

## 2. NURSING FACILITY LICENSING

### 2.1 Powers and Duties of Licensing Agency

(a) Authorized staff and other representatives of the licensing agency shall at all times, and without notice, have access to nursing facilities, subject to the provisions of 33 V.S.A. §7108 and 42 C.F.R. Part 488. Any and all parts of any building used in part or in whole for the care of nursing home residents shall be subject to inspections at all times.

(b) The facility shall file such information, data, statistics or schedules as the licensing agency may require. With the approval of the Secretary of Human Services, the licensing agency shall have the power to examine the books and accounts of any facility.

(c) From time to time the licensing agency may prescribe forms and may issue notices of practices and procedures employed by it in carrying out its functions under these rules.

(d) Copies of each notice of practice and procedure, form, or set of instructions issued shall be provided to each licensed nursing facility. A compilation of all such documents currently in effect shall be maintained in the offices of the licensing agency, pursuant 3 V.S.A. §835.

### 2.2 License Required for Operation

(a) No person shall operate a nursing home in the State of Vermont without first obtaining a license.

(b) Nursing home licenses shall expire one year after the date of issuance and must be renewed annually.

### 2.3 Application Procedures

Application for a license shall be made to the licensing agency upon the prescribed forms and shall include the following information:

(a) name of the licensee,

(b) the name of the home,

(c) the address of the home,

(d) the licensed capacity of the home,

(e) the name of the administrator,

(f) the name of the medical director,

(g) the name of the director of nursing, and

(h) such other information as the licensing agency may require.

#### 2.4 Inspection before Licensing

Before licensing a nursing facility, the licensing agency shall inspect the facility.

#### 2.5 License Certificate; Posting

(a) Each license shall be issued only for the licensee and premises named in the application and is not transferable or assignable.

(b) The license and supplement (if any) issued by the licensing agency shall contain the information provided pursuant to subsection 2.3.

(c) The license shall be posted in a conspicuous place on the licensed premises.

(d) Each license certificate in the licensee's possession is the property of the State of Vermont and shall be returned to the licensing agency immediately upon the suspension or revocation of the license, or if operation of the home is discontinued by voluntary action of the licensee.

#### 2.6 Licensed Capacity

(a) The number of residents in a nursing home may not at any time exceed the licensed capacity of the home as shown on the license.

(b) Emergency. A request for temporary authority to exceed the licensed capacity may be made to the licensing agency in the event of an emergency. Approval of such a request must be received before any additional residents may be admitted.

#### 2.7 Special Care Units

(a) The facility must obtain approval from the licensing agency prior to establishing and operating a Special Care Unit. Approval will be based on a demonstration that the Unit will provide specialized services to a specific population.

(b) A request for approval must include all of the following:

(1) a statement outlining the philosophy and purpose of the unit, including a description of the form of care, treatment, program or scope of services to be provided that distinguishes it as being especially applicable to or suitable for residents;

(2) a definition of the categories of residents to be served;

(3) a description of the organizational structure of the unit consistent with the unit's philosophy, purpose and scope of services;

(4) a description and identification of physical environment;

(5) the criteria for admission, continued stay and discharge which shall also include any criteria used for moving residents within the facility, into or out of a unit; and

(6) a description of unit staffing to include:

(i) staff qualifications,

(ii) orientation,

(iii) in-service education and specialized training, and

(iv) medical management and credentialing as necessary.

(c) In addition to the requirements set forth in 2.7(a) and (b), dementia units are required to have:

(1) Secured outdoor space and walkways that allow residents to ambulate, but prevent undetected egress;

(2) High visual contrasts between floors and walls and doorways in resident use areas. Except for fire exits, doors and access ways may be designed to minimize contrast.

(3) Non-reflective floors, walls and ceilings to minimize glare;

(4) Adequate and even lighting which minimizes glare and shadows;

(5) Individualized identification of residents' rooms that assists residents to recognize their rooms;

(6) A public address system, if applicable, to be used only in the event of an emergency; and

(7) Public or shared areas of the unit (both inside and out) that are easily monitored by caregiving staff.

(d) Dementia units shall meet the following staffing and staff training requirements:

(1) Dementia units must provide initial training in addition to general facility training to include eight hours of classroom orientation for all employees assigned to the unit and an additional eight hours of clinical orientation to all nursing employees assigned to the unit. The eight hours of classroom work must include:

- (i) A general overview of Alzheimer's disease and related dementia;
- (ii) Communication basics;
- (iii) Creating a therapeutic environment;
- (iv) Activity focused care;
- (v) Dealing with difficult behaviors; and
- (vi) Family issues.

(2) Ongoing in-service training shall be provided to all nursing and non-nursing staff, including volunteers, who have any direct contact with residents of the unit. Staff training shall occur at least quarterly. The facility will maintain records of all staff training provided and the qualifications of the presenter. Training over 12 months must include the following subjects:

- (i) Alzheimer's disease and related dementias, including but not limited to, possible causes, general statistics, risk factors, diagnosis, stages and symptoms, and current treatments and research trends;
- (ii) Communication, including training related to communication losses that result with dementia, non-verbal techniques, techniques to enhance communication, validation as an approach, and environmental factors that affect communication;
- (iii) Ways to create a therapeutic environment, including safety issues, effective strategies for providing care, background noise, staff behavior, and consistency;
- (iv) Activity-focused care, including personal care, nutrition and dining, structured leisure, and sexuality;
- (v) Dealing with difficult behaviors, including but not limited to, strategies to deal with common behavioral issues such as wandering, sundowning, combativeness, paranoia and ignoring self-care; and
- (vi) Family issues such as grief, loss education and support.

(e) Failure to provide the care, treatment, program or scope of services set forth in the request for approval from the licensing agency shall constitute a violation of these rules.

(f) Facilities with existing special care units shall comply with the requirements of subsections (b) and (d) on the date on which the rules take effect. Such facilities shall meet the requirements of subsection (c) as soon as practicable, but no later than six months from the effective date of the rules. Facilities that cannot come into compliance within that time period may request a variance pursuant to section 1.5 of these rules.

## 2.8 Change in Status Necessitating Discharge or Transfer of Residents

(a) Whenever a licensee plans to discontinue all or part of its operation or change its ownership or location, and such change in status would necessitate the discharge or transfer of residents, the administrator shall notify the licensing agency and the State Long Term Care Ombudsman at least 90 days prior to the proposed date of the change.

(b) For Licensees planning a change in status as described above:

(1) All nursing home rules and regulations shall remain fully applicable until all residents have been discharged or transferred.

(2) At least 60 days prior to the date of the planned change in status, the administrator shall provide the licensing agency and the State Long Term Care Ombudsman with a written transfer plan, subject to approval by the licensing agency. This plan shall include the following:

(i) documentation that adequate staff and resident care will be provided;

(ii) the licensee's arrangements to make an orderly transfer of residents and to minimize the health risks; and

(iii) the placement action proposed to be taken for each individual resident.

(3) The administrator, upon request, shall provide the licensing agency with any additional information related to the transfer plan as well as follow-up reports regarding specific placement action.

(4) The licensee shall not admit new residents after the date of written notice required in this section.

## 2.9 Reports to the Licensing Agency

The following reports must be filed with the licensing agency:

(a) At any time a fire occurs in the home, regardless of the size or damage, the licensing agency and the Department of Labor and Industry must be notified by the next business day. A written report must be submitted to both departments by the next business day. A copy of the report shall be kept on file in the facility.

(b) Any untimely death that occurs as a result of an untoward event, such as an accident that results in hospitalization, equipment failure, use of restraint, etc., shall be reported to the licensing agency by the next business day, followed by a written report that details and summarizes the event.

(c) Any unexplained or unaccounted for absence of a resident for a period of more than 30 minutes shall be reported promptly to the licensing agency. A written report must be submitted by the close of the next business day.

(d) Any breakdown or cessation to the facility's physical plant that has a potential for harm to the residents, such as a loss of water, power, heat or telephone communications, etc., for four hours or more, shall be reported within 24 hours to the licensing agency.