of employee health screening and immunization requirements contained in sections 14.11 and 14.12 herein.
- c) the implementation of facility policies and procedures related to the medical care delivered in the facility;
- d) physician and advanced practice practitioner credentialing;
- e) practitioner performance reviews;
- f) employee health including infection control measures;
- g) evaluation of health care delivery, including oversight of medical records and participation in quality improvement;
- h) provision of staff education on medical issues;
- i) participation in state survey process, including the resolution of deficiencies, as needed.

13.3 The medical director, charged with the aforementioned duties and responsibilities for the delivery of medical care in the nursing facility, shall be immune from civil or criminal prosecution for reporting to the Board of Medical Licensure and Discipline the unprofessional conduct, incompetence or negligence of a nursing facility physician or limited registrant; provided, that the report, testimony, or other communication was made in good faith and while acting within the scope of authority conferred by this section.

13.4 The administrator shall notify the medical director immediately when any enforcement order as described in section 9.0 herein is issued by the Department or when the administrator is notified of any Medicare/Medicaid certification enforcement action. The administrator shall provide copies of all statements of deficiencies and related plans of correction to the medical director in a timely fashion.

13.5 The medical director shall attend the quarterly quality assurance/improvement meetings, as required in section 10.7 (d) herein. The administrator, or his/her designee, shall provide the medical director with adequate notice of the quarterly quality assurance/improvement meeting.

13.6 Each nursing facility shall maintain an active file of all physicians attending residents for any reason(s), including their phone numbers and addresses, an emergency phone number, their

current medical license numbers, and the physician's preferred admitting hospital. This file of physicians shall be revised and updated, as needed, but no less than annually.

- 13.7 The governing body or other legal authority shall make available to each physician attending residents in the facility all of the policies governing resident care management and services.

Section 14.0 *Personnel*

Criminal Records Check

- 14.1 Pursuant to section 23-17-34 of the General Laws, any person seeking employment in a nursing facility, hired after July 21, 1992, and having routine contact with a resident without the presence of other employees, shall be subject to a criminal background check, to be initiated prior to, or within one week of employment.
- 14.2 Said employee through the employer shall apply to the bureau of criminal identification of the state or local police department for a statewide criminal records check. Fingerprinting shall not be required as part of this check.
- 14.3 In those situations in which no disqualifying information has been found, the bureau of criminal identification (BCI) of the state or local police shall inform the applicant and the employer in writing.
- 14.4 Any disqualifying information, as defined below, according to the provisions of section 23-17-34 of the General Laws, will be conveyed to the applicant in writing, by the bureau of criminal identification. The employer shall also be notified that disqualifying information has been discovered, but shall not be informed by the BCI of the nature of the disqualifying information.
 - 14.4.1 ***Disqualifying information***, as defined in Chapter 23-17-37 of the Rhode Island General Laws, as amended, means information produced by a criminal records review pertaining to conviction, for the following crimes will result in a letter to the employee and employer disqualifying the applicant from said employment: murder, voluntary manslaughter, involuntary manslaughter, first degree sexual assault, second degree sexual assault, third degree sexual assault, assault on persons sixty (60) years of age or older, child abuse, assault with intent to commit specified felonies (murder, robbery, rape, burglary, or the abominable and detestable crime against nature), felony assault, patient abuse, neglect or mistreatment of patients, burglary, first degree arson, robbery, felony drug offenses, larceny or felony banking law violations.
- 14.5 The employer shall maintain on file, subject to inspection by the Department of Health, evidence that criminal records checks have been initiated on all employees seeking employment after July 21, 1992 as well as the results of said check. Failure to maintain this evidence shall be grounds to revoke the license or registration of the employer.
- 14.6 If an applicant has undergone a statewide criminal records check within eighteen (18) months of an application for employment, then an employer may request from the bureau a letter indicating if any disqualifying information was discovered. The bureau will respond without disclosing the nature of the disqualifying information. This letter may be maintained on file to satisfy the requirements of Chapter 23-17-34.

14.7 An employee against whom disqualifying information has been found may request that a copy of the criminal background report be sent to the employer who shall make a judgment regarding the continued employment of the employee.

Policies and Procedures

14.8 Each nursing facility shall maintain and implement written personnel policies and procedures supporting sound resident care and personnel practices. Such policies shall be reviewed annually and updated as necessary.

Job Descriptions

14.9 There shall be a job description for each classification of position which delineates qualifications, duties, authority and responsibilities inherent in each position.

- a) For those selected non-licensed personnel authorized to administer drugs in accordance with section 25.9 herein, a job description delineating qualifications, duties and responsibilities shall be provided.

Health Screening

14.10 Upon hire and prior to delivering services, a pre-employment health screening shall be required for each individual who has or may have direct contact with a resident in the nursing facility. Such health screening shall be conducted in accordance with *the Rules and Regulations Pertaining to Immunization, Testing, and Health Screening for Health Care Workers (R23-17-HCW)* promulgated by the Department of Health.

14.11 ***Influenza: Long term care employee immunization:*** Except as provided in subsection v (below), every facility in this state shall request that employees receive yearly immunization for influenza virus in accordance with Chapter 23-17.19 of the Rhode Island General Laws, as amended.

Employee Immunization

- i. ***Notice to employees:*** Every facility shall notify every employee of the immunization requirements of the provisions of Chapter 23-17.19 of the Rhode Island General Laws, as amended, and request that the employee agree to be immunized against influenza virus.
- ii. ***Records and immunizations:*** The facility shall require documentation of annual immunization against influenza virus for each employee, which includes written evidence from a health care provider indicating the date and location the vaccine was administered. Upon finding that an employee is lacking such immunization or the facility or individual is unable to provide documentation that the individual has received the appropriate immunization, the facility shall make available the immunization.
- iii. ***Other immunizations:*** An individual who is newly employed as an employee shall have his status for influenza determined by the facility, and, if found to be deficient, the facility shall make available the necessary immunization.

iv. **Exceptions:** No employee shall be required to receive the influenza vaccine if any of the following apply:

- 1) The vaccine is contraindicated;
- 2) It is against his/her religious beliefs; or
- 3) The person refuses the vaccine after being fully informed of the health risks of that action.

Personnel Records

14.12 Personnel records shall be maintained for each employee, shall be available at all times for inspection and shall include no less than the following:

- a) current and background information covering qualifications for employment;
- b) records of completion of required training and educational programs;
- c) records of all required health examinations which shall be kept confidential and in accordance with reference 17;
- d) evidence of current registration, certification or licensure of personnel subject to statutory regulation;
- e) annual work performance evaluation records; and
- f) evidence of authorization to administer drugs for selected non-licensed personnel in accordance with section 25.9 herein.

In-Service Education

14.13 An in-service educational program shall be conducted on an ongoing basis, which shall include an orientation program for new personnel and a program for the development and improvement of skills of all personnel. The in-service program shall be geared to the needs of the aged and shall include annual programs on prevention and control of infection, food services and sanitation, fire prevention and safety, confidentiality of resident information, rights of residents and any other area related to resident care.

14.13.1 Provision shall be made for written documentation of programs, including attendance. Flexible program schedules shall be formulated at least two (2) months in advance.

Photo Identification

14.14 A health care facility shall require all persons, including students, and as directed by the nursing facility, who examine, observe, treat or assist a patient or resident of such facility to wear a photo identification badge which states, in a reasonably legible manner, the first name, licensure/registration status, if any, and staff position of such person. This badge shall be worn in a manner that makes the badge easily seen and read by the resident or visitor.

Licensure Verification

14.15 For every person employed by the nursing facility who is licensed, certified, or registered by the Department, a mechanism shall be in place to electronically verify such licensure via the Department's licensure database.

Section 15.0 Handling of Resident Fund

15.1 Any assignment of residents' property either by contractual agreement or by transfer of real estate, bank accounts or insurance benefits, must be reported together with the terms of the assignment to the residents' guardian, next of kin, sponsoring agency(ies) or representative payor and to the licensing agency.

15.2 Each operator of a nursing facility acting or intending to act as fiduciary agent for a resident is required to have written revocable authorization from any resident so served. The certification will attest to the resident's understanding of the significance of his action and will be required to be on file for inspection by authorized surveyors of the licensing agency.

15.3 The operator shall maintain adequate safeguards and accurate records of each resident's monies and valuables and shall provide at least quarterly, and on request, accounting in accordance with section 19.16 herein. Such records shall be available for inspection.

15.4 In addition to requirements of sections 15.1 through 15.3 above, each facility shall conform to the standards of reference 13 in relation to Title XIX residents.

Section 16.0 Reporting of Resident Abuse or Neglect, Accidents & Death

16.1 Any physician, nurse or other employee of a nursing facility who has reasonable cause to believe that a resident has been abused, exploited, mistreated, or neglected shall make within 24 hours or by the end of the next business day of the receipt of said information, a report to the licensing agency (Office of Facilities Regulation). Any person required to make a report pursuant to this section shall be deemed to have complied with these requirements if a report is made to a high managerial agent. Once notified, the administrator or the director of nursing services shall be required to meet the above reporting requirements.

- a) All reports, as required herein, shall be provided to the licensing agency (Office of Facilities Regulation) in writing via facsimile on the form supplied in Appendix "E" herein. A copy of each report shall be retained by the facility for review during subsequent inspections by the licensing agency.
- b) The facility shall maintain evidence that all allegations of abuse, neglect, and/or mistreatment have been thoroughly investigated and that further potential abuse has been prevented while the investigation is in progress. Appropriate corrective action shall be taken, as necessary. The results of said investigation shall be reported to the licensing agency within five (5) business days.

16.2 Accidents resulting in:

1. hospitalization; or

2. death in the nursing facility; or
3. death in the hospital following the accident;

of any resident shall be reported in writing to the licensing agency before the end of the next working day or in a follow-up report in the event of item #3 (above). A copy of each report shall be retained by the facility for review during subsequent surveys.

- 16.3 The death of any resident of a nursing facility occurring within 24 hours of admission or prior to the performance of a physical examination in accordance with section 23.3 (c) herein, shall be reported to the Office of the State Medical Examiners.
- 16.4 In addition, all resident deaths occurring within a nursing facility which are sudden or unexpected, suspicious or unnatural, the result of trauma, remote or otherwise or when unattended by a physician shall be reported to the facility medical director and to the Office of the State Medical Examiners in accordance with Title 23, Chapter 4 of the General Laws of Rhode Island, as amended.
- 16.5 Reporting requirements, pursuant to Chapter 23-17.8 of the General Laws must be posted.

Section 17.0 *Medical Records*

- 17.1 A medical record shall be established and maintained for every person admitted to a facility in accordance with accepted professional standards and practices. The administrator shall have ultimate responsibility for the maintenance of medical records; such responsibility may be delegated in writing to a staff member.
- 17.2 Entries in the medical record relating to treatment, medication, diagnostic tests and other similar services rendered shall be made by the responsible persons at the time of administration. Only physicians shall enter or authenticate medical opinions or judgment.
 - a) All accidents, including falls, whether resulting in an injury or not, shall be immediately recorded in the resident's record.
 - b) Detailed descriptions of all pressure ulcers, or other skin lesions, shall be recorded in the resident's record.
- 17.3 Each medical record shall contain sufficient information to identify the resident and to justify diagnosis, treatment, care and documented results and shall include as deemed appropriate:
 - a) identification data;
 - b) pre-admission screening including mental status {or PASARR (Pre-Admission Screening and Annual Resident Review), where appropriate};
 - c) medical history;
 - d) plan of care and services provided;
 - e) physical examination reports;

- f) admitting diagnosis;
- g) diagnostic and therapeutic orders;
- h) consent forms;
- i) physicians' progress notes and observations;
- j) nursing notes;
- k) medication and treatment records, including any immunizations;
- l) laboratory reports, X-ray reports, or other clinical findings;
- m) consultation reports;
- n) documentation of all care and services rendered (e.g., dental reports, physical and occupational therapy reports, social service summaries, podiatry reports, inhalation therapy reports, etc.);
- o) resident referral forms;
- p) diagnosis at time of discharge; and
- q) disposition and final summary notes.

17.4 At time of discharge, a discharge summary, summarizing the resident's stay, shall be completed promptly and signed by the attending physician.

17.5 Medical records of discharged residents shall be completed within a reasonable period of time (not to exceed sixty (60) days) with all clinical information pertaining to the resident's stay made part of the resident's medical record.

17.6 Confidentiality of medical records shall be governed by the provisions of reference 17 and the following;

- a) Only authorized personnel shall have access to the records.
- b) The facility shall release resident's medical information only with the written consent of the resident, parent, guardian or legal representative in accordance with reference 17.

17.7 Provisions shall be made for the safe storage of medical records to safeguard them against loss, destruction or unauthorized use.

17.8 All medical records, either original or accurately reproduced, shall be preserved for a minimum of five (5) years following discharge or death of the resident in accordance with reference 9.

- a) Medical records of minors, however, shall be kept for at least five (5) years after such minor would have reached the age of eighteen (18) years.

17.9 The medical records of all residents shall be opened for inspection to duly authorized representatives of the licensing agency whose duty it is to enforce the regulations herein consistent with section 19.15 (a) herein.

- a) Information contained in medical records gathered and collected for the purpose of enforcing these regulations is confidential in nature and shall not be publicly disclosed by any person obtaining such information by virtue of his office, unless by court order or as otherwise required by law.

Section 18.0 *Transfer Agreements, Contracts, or Agreements*

18.1 The facility shall have in effect transfer agreements with one or more hospitals for the provision of hospital care or other hospital services to be made available promptly to the residents of the facility, as needed. The written transfer agreement shall ensure:

- a) timely transfer or admission of residents between the hospital and the facility, whenever deemed medically appropriate in writing by a physician;
- b) interchange of medical and other information necessary or useful in the care and treatment of residents transferred or to determine the kind of care the resident requires that includes, but is not limited to the following:
 - i. clear statement of the reason(s) resident is being transferred to the hospital or for consultation;
 - ii. name of resident, address, insurance status;
 - iii. name of attending physician and his/her telephone number;
 - iv. resident's next-of-kin and his/her telephone number;
 - v. name of contact staff person at the facility;
 - vi. list of all diagnoses and complaints;
 - vii. list of all current medications;
 - viii. recent x-ray reports and laboratory reports, as applicable;
 - ix. existence of any advance directives;
 - x. any additional information as cited in the "Continuity of Care" form ("Long Form") available from the Department; and
- c) security and accountability for the resident's personal effects during transfer.

- 18.2 Designated nursing facility personnel shall complete the “Continuity of Care” form ("Short Form") approved by the Department for each resident who is discharged to another health care facility, such as a hospital, or who is discharged home with follow-up home care required. Said form shall be provided to the receiving facility or agency prior to or upon transfer of the resident.
- 18.3 If the facility does not employ full-time qualified professional personnel to render required services, or obtains services from an outside source, arrangements for such services shall be made through written agreements or contracts.
- a) The responsibilities, functions, objectives, terms of agreement, financial arrangements, charges and other pertinent requirements shall be clearly delineated in the terms of any contract negotiated by a facility.
 - b) All contracts or agreements negotiated by a facility shall be consistent with the policies established in accordance with section 10.4 concerning conflict of interest.
 - c) Each consultant or outside source providing services to a facility shall submit monthly reports as services are provided. Said reports and contracts shall be kept on file for inspection for a period of no less than three (3) years.

Financial Interest Disclosure

- 18.4 Any health care facility licensed pursuant to Chapter 23-17 of the Rhode Island General Laws, as amended, which refers clients/residents to another such licensed health care facility or to a residential care/assisted living facility licensed pursuant to Chapter 23-17.4 of the Rhode Island General Laws, as amended, or to a certified adult day care program in which the referring entity has a financial interest shall, at the time a referral is made, disclose in writing the following information to the client/resident: (1) that the referring entity has a financial interest in the facility or provider to which the referral is being made; (2) that the client/resident has the option of seeking care from a different facility or provider which is also licensed and/or certified by the state to provide similar services to the client/resident.
- 18.5 The referring entity shall also offer the client/resident a written list prepared by the Department of Health of all such alternative licensed and/or certified facilities or providers. Said written list may be obtained by contacting:

Rhode Island Department of Health, Office of Facilities Regulation
3 Capitol Hill, Room 306
Providence, RI 02908
401.222.2566

- 18.6 Non-compliance with sections 18.4 and 18.5 (above) shall constitute grounds to revoke, suspend or otherwise discipline the licensee or to deny an application for licensure by the Director, or may result in imposition of an administrative penalty in accordance with Chapter 23-17.10 of the Rhode Island General Laws, as amended.

Section 19.0 *Rights of Residents*

- 19.1 As part of the procedure for admission of a resident to a nursing facility a written contract shall be entered into between the said resident or his next of kin or legal representative and the nursing facility and the following rules shall be observed in accordance with reference 24.
- 19.2 Each resident shall be offered treatment without discrimination as to gender, age, race, color, religion, national origin, handicap, or source of payment.
- 19.3 Each resident shall be treated and cared for with consideration, respect and dignity and shall be afforded his right to privacy to the extent consistent with providing adequate medical care and with efficient administration.
- 19.4 Each resident shall have the right to choose his or her own physician subject to the physician's concurrence.
- 19.5 Each resident or responsible party shall be fully informed, as evidenced by the resident's written acknowledgment, prior to or at the time of admission or during stay, of all rules and regulations and policies pertaining to rights of residents and governing resident conduct and responsibilities.
- 19.6 Each resident or responsible party shall be informed in writing, prior to, or at the time of admission and during stay, of services available and of related charges including all charges not covered either under federal and/or state programs by other third party payers or by the facility's basic per diem rate.
- 19.7 Each resident admitted to a facility shall be and remain under the care of a physician as specified in policies adopted by the governing body.
 - a) Each resident shall be informed by a physician of his medical condition unless medically contraindicated, (as documented by a physician in his medical record), and shall participate in the planning and selection of his medical treatment and care.
- 19.8 If it is proposed that a resident be used in any human experimentation project, the resident shall first be thoroughly informed in writing of such proposal and shall be offered the right to refuse to participate in such project. A resident who, after being thoroughly informed, wishes to participate must execute a written statement of informed consent. The informed consent documentation shall be maintained on file in the facility.
- 19.9 Residents shall be encouraged and assisted to voice their grievances through a documented grievance mechanism established by the facility, involving residents, staff and relatives of residents, which will insure resident's freedom from restraints, interference, coercion, discrimination or reprisal.
 - 19.9.1 There shall be prompt efforts by the facility staff to resolve resident's grievances.
- 19.10 Residents shall not be subject to mental and physical abuse and shall be free from chemical and (except in emergencies) physical restraints.
 - a) Restraining devices are generally prohibited. A controlling device to be used for the protection of the resident may be utilized only as prescribed in writing and signed by a

physician. The length of time, the purpose and the kind of restraint shall be specified in the physician's order.

- b) If after a trial of less restrictive measures, the facility decides that a physical restraint would enable and promote greater functional independence, then the use of the restraining device must first be explained to the resident, family member, or legal representative, and if the resident, family member or legal representative agrees to this treatment alternative, then the restraining device may be used for the specific periods for which the restraint has been determined to serve the purpose defined above. This does not allow the use of restraints for convenience sake.
- c) The restraining device must be authorized by the physician for use for specific periods for which the restraint has been determined to serve the purpose defined in paragraph b) above. This does not allow the use of restraints for convenience sake.

19.11 A resident shall not be required to perform services for the facility that are not included for therapeutic purposes in his plan of care.

19.12 Residents may meet with and participate in activities of social, religious and community groups at their discretion unless medically contraindicated per written medical order.

19.13 Residents may associate and communicate privately with persons of their choice and shall be allowed freedom and privacy in sending and receiving mail.

- a) Posted reasonable visiting hours must be maintained in each home, with a minimum of four hours daily. The facility must provide immediate access to residents by properly identified appropriate government personnel, family members, physicians, and relatives. However, the resident reserves the right to refuse visitation by any of the aforementioned.
- b)
 - i. All health care providers, as licensed under the provisions of Chapter 29 or 37 of Title 5 and all health care facilities, as defined in section 23-17-2(5) of the Rhode Island General Laws, as amended, shall be required to note in their residents' permanent medical records, the name of individual(s) not legally related by blood or marriage to the resident, who the resident wishes to be considered as immediate family member(s), for the purpose of granting extended visitation rights to said individual(s), so said individual(s) may visit the resident while he or she is receiving inpatient health care services in a health care facility.
 - ii. A resident choosing to designate said individual(s) as immediate family members for the purpose of extending visitation rights may choose up to five (5) individuals and do so either verbally or in writing. This designation shall be made only by the resident and can be initiated and/or rescinded by the resident at any time, either prior to, during, or subsequent to an inpatient stay at the health care facility.
 - iii. The full names of individual(s) so designated, along with their relationship to the resident, shall be recorded in the resident's permanent medical records, both at the inpatient health care facility and with the resident's primary care physician.
 - iv. In the event the resident has not had the opportunity to have said designation recorded in his or her medical records, a signed statement in the resident's own handwriting

attesting to the designation of said individual(s) as an immediate family member for the purpose of extending visitation right during the provision of health care services in an inpatient health care facility, along with their relationship to said individual(s) shall meet all the requirements of this section. The resident's signature on said signed statement shall be witnessed by two individuals, neither of whom can be the designated individual(s). In the event such signed statement is not available, those designated as agents on a durable power of attorney for health care form shall be allowed visitation privileges.

- v. This section shall not be construed to prohibit legally recognized members of the resident's family from visiting the resident if they have not been so designated through the provisions of this section. No resident shall be required to designate individual(s) under the provisions of this section.

19.14 Residents shall have the right to obtain personal services or to purchase needs outside of the facility.

19.15 The resident's right to privacy and confidentiality shall extend to all records pertaining to the resident. Release of any records shall be subject to the resident's approval except as otherwise provided by law.

- a) The right to privacy and confidentiality relates to the public dissemination of specific information contained within resident records and to the identification of specific individuals, but does not abrogate the responsibility of the licensing agency to review all resident records.

19.16 A resident shall have the right to manage his or her own personal financial affairs. The resident may delegate the management of his or her financial affairs to the facility by means of a formal written request. The written request should specify the period of time for which transfer of financial responsibility is desired. If the facility agrees to accept such responsibility, it shall convey acknowledgment of acceptance to the residents in writing. The facility shall have the obligation to conduct the resident's affairs in conformity with state laws and to provide a written accounting statement at least quarterly or at any time upon demand of the resident.

19.17 Residents shall be assured privacy for visits by the spouse or other partner. If both are residents in the facility, they may share a room unless medically contraindicated per written order of the physician and subject to the availability of such accommodations within the facility.

19.18 Before transferring a resident to another facility or level of care within a facility, the resident shall be informed of the need for such a transfer and of any alternatives to such a transfer.

- a) A resident shall be transferred or discharged only for medical reasons, or for his welfare or that of other residents or for nonpayment of his stay.
- b) Reasonable advance notice for transfers to health care facilities other than hospitals shall be given to ensure orderly transfer or discharge and such actions shall be documented in the medical record.

19.18.1 ***Bed-Hold and Readmission:*** A nursing facility must provide written information pertaining to bed-hold and readmission for residents transferred for hospitalization or therapeutic leave as follows:

- a) ***Notice before transfer:*** Before a resident of a nursing facility is transferred for hospitalization or therapeutic leave, a nursing facility must provide written information to the resident and a family member or legal representative concerning:
 - i) the provisions of the medical assistance program state plan regarding the period (if any) during which the resident will be permitted under the state plan to return and resume residence in the facility; and
 - ii) the policies of the facility regarding such a period, which policies must be consistent with section b) hereunder;
- b) ***Notice upon transfer:*** At the time of the transfer of a resident to a hospital or for therapeutic leave, a nursing facility must provide written notice to the resident and a family member or legal representative of the duration of any period described in section c) hereunder; except in an emergency, said notice must be given within 24 hours of the transfer.
- c) ***Permitting resident to return:*** A nursing facility must establish and follow a written policy under which a resident:
 - i) who is transferred from the facility for hospitalization or therapeutic leave; and
 - ii) whose hospitalization or therapeutic leave exceeds a period paid for under the state plan for the holding of a bed in the facility for the resident, will be readmitted to the facility immediately upon the first availability of a bed of appropriate level of care in a semi-private room in the facility if at time of readmission, the resident requires the services provided by the facility;
 - iii) Any nursing facility that accepts private payment for purposes of reserving a bed in the facility for a resident who is transferred from the facility for hospitalization or other institutional therapeutic leave, and that resident's medical and health care is being paid for by the state Medical Assistance Program, shall not charge an amount per day for reserving a bed in the facility that exceeds the facility's current Medicaid daily rate; for a minimum of the first five (5) days of said hospitalization or the institutional therapeutic leave.
 - iv) the departments of human services and of health shall receive, on a monthly basis, the names from each nursing home of those persons awaiting readmission under these provisions.

19.19 A resident shall have the right to live in a tobacco smoke-free environment. It shall be prohibited for any person other than a nursing facility resident to smoke in a nursing facility.

19.19.1 Nursing facility residents who smoke may do so only in private or semi-private rooms where both residents smoke, or rooms designated by the administration of the facility.

- a) A designated smoking area shall be a room or rooms other than the largest living or assembly room or lounge.
- b) A designated smoking area shall be ventilated in such a way that the air therefrom shall not enter other parts of the nursing facility.

19.20 The resident shall have the right to have his or her pain assessed on a regular basis.

19.21 Notwithstanding any other provisions of this section, upon request, patients receiving care through hospitals, nursing homes, assisted living residences and home health care providers, shall have the right to receive information concerning hospice care, including the benefits of hospice care, the cost, and how to enroll in hospice care.

19.22 The health care facility shall respond in a reasonable manner to the request of a resident's physician, certified nurse practitioner and/or a physician's assistant for medical services to the resident. The health care facility shall also respond in a reasonable manner to the resident's request for other services customarily rendered by the health care facility to the extent the services do not require the approval of the resident's physician, certified nurse practitioner and/or a physician's assistant or are not inconsistent with the resident's treatment.

19.23 **Heat relief:** Pursuant to section 23-17.5-27 of the Rhode Island General Laws, as amended, any nursing home facility which does not provide air conditioning in every patient room shall provide an air conditioned room or rooms in a residential section(s) of the facility to provide relief to patients when the outdoor temperature exceeds eighty (80) degrees Fahrenheit.

19.24 All rights and responsibilities specified in sections 19.4, 19.8, 19.16, and 19.18 shall devolve, in order of priority, to a resident's guardian, next of kin, sponsoring agency(ies) or representative payor (except when the facility itself is the representative payor) for residents who are:

- a) adjudicated incompetent in accordance with state law; or
- b) found by the physician to be medically incapable of understanding their rights; or
- c) found to exhibit a communication barrier. If however, the communication barrier is one of speaking a language other than English, then an attempt shall be made to find an interpreter to allow the resident to knowingly exercise his or her rights.

19.25 **Posting a Copy of Rights of Residents:** Each nursing facility shall provide each resident or his/her representative upon admission, a copy of the provisions of section 23-17.5-4, entitled "Rights of Nursing Home Patients", and shall display in a conspicuous place, in the facility a copy of the "Rights of Residents" herein and related information. At a minimum the display must include the following:

- a) A summary of the major provisions of the Rights of Residents as set forth herein;

- b) The address and telephone number of: Health Facilities Regulation, Rhode Island Department of Health, Three Capitol Hill, Providence, R.I. 02908 (Telephone Number: 401-222-2566), the agency which will accept complaints or notice of violations of the provisions herein;
- c) The results of the most recent state and federal licensing and certification surveys of nursing homes must be posted.
- d) the telephone number of the state long-term care ombudsman: 401-785-3340.
- e) the telephone number of the state Medicaid Fraud Unit: 401-222-2256 or 401-274-4400 x2269.

Resident and Family Notification

- 19.26 When directed to do so by the Department, the facility shall 1. notify the resident, or his or her legal representative, the resident's family representative, the resident's attending physicians of record and the nursing facility's medical director, if that resident has been found to be in immediate jeopardy to health and safety; and 2. in federally-certified facilities, notify all facility residents, or their legal representatives, their family representatives, their attending physicians and the nursing facility's medical director, whenever a nursing facility is cited for substandard quality of care as defined in 42 CFR 488.301 or its successor regulation.
- 19.27 The facility shall provide for notification of changes regarding resident condition as provided in federal regulation 42 CFR 483.10 or successor regulation.
- 19.28 In nursing facilities not federally certified, when directed to do so by the Department, the facility shall notify all facility residents, or their legal representatives, their family representatives, their attending physicians and the nursing facility's medical director, whenever a nursing facility is cited for substandard quality of care as determined by the Director.
- 19.29 A facility citation for substandard quality of care shall be considered to be a public record ten (10) days following the citation, or upon Departmental approval of the corresponding plan of correction, whichever is sooner.

Family Councils

- 19.30 Upon the admission of a resident, the nursing facility shall inform the resident and the resident's family members, in writing, of their right to form a family council, or if a family council already exists, of the date, time, and location of scheduled meetings.
- 19.31 If a family council exists, its role shall be to address issues affecting residents generally at the facility, not to pursue individual grievances.
- 19.32 The family council shall not be entitled to obtain information about individual residents or staff members, or any other information deemed confidential under state or federal law.
- 19.33 No licensed nursing facility may prohibit the formation of a family council.

- 19.34 When requested by a member of a resident's family or a resident's representative, a family council shall be allowed to meet in a common meeting room of the nursing facility at least once a month during mutually agreed upon hours.
- 19.35 The nursing facility administration shall notify the state long-term care ombudsman of the existence or planned formation of a family council at that facility.
- 19.36 The family council may exclude members only for good cause shown, subject to appeal by the excluded party to the state long-term care ombudsman. No member shall be excluded on the basis of race or color, religion, gender, sexual orientation, disability, age, or country of ancestral origin.
- 19.37 A facility shall provide its family council with adequate space in a prominent posting area for the display of information pertaining to the family council.
- 19.38 Staff or visitors may attend family council meetings at the council's invitation.
- 19.39 The nursing facility shall provide a designated staff person who, at the request of the council, shall be responsible for providing assistance to the family council and for responding to recommendations and requests made by the family council.
- 19.40 The nursing facility shall consider the recommendations of the family council concerning issues and policies affecting resident care and life at the nursing facility.
- 19.41 A violation of the provisions of this section shall constitute a violation of the rights of nursing home residents.

Section 20.0 *Uniform Reporting System*

- 20.1 ***Uniform Reporting System:*** Each nursing facility shall establish and maintain records and data in such a manner as to make uniform the system of periodic reporting. The manner in which the requirements of this regulation may be met shall be prescribed from time to time in directives promulgated by the Director with the advice of the Health Services Council.
- 20.2 Each nursing facility shall report to the licensing agency detailed financial and statistical data pertaining to its operations, services, and facilities. Such reports shall be made at such intervals and by such dates as determined by the Director and shall include but not be limited to the following:
- a) utilization of nursing services;
 - b) unit cost of nursing services;
 - c) charges for rooms and services;
 - d) financial condition of the facility; and
 - e) quality of care.

- 20.3 The licensing agency is authorized to make the reported data available to any state agency concerned with or exercising jurisdiction over the reimbursement or utilization of nursing facilities.
- 20.4 The directives promulgated by the Director pursuant to these regulations shall be sent to each facility to which they apply. Such directives shall prescribe the form and manner in which the financial and statistical data required shall be furnished to the licensing agency.