

State Board of Health

12 VAC 5-371

Rules and Regulations for the Licensure of Nursing Facilities



Office of Licensure and Certification
Virginia Department of Health
3600 West Broad Street, Suite 216
Richmond, VA 23230

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VA. DEPARTMENT OF HEALTH
Center for Quality Health Care Services and Consumer Protection

REGULATIONS FOR THE LICENSURE OF NURSING FACILITIES

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Chapter 371
Regulations for the Licensure of Nursing Facilities

PART I.
Definitions and General Information

12 VAC 5-371-10. Definitions. (Revised 3/1/2007)

The following words and terms, when used in this chapter, shall have the following meaning unless the context clearly indicates otherwise:

"Abuse" means the willful infliction of injury, unreasonable confinement, intimidation, or punishment with resulting physical harm, pain or mental anguish, or deprivation by an individual, including caretaker, of goods or services that are necessary to attain or maintain physical, mental, and psychosocial well-being. This includes verbal, sexual, physical or mental abuse.

"Administrator" means the individual licensed by the Virginia Board of Long Term Care Administrators and who has the necessary authority and responsibility for management of the nursing facility.

"Admission" means the process of acceptance into a nursing facility, including orientation, rules and requirements, and assignment to appropriate staff. Admission does not include readmission to the facility after a temporary absence.

"Advance directive" means (i) a witnessed written document, voluntarily executed by the declarant in accordance with the requirements of § 54.1-2983 of the Code of Virginia, or (ii) a witnessed oral statement, made by the declarant subsequent to the time he is diagnosed as suffering from a terminal condition and in accordance with the provision of § 54.1-2983 of the Code of Virginia.

"Assessment" means the process of evaluating a resident for the purpose of developing a profile on which to base services. Assessment includes information gathering, both initially and on an ongoing basis, designed to assist the multi-disciplinary staff in determining the resident's need for care, and the collection and review of resident-specific data.

"Attending physician" means a physician currently licensed by the Virginia Board of Medicine and identified by the resident, or legal representative, as having the primary responsibility in determining the delivery of the resident's medical care.

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"Board" means the Board of Health.

"Certified nurse aide" means the title that can only be used by individuals who have met the requirements to be certified, as defined by the Virginia Board of Nursing, and who are listed in the nurse aide registry.

"Chemical restraint" means a psychopharmacologic drug (a drug prescribed to control mood, mental status, or behavior) that is used for discipline or convenience and not required to treat medical symptoms or symptoms from mental illness or mental retardation that prohibit an individual from reaching his highest level of functioning.

"Clinical record" means the documentation of health care services, whether physical or mental, rendered by direct or indirect resident-provider interactions. An account compiled by physicians and other health care professionals of a variety of resident health information, such as assessments and care details, including testing results, medicines, and progress notes.

"Commissioner" means the State Health Commissioner.

"Complaint" means any allegation received by the Department of Health other than an incident reported by the facility staff. Such allegations include, but are not limited to, abuse, neglect, exploitation, or violation of state or federal laws or regulations.

"Comprehensive plan of care" means a written action plan, based on assessment data, that identifies a resident's clinical and psychosocial needs, the interventions to meet those needs, treatment goals that are measurable and that documents the resident's progress toward meeting the stated goals.

"Construction" means the building of a new nursing facility or the expansion, remodeling, or alteration of an existing nursing facility and includes the initial and subsequent equipping of the facility.

"Department" means the Virginia Department of Health.

"Dignity" means staff, in their interactions with residents, carry out activities which assist a resident in maintaining and enhancing the resident's self-esteem and self-worth.

"Discharge" means the process by which the resident's services, delivered by the nursing facility, are terminated.

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"Discharge summary" means the final written summary of the services delivered, goals achieved and post-discharge plan or final disposition at the time of discharge from the nursing facility. The discharge summary becomes a part of the clinical record.

"Drug" means (i) articles or substances recognized in the official United States "Drug" Pharmacopoeia National Formulary or official Homeopathic Pharmacopoeia of the United States, or any supplement to any of them; (ii) articles or substances intended for the use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animal; (iii) articles or substances, other than food, intended to affect the structure or any function of the body of man or other animal; (iv) articles or substances intended for use as a component of any article specified in clause (i), (ii), or (iii). This does not include devices or their components, parts or accessories.

"Emergency preparedness plan" means a component of a nursing facility's safety management program designed to manage the consequences of natural disasters or other emergencies that disrupt the nursing facility's ability to provide care.

"Employee" means a person who performs a specific job function for financial remuneration on a full or part-time basis.

"Full-time" means a minimum of 35 hours or more worked per week in the nursing facility.

"Guardian" means a person legally invested with the authority and charged with the duty of taking care of the resident, managing his property and protecting the rights of the resident who has been declared by the circuit court to be incapacitated and incapable of administering his own affairs. The powers and duties of the guardian are defined by the court and are limited to matters within the areas where the resident in need of a guardian has been determined to be incapacitated.

"Medication" means any substance, whether prescription or over-the-counter drug, that is taken orally or injected, inserted, topically applied, or otherwise administered.

"Neglect" means a failure to provide timely and consistent services, treatment or care to a resident or residents that are necessary to obtain or maintain the resident or residents' health, safety or comfort; or a failure to provide timely and consistent goods and services necessary to avoid physical harm, mental anguish, or mental illness.

"Nursing facility" means any institution or any identifiable component of any institution, as defined in § 32.1-123 of the Code of Virginia, with permanent facilities that include inpatient beds, whose primary function is the provision, on a continuing basis, of nursing and health related services for the treatment of individuals who may require various types of long-term care,

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including facilities known by varying nomenclature or designation such as convalescent homes, nursing homes, nursing or nursing care facilities, skilled nursing or skilled care facilities, intermediate care facilities or extended care facilities.

“OLC” means the Office of Licensure and Certification of the Virginia Department of Health.

"Person" means any individual, corporation, partnership, association, trust, or other legal entity, whether governmental or private, owning, managing, or operating a nursing facility.

"Physical restraint" means 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 own body.

"Policy" means a written statement that describes the principles and guides and governs the activities, procedures and operations of the nursing facility.

"Procedures" means a series of activities designed to implement program goals or policy, which may or may not be written, depending upon the specific requirements within this chapter. For inspection purposes, there must be evidence that procedures are actually implemented.

"Progress note" means a written statement, signed and dated by the person delivering the care, consisting of a pertinent, chronological report of the resident's care. A progress note is a component of the clinical record.

“Qualified” means meeting current legal requirements of licensure, registration or certification in Virginia; having appropriate training and experience commensurate with assigned responsibilities; or if referring to a professional, possessing an appropriate degree or having documented equivalent education, training or experience.

"Quality assurance" means systematic activities performed to determine the extent to which clinical practice meets specified standards and values with regard to such things as appropriateness of service assignment and duration, appropriateness of facilities and resources utilized, adequacy and clinical soundness of care given. Such activities should also assure changes in practice that do not meet accepted standards. Examples of quality assurance activities include: the establishment of facility-wide goals for resident care; the assessment of the procedures used to achieve the goals; and the proposal of solutions to problems in attaining those goals.

"Readmission" means a planned return to the nursing facility following a temporary absence for hospitalization, off-site visit or therapeutic leave, or a return stay or confinement following a formal discharge terminating a previous admission.

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"Resident" means the primary service recipient, admitted to the nursing facility, whether that person is referred to as a client, consumer, patient, or other term.

"Responsible person or party" means an individual authorized by the resident to act for him as an official delegate or agent. The responsible person may be a guardian, payee, family member or any other individual who has arranged for the care of the resident and assumed this responsibility. The responsible person or party may or may not be related to the resident. A responsible person or party is not a guardian unless so appointed by the court.

"Supervision" means the ongoing process of monitoring the skills, competencies and performance of the individual supervised and providing regular, face-to-face guidance and instruction.

"Volunteer" means a person who, without financial remuneration, provides services to the nursing facility.

12 VAC 5-371-20. Repealed.

12 VAC 5-371-30. License.

A. A license to operate a facility is issued to a person or organization. An organization may be a partnership, association, corporation, or public entity.

B. Each license and renewal thereof shall be issued for one year. A nursing facility shall operate within the terms of its license, which include the:

1. Name of the facility;
2. Name of the operator;
3. Physical location of the nursing facility;
4. Maximum number of beds allowed; and
5. Date the license expires.

C. A separate license shall be required for nursing facilities maintained on separate premises, even though they are owned or are operated under the same management.

D. Every nursing facility shall be designated by a permanent and appropriate name. The name shall not be changed without first notifying the OLC.

E. The number of resident beds allowed in a nursing facility shall be determined by the department. Requests to increase beds must be made in writing and must include an approved Certificate of Public Need.

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F. Nursing facility units located in and operated by hospitals shall be licensed under Regulations for the Licensure of Hospitals in Virginia (12 VAC 5-410-10). Approval for such units shall be included on the annual license issued to each hospital.

G. Any person establishing, conducting, maintaining, or operating a nursing facility without a license shall be guilty of a Class 6 felony.

12 VAC 5-371-40. Licensing process.

A. Upon request, the OLC will provide consultation to any person seeking information about obtaining a license. The purpose of such consultation is to:

1. Explain the standards and the licensing process;
2. Provide assistance in locating other sources of information;
3. Review the potential applicant's proposed program plans, forms, and other documents, as they relate to standards; and
4. Alert the potential applicant regarding the need to meet other state and local ordinances, such as fire and building codes and environmental health standards, where applicable.

B. Upon request, the OLC will provide an application form for a license to operate a nursing facility.

C. The OLC shall consider the application complete when all requested information and the application fee is submitted with the form required. If the OLC finds the application incomplete, the applicant will be notified of receipt of the incomplete application.

D. The applicant shall complete and submit the initial application to the OLC at least 30 days prior to a planned opening date to allow the OLC time to act on the application. An application for a license may be withdrawn at any time.

E. Application for initial license of a nursing facility shall include a statement of any agreement made with the commissioner as a condition for Certificate of Public Need approval to provide a level of care at a reduced rate to indigents or accept patients requiring specialized care.

Any initial license issued to any nursing facility that made such agreement as a condition of its Certificate of Public Need approval shall not be renewed without demonstrating prior to or at the time of applying for renewal that it is substantially complying with its agreement.

F. The renewal of a nursing facility license shall be conditioned upon the up-to-date payment of any civil penalties owed as a result of willful refusal, failure, or neglect to honor certain

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conditions established in their award of a Certificate of Public need pursuant to § 32.1-102.4 F of the Code of Virginia.

G. Prior to changes in operation which would affect the terms of the license, the licensee must secure a modification to the terms of the license from the OLC.

H. Requests to modify a license must be submitted in writing, 30 working days in advance of any proposed changes, to the Director of the Office for Licensure and Certification.

I. The license shall be returned to the OLC following a correction or reissuance when there has been a change in:

1. Address;
2. Operator;
3. Name; or
4. Bed capacity.

J. The OLC will evaluate written information about any planned changes in operation which would affect either the terms of the license or the continuing eligibility for a license. A licensing representative may visit the facility during the process of evaluating a proposed modification.

K. If a modification can be granted, the OLC shall respond in writing with a modified license. In the event a new application is needed, the licensee will receive written notification. When the modification cannot be granted, the licensee shall be advised by letter.

L. The department shall send an application for renewal of the license to the licensee prior to the expiration date of the current license.

M. The licensee shall submit the completed renewal application form along with any required attachments and the application fee by the date indicated in the cover letter.

N. It is the licensee's responsibility to complete and return the application to assure timely processing. Should a current license expire before a new license is issued, the current license shall remain in effect provided the complete and accurate application was filed on time.

12 VAC 5-371-50. Repealed.

12 VAC 5-371-60. On-site inspections.

A. The licensing representative shall make unannounced on-site inspections of the nursing facility. The licensee shall be responsible for correcting any deficiencies found during any on-site inspection. Compliance with all standards will be determined by the OLC.

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- B. The licensee shall make available to the licensing representative any necessary records.
- C. The licensee shall also allow the licensing representative to interview the agents, employees, residents, family members, and any person under its custody, control, direction or supervision.
- D. After the on-site inspection, the licensing representative shall discuss the findings of the inspection with the administrator of record or designee.
- E. As applicable, the administrator of record shall submit an acceptable plan for correcting any deficiencies found during an on-site inspection.
- F. The administrator of record will be notified whenever any item in the plan of correction is determined to be unacceptable.
- G. The administrator of record shall be responsible for assuring the plan of correction is implemented and monitored so that compliance is maintained.

12 VAC 5-371-70. Complaint investigation.

- A. The OLC has the responsibility to investigate any complaints regarding alleged violations of the standards or statutes and complaints of the abuse or neglect of persons in care. The Department of Social Services and the State Ombudsman are notified of complaints received.
- B. Complaints may be received in written or oral form and may be anonymous.
- C. When the investigation is complete, the licensee and the complainant, if known will be notified of the findings of the investigation.
- D. As applicable, the facility's administrator of record shall submit an acceptable plan for correcting any deficiencies found during a complaint investigation.
- E. The administrator of record will be notified whenever any item in the plan of correction is determined to be unacceptable.
- F. The administrator of record shall be responsible for assuring the plan of correction is implemented and monitored so that compliance is maintained.

12 VAC 5-371-80. Variances.

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A. The OLC can authorize variances only to its own licensing standards, not to regulations of another agency or to any requirements in federal, state, or local laws.

B. A nursing facility may request a variance to a particular standard or requirement contained in this chapter when the standard or requirement poses a special hardship and when a variance to it would not endanger the safety or well-being of residents, employees, or the public.

C. Upon finding that the enforcement of one or more of the standards would be clearly impractical, the OLC shall have the authority to waive, either temporarily or permanently, the enforcement of one or more of these standards, provided safety, resident care and services are not adversely affected.

D. The OLC may rescind or modify a variance if: (i) conditions change; (ii) additional information becomes known which alters the basis for the original decision; (iii) the facility fails to meet any conditions attached to the variance; (iv) or results of the variance jeopardize the safety, comfort, or well-being of residents, employees and the public.

E. Consideration of a variance is initiated when a written request is submitted to the Director, Office of Licensure and Certification. The OLC may provide consultation in the development of the written request and throughout the variance process.

F. The request for a variance must describe the special hardship to the existing program or to a planned innovative or pilot program caused by the enforcement of the requirements. When possible, the request should include proposed alternatives to meet the purpose of the requirements which will ensure the protection and well-being of residents, employees, and the public.

G. The center shall notify the facility of the receipt of the request for a variance. The center may attach conditions to the granting of the variance in order to protect persons in care.

H. When the decision is to deny a request for a variance, the reason shall be provided in writing to the licensee.

I. When a variance is denied, expires, or is rescinded, routine enforcement of the standard or portion of the standard shall be resumed. The nursing facility may at any time withdraw a request for a variance.

12 VAC 5-371-90. Administrative sanctions.

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A. Nothing in this part shall prohibit the department from exercising its responsibility and authority to enforce the regulation, including proceeding directly to imposition of administrative sanctions, when the quality of care or the quality of life has been severely compromised.

B. The commissioner may impose such administrative sanctions or take such actions as are appropriate for violation of any of the standards or statutes or for abuse or neglect of persons in care. Such sanctions include:

1. Restricting or prohibiting new admissions to any nursing facility;
2. Petitioning the court to impose a civil penalty or to appoint a receiver, or both; or
3. Revoking or suspending the license of a nursing facility.

C. The following reasons may be considered by the department for the imposition of administrative sanctions or the imposition of civil penalties:

1. Failure to demonstrate or maintain compliance with applicable standards or for violations of the provisions of the Code of Virginia;
2. Permitting, aiding, or abetting the commission of any illegal act in the nursing facility; or
3. Deviating significantly from the program or services for which a license was issued without obtaining prior written approval from the OLC, or failure to correct such deviations within a specified time.

D. Violations which in the judgment of the OLC jeopardize the health and safety of residents shall be sufficient cause for immediate imposition of this section.

E. The licensee will receive a notice of the department's intent to impose sanctions. The notice shall describe the reasons for imposing the sanction.

F. Upon receipt of the notice to impose a sanction, the licensee has the right and the opportunity to appeal according to the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia). The procedures for filing an appeal shall be outlined in the notice.

12 VAC 5-371-100. Surrender of a license.

A. Upon revocation or suspension of a license, the licensee must surrender its license to a representative of the OLC.

B. If a license is revoked, a new license may be issued by the commissioner after satisfactory evidence is submitted that the conditions upon which revocation was based have been corrected and after proper inspection has been made and compliance with this chapter and applicable state and federal law has been obtained.

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C. Suspension of a license shall in all cases be for an indefinite time. The commissioner may completely or partially restore a suspended license when he determines that the conditions upon which suspension was based have been completely or partially corrected and that the interests of the public will not be jeopardized by resumption of operation.

D. Other circumstances under which a license must be surrendered include transfer of ownership and discontinuation of services. The licensee must notify the OLC, in writing, 30 days before discontinuing services.

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PART II.
ADMINISTRATIVE SERVICES

12 VAC 5-371-110. Management and administration.

- A. No person shall own, establish, conduct, maintain, manage, or operate any nursing facility, as defined in § 32.1-123 of the Code of Virginia, without having obtained a license.
- B. The nursing facility must comply with:
1. These regulations (12 VAC 5-371-10);
 2. Other applicable federal, state or local laws and regulations; and
 3. Its own policies and procedures.
- C. The nursing facility shall submit, or make available, reports and information necessary to establish compliance with these regulations and applicable statutes.
- D. The nursing facility shall submit, in a timely manner as determined by the center, and implement a written plan of action to correct any noncompliance with these regulations identified during an inspection. The plan shall include:
1. Description of the corrective action or actions to be taken;
 2. Date of completion for each action; and
 3. Signature of the person responsible for the operation.
- E. The nursing facility shall permit representatives from the OLC to conduct inspections to:
1. Verify application information;
 2. Determine compliance with this chapter;
 3. Review necessary records; and
 4. Investigate complaints.
- F. The current license from the department shall be posted in a place clearly visible to the general public.
- G. The nursing facility shall not operate more resident beds than the number for which it is licensed.
- H. The nursing facility shall fully disclose its admission policies, including any preferences given, to applicants for admission.
- I. The nursing facility shall identify its operating elements and programs, the internal relationship among these elements and programs, and the management or leadership structure.

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J. The facility shall provide, or arrange for, the administration to its resident of an annual influenza vaccination and a pneumonia vaccination according to the most recent recommendations for “Prevention and Control of Influenza” (www.cdc.gov/mmwr/preview/mmwrhtml/rr5306al.htm), MMWR 53 (RR06), and “Guidelines for Preventing Health Care-Associated Pneumonia, 2003” (www.cdc.gov/mmwr/preview/mmwrhtml/rr5303al.htm), MMWR 53 (RR03), of the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention, unless the vaccination is medically contraindicated or the resident declines the vaccination offer.

12 VAC 5-371-120. Governing body.

- A. The nursing facility shall have a governing body that is legally responsible for the management of the operation.
- B. The governing body shall adopt written bylaws that describe the organizational structure and establish authority and responsibility in accordance with applicable laws, including a:
1. Statement of purpose;
 2. Description of the functions of the governing body members, officers and committees;
 3. Description of the method of adoption, implementation, and periodic review of policies and procedures; and
 4. Description of the methods to be utilized to assure compliance with this chapter.
- C. The governing body shall disclose the names and addresses of any individual or entity that holds 5% or more ownership interest in the operation of the nursing facility.
- D. When the governing body is not the owner of the physical plant, the governing body shall disclose the name and address of the individual or entity responsible for the alterations, modifications, maintenance and repairs to the building.
- E. The governing body shall notify the OLC in writing 30 days in advance of changes affecting the accuracy of the license. Changes affecting the accuracy of the license are:
1. Any proposed change in management contract or lease agreement to operate the nursing facility;
 2. Implementing any proposed addition, deletion, or change in nursing facility services whether or not licensure is required;
 3. Selling the facility; or
 4. A change in ownership.

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12 VAC 5-371-130. Administrator.

- A. The governing body shall appoint an individual, on a full time basis, to serve as its onsite agent, responsible for the day-to-day administration and management.
- B. The governing body shall provide the center with evidence that the individual appointed as administrator is:
1. Currently licensed by the Virginia Board of Long Term Care Administrators; or
 2. Holds a current administrator's license in another state and has filed an application for license with the Virginia Board of Long Term Care Administrators.
- C. Within five working days of the effective date of termination of the administrator's employment, the governing body shall notify the OLC, in writing, of the name and qualifications of the replacement administrator of record or the acting administrator.
- D. The governing body shall appoint a qualified administrator within 90 days of the effective date of the termination of the previously qualified administrator, and shall provide the OLC with written notification of the administrator's name, license number, and effective date of employment.

An additional 30-day extension may be granted if a written request provides documentation that the individual designated as administrator is awaiting the final licensing decision of the Virginia Board of Long Term Care Administrators.

- E. The governing body shall assure that administrative direction is provided at all times. The governing body, the administrator, or the chief executive officer shall designate, in writing, a qualified individual to act as the alternate nursing home administrator in the absence of the administrator of record.

12 VAC 5-371-140. Policies and procedures.

- A. The nursing facility shall implement written policies and procedures approved by the governing body.
- B. All policies and procedures shall be reviewed at least annually, with recommended changes submitted to the governing body for approval.
- C. A written record of the annual policy review, including at least the review dates, participants, recommendations and action dates of the governing body, shall be maintained.
- D. Administrative and operational policies and procedures shall include, but are not limited to:

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1. Administrative records;
 2. Admission, transfer and discharge;
 3. Medical direction and physician services;
 4. Nursing direction and nursing services;
 5. Pharmaceutical services, including drugs purchased outside the nursing facility;
 6. Dietary services;
 7. Social services;
 8. Activities services;
 9. Restorative and rehabilitative resident services;
 10. Contractual services;
 11. Clinical records;
 12. Resident rights and grievances;
 13. Quality assurance and infection control;
 14. Safety and emergency preparedness procedures; and
 15. Professional and clinical ethics, including:
 - a. Confidentiality of resident information;
 - b. Truthful communication with residents;
 - c. Observance of appropriate standards of informed consent and refusal of treatment; and
 - d. Preservation of resident dignity, with special attention to the needs of the aged, the cognitively impaired, and the dying.
- E. Personnel policies and procedures shall include, but are not limited to:
1. Written job descriptions that specify authority, responsibility, and qualifications for each job classification;
 2. An on-going plan for employee orientation, staff development, in-service training and continuing education;
 3. An accurate and complete personnel record for each employee including:
 - a. Verification of current professional license, registration, or certificate or completion of a required approved training course;
 - b. Criminal record check;
 - c. Verification that the employee has reviewed or received a copy of the job description;
 - d. Orientation to the nursing facility, its policies and to the position and duties assigned;
 - e. Completed continuing education program approved for the employee as determined by the outcome of the annual performance evaluation;
 - f. Annual employee performance evaluations; and
 - g. Disciplinary action taken.
 4. Employee health-related information retained in a file separate from personnel files.

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- F. Financial policies and procedures shall include, but not be limited to:
1. Admission agreements;
 2. Methods of billing:
 - a. Services not included in the basic daily or monthly rate;
 - b. Services delivered by contractors of the nursing facility; and
 - c. Third party payers;
 3. Resident or designated representative notification of changes in fees and charges;
 4. Correction of billing errors and refund policy;
 5. Collection of delinquent resident accounts; and
 6. Handling of resident funds.

G. Policies shall be made available for review, upon request, to residents and their designated representatives.

H. Policies and procedures shall be readily available for staff use at all times.

12 VAC 5-371-150. Resident rights.

A. The nursing facility shall develop and implement policies and procedures that ensure resident's rights as defined in § 32.1-138 and 32.1-138.1 of the Code of Virginia.

B. The procedures shall:

1. Not restrict any right a resident has under law;
2. Provide staff training to implement resident's rights; and
3. Include grievance procedures.

C. The name and telephone number of the complaint coordinator of the OLC, the Adult Protective Services toll-free telephone number, and the toll-free telephone number for the State Ombudsman shall be conspicuously posted in a public place.

D. Copies of resident rights shall be given to residents upon admittance to the facility and made available to residents currently in residence, to any guardians, next of kin, or sponsoring agency or agencies, and to the public.

E. The nursing facility shall have a plan to review resident rights with each resident annually, or with the responsible family member or responsible agent at least annually, and have a plan to advise each staff member at least annually.

F. The nursing facility shall certify, in writing, that it is in compliance with the provisions of § 32.1-138 and 32.1-138.1 of the Code of Virginia, relative to resident rights, as a condition of license issuance or renewal.

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12 VAC 5-371-160. Financial controls and resident funds.

A. All financial records, including resident funds, shall be kept according to generally accepted accounting principles (GAAP).

B. Nursing facilities choosing to handle resident funds shall:

1. Comply with § 32.1-138 A 7 of the Code of Virginia regarding resident funds;
2. Purchase a surety bond or otherwise provide assurance for the security of all personal funds deposited with the facility; and
3. Provide for separate accounting for resident funds.

C. In the event the facility is sold, the nursing facility shall provide written verification that all resident funds have been transferred and shall obtain a signed receipt from the new owner. Upon receipt, the new owner shall provide an accounting of resident funds.

D. In the event of a resident's death or discharge with funds deposited with the facility, the nursing facility shall, within 30 days, give a final accounting of those funds to the individual administering the resident's estate, and if appropriate, refund any monies due.

12 VAC 5-371-170. Quality assessment and assurance.

A. The nursing facility shall maintain a quality assessment and assurance committee consisting of at least the following individuals:

1. The director of nursing services;
2. A physician designated by the facility; and
3. At least three other members of the facility staff one of whom demonstrates an ability to represent the rights and concerns of residents.

B. The quality assessment and assurance committee shall:

1. Meet at least quarterly to identify issues which would improve quality of care and services provided to residents; and
2. Develop and implement appropriate plans of action to correct identified deficiencies.

C. The nursing facility shall document compliance with these requirements.

12 VAC 5-371-180. Infection control. (revised 1/11/2006)

A. The nursing facility shall establish and maintain an infection control program designed to provide a safe, sanitary, and comfortable environment and to prevent the development and transmission of disease and infection.

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B. The infection control program shall encompass the entire physical plant and all services.

C. The infection control program addressing the surveillance, prevention and control of facility wide infections shall include:

1. Procedures to isolate the infecting organism;
2. Access to handwashing equipment for staff;
3. Training of staff in proper handwashing techniques, according to accepted professional standards, to prevent cross contamination;
4. Implementation of universal precautions by direct resident care staff;
5. Prohibiting employees with communicable diseases or infections from direct contact with residents or their food, if direct contact will transmit disease;
6. Monitoring staff performance of infection control practices;
7. Handling, storing, processing and transporting linens, supplies and equipment in a manner that prevents the spread of infection;
8. Handling, storing, processing and transporting regulated medical waste in accordance with applicable regulations;
9. Maintaining an effective pest control program; and
10. Staff education regarding infection risk-reduction behavior.

D. The nursing facility shall report promptly to its local health department diseases designated as “reportable” according to 12 VAC 5-90-80 when such cases are admitted to or are diagnosed in the facility and shall report any outbreak of infectious disease as required by 12 VAC 5-90. An outbreak is defined as an increase in incidence of any infectious disease above the usual incidence at the facility.

12 VAC 5-371-190. Safety and emergency procedures.

A. A written emergency preparedness plan shall be developed, reviewed, and implemented when needed. The plan shall address responses to natural disasters, as well as fire or other emergency which disrupts the normal course of operations. The plan shall address provisions for relocating residents and also address staff responsibilities for:

1. Alerting emergency personnel and sounding alarms;
2. Implementing evacuation procedures including the evacuation of residents with special needs;
3. Using, maintaining and operating emergency equipment;
4. Accessing resident emergency medical information; and
5. Utilizing community support services.

B. All staff shall participate in periodic emergency preparedness training.

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C. Staff shall have documented knowledge of, and be prepared to implement, the emergency preparedness plan in the event of an emergency.

D. At least one telephone shall be available in each area to which residents are admitted and additional telephones or extensions as are necessary to ensure availability in case of need.

E. In the event of a disaster, fire, emergency or any other condition that may jeopardize the health, safety and well-being of residents, the organization shall notify the OLC of the conditions and status of the residents and the licensed facility as soon as possible.

F. The nursing facility shall have a policy on smoking.

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**PART III.
RESIDENT SERVICES.**

12 VAC 5-371-200. Director of nursing.

A. Each nursing facility shall employ a full-time director of nursing to supervise the delivery of nursing services. The individual hired shall be a registered nurse licensed by the Virginia Board of Nursing.

B. The duties and responsibilities of the director of nursing shall include, but are not limited to:

1. Developing and maintaining: (i) nursing service objectives, (ii) standards of practice, (iii) policy and procedure manuals, and (iv) job descriptions for each level of nursing personnel;

2. Recommending to the administrator the resources needed to carry out nursing service, including but not limited to, equipment and supplies and the number and level of nursing personnel to be employed;

3. Participating in the employment of nursing personnel, including: (i) recruitment, (ii) selection, (iii) position assignment, (iv) orientation, (v) in-service education, (vi) supervision, (vii) evaluation, and (viii) termination;

4. Participating with the medical director in developing and implementing policies for resident care;

5. Assuring that the comprehensive plan of care is maintained in conjunction with other disciplines;

6. Coordinating nursing services with other services such as medical, rehabilitative, and social services and the resident activity program;

7. Participating in quality assurance committee meetings to identify issues and to develop and implement appropriate plans of action to correct identified problems;

8. Making daily rounds on resident floors, unless this duty has been delegated to another licensed nurse; and

9. Recommending and coordinating the training needs of nursing staff with the individual responsible for in-service training.

C. A registered nurse, designated in writing by the administrator, shall serve in the temporary absence of the director of nursing so there is the equivalent of a full-time director of nursing on duty for a minimum of five days a week.

D. The director of nursing shall not function as a nursing supervisor in facilities with 60 or more beds.

E. The nursing facility shall notify the OLC, in writing, within five days of a vacancy in the director of nursing position. The written notice shall give the name and Virginia license number

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of the individual appointed to serve as director of nursing, and whether the appointment is permanent or temporary.

F. The director of nursing position shall not be held by a temporary designate for more than 90 days. Temporary agency personnel shall not be utilized to fill the director of nursing position.

G. Written notification, giving the name and license number of the individual, shall be sent to the OLC when a permanent appointment is made.

H. A license for a new nursing facility or an increase in bed size in an existing nursing facility shall not be issued if the director of nursing position is vacant.

12 VAC 5-371-210. Nurse staffing. (revised 1/11/2006)

A. A nursing supervisor, designated by the director of nursing, shall be responsible for all nursing activities in the facility, or in the section to which assigned, including:

1. Making daily visits to determine resident physical, mental, and emotional status and implementing any required nursing intervention;
2. Reviewing medication records for completeness, accuracy in the transcription of physician orders, and adherence to stop-order policies;
3. Reviewing resident plans of care for appropriate goals and approaches, and making revisions based on individual needs;
4. Assigning to the nursing staff responsibility for nursing care;
5. Supervising and evaluating performance of all nursing personnel on the unit; and
6. Keeping the director of nursing services, or director of nursing designee, informed of the status of residents and other related matters.

B. The nursing facility shall provide qualified nurses and certified nurse aides on all shifts, seven days per week, in sufficient number to meet the assessed nursing care needs of all residents.

C. Nursing personnel, including registered nurses, licensed practical nurses, and certified nurse aides shall be assigned duties consistent with their education, training and experience.

D. Weekly time schedules shall be maintained and shall indicate the number and classification of nursing personnel who worked on each unit for each shift. Schedules shall be retained for one year.

E. All nursing services shall be directly provided by an appropriately qualified registered nurse or licensed practical nurse, except for those nursing tasks that may be delegated by a registered nurse according to 18 VAC 90-20-420 through 18 VAC 90-20-460 of the regulation of the

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Virginia Board of Nursing and with a plan developed and implemented by the facility.

F. Before allowing a nurse aide to perform resident care duties, the nursing facility shall verify that the individual is:

1. A certified nurse aide in good standing;
2. Enrolled full-time in a nurse aide education program approved by the Virginia Board of Nursing; or
3. Has completed a nurse aide education program or competency testing, but has not yet been placed on the nurse aide registry.

G. Any person employed to perform the duties of a nurse aide on a permanent full-time, part-time, hourly, or contractual basis must be registered as a certified nurse aide within 120 days of employment.

H. Nurse aides employed or provided by a temporary personnel agency shall be certified to deliver nurse aide services.

I. The services provided or arranged with a temporary personnel agency shall meet professional standards of practice and be provided by qualified staff according to each resident's comprehensive plan of care.

12 VAC 5-371-220. Nursing services.

A. Each nursing facility shall implement written resident care policies and procedures which support an active program of nursing care directed toward assisting all residents to achieve outcomes consistent with their highest level of self-care and independence.

B. All medications and treatments will be administered as prescribed in the resident's medical plan of care.

C. Services shall be provided to prevent clinically avoidable complications, including, but not limited to:

1. Pressure ulcer development;
2. Contracture;
3. Loss of continence;
4. Dehydration; and
5. Malnutrition.

D. Each resident shall be given proper daily personal attention and care, including skin, nail, hair and oral hygiene, in addition to any specific care ordered by the attending physician. Provision of daily personal care shall be documented in the clinical record.

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E. Each resident shall be dressed in clean clothing and be free of odors. Each resident shall be encouraged to wear day clothing when out of bed.

F. Each resident shall receive tub or shower baths as often as needed, but not less than twice weekly. Residents whose medical conditions prohibit tub or shower baths shall have a sponge bath daily.

G. Residents who are incontinent shall have a partial bath, clean clothing and linens each time their clothing or bed linen is soiled.

H. The attending physician, nurse practitioner or physician assistant and the resident's family or responsible party shall be notified of any changes in a resident's condition which indicate a need to alter medical treatment.

12 VAC 5-371-230. Medical direction.

A. Each nursing facility shall have a written agreement with one or more physicians licensed by the Virginia Board of Medicine to serve as medical director.

B. The duties of the medical director shall include, but are not limited to:

1. Advising the administrator and the director of nursing on medical issues, including the criteria for residents to be admitted, transferred or discharged from the nursing facility;

2. Advising on the development and execution of policies and procedures that have a direct effect upon the quality of medical and nursing care delivered to residents;

3. Acting as liaison and consulting with the administrator and the attending physician on matters regarding medical and nursing care policies and procedures of the nursing facility;

4. Advising and providing consultation to the nursing facility staff regarding communicable diseases, infection control and isolation procedures, and serving as liaison with local health officials;

5. Providing temporary physician services when the admitting physician is not the attending physician, in order to assure that the resident has temporary medical orders;

6. Providing physician services in case of emergency in the event that the resident's attending physician cannot be reached; and

7. Advising on the development and execution of an employee health program, which shall include provisions for determining that employees are free of communicable diseases according to current acceptable standards of practice.

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12 VAC 5-371-240. Physician services. (revised 1/11/2006)

A. Each resident shall be under the care of a physician licensed by the Virginia Board of Medicine. Nurse practitioners and physician assistants licensed to practice in Virginia may provide care as assigned by the supervising physician and within the parameters of professional licensing.

B. Prior to, or at the time of admission, each resident, his designated representative, or the entity responsible for his care shall designate an attending physician.

C. A complete medical plan of care must be provided at the time of admission, or within 48 hours after admission. The plan shall include:

1. Primary diagnosis;
2. Identification of resident problems;
3. Medical history and physical exam;
4. Orders for medications;
5. Treatments;
6. Restorative services;
7. Activity levels;
8. Diet;
9. Special procedures recommended for health and safety of the resident; and
10. Advance directives, if known.

D. The admission medical plan of care shall be prescribed and signed by the attending physician. Subsequent medical plans of care for the same resident may be prescribed and signed by a nurse practitioner or physician assistant according to their practice agreements.

E. The physician, nurse practitioner or physician assistant shall review the resident's medical plan of care at each visit and write a progress note.

F. Each resident shall be seen by his attending physician and the resident's total program of care shall be reviewed and appropriately revised as necessary.

G. All verbal orders shall be immediately recorded and signed by the individual receiving them, and shall be countersigned by the prescribing person.

12 VAC 5-371-250. Resident assessment and care planning.

A. The nursing facility shall conduct an initial and periodic assessment of each resident's needs. The assessment shall accurately describe the resident's capability to perform daily life functions

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and significant impairments in functional capacity. This comprehensive assessment shall include, but is not limited to:

1. Medically defined conditions and prior medical history;
2. Medical status;
3. Physical and mental functional status;
4. Sensory and physical impairments;
5. Nutritional status and requirements;
6. Special treatments or procedures;
7. Psychosocial status;
8. Discharge potential;
9. Dental condition;
10. Activities potential;
11. Rehabilitative potential;
12. Cognitive status;
13. Drug therapy; and
14. Any known advance directives.

B. The nursing facility shall conduct a complete assessment:

1. No later than 14 days after the date of admission;
2. Promptly after a significant change in the resident's physical or mental condition; and
3. In all cases, at least once every 12 months.

C. The nursing facility shall review each resident's assessment at least once every three months and shall update the plan of care as indicated.

D. Each assessment shall be coordinated by a registered nurse who signs, dates and certifies completion of the assessment.

E. Each assessment shall be conducted or coordinated with the participation of health professionals. Each person completing a portion of the assessment shall sign and date that portion of the assessment.

F. The nursing facility shall use the results of the assessment to develop, review, and revise the resident's comprehensive plan of care.

G. A comprehensive plan of care shall be developed for each resident. The plan shall include measurable objectives and timetables to meet the resident's medical, nursing, nutritional, and psychosocial needs identified in the comprehensive assessment. The plan shall also describe the services that are to be furnished to maintain or improve the resident's physical, mental, and psychosocial status.

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H. The comprehensive plan of care shall be developed within seven days of completion of the comprehensive assessment.

I. The comprehensive plan of care shall be prepared by an multidisciplinary team. The multidisciplinary team shall include a registered nurse, the attending physician, to the extent practicable, and other staff in disciplines as determined by the resident's needs. The resident, the resident's family or legal representative shall also be provided a meaningful opportunity to participate in the care planning.

12 VAC 5-371-260. Staff development and inservice training.

A. All full time, part-time and temporary personnel shall receive orientation to the facility commensurate with their function or job-specific responsibilities.

B. All resident care staff shall receive annual inservice training commensurate with their function or job-specific responsibilities in at least the following:

1. Special needs of residents as determined by the facility staff;
2. Prevention and control of infections;
3. Fire prevention or control and emergency preparedness;
4. Safety and accident prevention;
5. Restraint use, including, alternatives to physical and chemical restraints;
6. Confidentiality of resident information;
7. Understanding the needs of the aged and disabled;
8. Resident rights, including personal rights, property rights and the protection of privacy, and procedures for handling complaints;
9. Care of the cognitively impaired;
10. Basic principles of cardiopulmonary resuscitation for licensed nursing staff and the Heimlich maneuver for nurse aides; and
11. Prevention and treatment of pressure sores.

C. The nursing facility shall have an ongoing training program that is planned and conducted for the development and improvement of skills of all personnel.

D. The nursing facility shall maintain written records indicating the content of and attendance at each orientation and in service training program.

E. The nursing facility shall provide inservice programs, based on the outcome of annual performance evaluations, for nurse aides.

F. Nurse aide inservice training shall consist of at least 12 hours per anniversary year.

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G. The nursing facility shall provide training on the requirements for reporting adult abuse, neglect, or exploitation and the consequences for failing to make such a required report to all its employees who are licensed to practice medicine or any of the healing arts, serving as a hospital resident or intern, engaged in the nursing profession, working as a social worker, mental health professional or law-enforcement officer and any other individual working with residents of the nursing facility.

12 VAC 5-371-270. Social services.

A. The nursing facility shall provide a comprehensive social services program to meet the psychosocial and medically related needs of each resident.

B. There shall be at least one designated staff member responsible for coordinating resident social services.

C. This individual shall have one of the following qualifications:

1. A bachelor's degree in social work or human services appropriate to resident needs, or
2. One year, within the last five years, supervised social work experience.

D. This individual shall be:

1. Trained in recognizing and assessing the emotional and social needs of residents; and
2. Knowledgeable of community agencies and resources available to meet those needs.

E. The social services coordinator shall assess each resident and participate in the development and implementation of the comprehensive plan of care.

F. Documentation of social services shall be included in the resident's clinical record.

12 VAC 5-371-280. Resident activities.

A. The nursing facility shall provide activities, on a regularly scheduled basis, specifically suited to the needs and interests of each resident based on the resident's comprehensive plan of care.

B. There shall be at least one staff member responsible for coordinating resident activities. The individual shall meet at least one of the following qualifications:

1. Be a qualified therapeutic recreation specialist or an activities professional;
2. Be eligible for certification as a therapeutic recreation specialist or activities professional by a recognized accrediting body;

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3. Have one year full-time experience, within the last five years, in a patient activities program in a health care setting;
4. Be a qualified occupational therapist or occupational therapy assistant; or
5. Have completed 40 hours training in group activities and recognizing and assessing the activity needs of residents.

C. The activities coordinator shall assess each resident and participate in the development and implementation of the comprehensive plan of care.

D. The activities program shall make the fullest possible use of community social and recreational opportunities, including the involvement of volunteers and community groups.

E. Documentation of activities shall be included in the resident's clinical record.

12 VAC 5-371-290. Special rehabilitative services.

A. The nursing facility shall provide, or arrange for under written agreement, specialized rehabilitative services, such as physical therapy, speech-language pathology services and occupational therapy.

B. Specialized rehabilitative services shall be provided in accordance with accepted standards of practice by qualified therapists, or by trained assistants under the supervision of a licensed or certified therapist.

C. Rehabilitative services shall be authorized by the attending physician and a written plan of care developed in consultation with the appropriate therapist.

12 VAC 5-371-300. Pharmaceutical services. (revised 1/11/2006)

A. Provision shall be made for the procurement, storage, dispensing, and accounting of drugs and other pharmacy products in compliance with 18 VAC 110-20. This may be by arrangement with an off-site pharmacy, but must include provisions for 24-hour emergency service.

B. Each nursing facility shall develop and implement policies and procedures for the handling of drugs and biologicals, including procurement, storage, administration, self-administration and disposal of drugs.

C. Each nursing facility shall have a written agreement with a qualified pharmacist to provide consultation on all aspects of the provision of pharmacy services in the facility.

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- D. The consultant pharmacist shall make regularly scheduled visits, at least monthly, to the nursing facility for a sufficient number of hours to carry out the function of the agreement.
- E. No drug or medication shall be administered to any resident without a valid verbal order or a written, dated and signed order from a physician, dentist or podiatrist, nurse practitioner or physician assistant, licensed in Virginia.
- F. Verbal orders for drugs or medications shall only be given to a licensed nurse, pharmacist or physician.
- G. Drugs and medications not limited as to time or number of doses when ordered shall be automatically stopped, according to the written policies of the nursing facility, and the attending physician shall be notified.
- H. Each resident's medication regimen shall be reviewed by a pharmacist licensed by the Virginia Board of Pharmacy. Any irregularities identified by the pharmacist shall be reported to the physician and the director of nursing, and their response documented.
- I. Medication orders shall be reviewed at least every 60 days by the attending physician, nurse practitioner, or physician's assistant.
- J. Prescription and non-prescription drugs and medications may be brought into the facility by a resident's family, friend or other person provided:
1. The individual delivering the drugs and medications assures timely delivery, in accordance with the nursing facility's written policies, so that the resident's prescribed treatment plan is not disrupted;
 2. Each drug or medication is in an individual container; and
 3. Delivery is not allowed directly to an individual resident.

In addition, prescription medications shall be obtained and labeled as required by law.

12 VAC 5-371-310. Diagnostic services.

- A. The nursing facility shall provide, or arrange for under written agreement, laboratory, x-ray and other diagnostic services, as ordered by a physician.
- B. The nursing facility shall notify the attending physician of the results of diagnostic services.

12 VAC 5-371-320. Dental services. (revised 1/11/2006)

- A. Provisions shall be made to assist residents to obtain routine and emergency dental care.

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B. Each nursing facility shall make arrangements with a qualified dental professional to provide consultation and recommend oral hygiene policies and practices for the care of residents.

12 VAC 5-371-330. Restraint usage.

A. A resident shall be free from any physical or chemical restraints imposed for purposes of discipline or convenience, and not required to treat the resident's medical symptoms.

B. Restraints shall only be used:

1. In accordance with the comprehensive assessment and plan of care, which includes a schedule or plan of rehabilitation training enabling the progressive removal or the progressive use of less restrictive restraints when appropriate; and

2. As a last resort, after completing, implementing, and evaluating the resident's comprehensive assessment and plan of care, when the nursing facility has determined that less restrictive means have failed.

C. If a restraint is used in a nonemergency, the nursing facility shall:

1. Explain the use of the restraint, including potential negative outcomes of restraint use, to the resident or his legal representative, as appropriate;

2. Explain the resident's right to refuse the restraint;

3. Obtain written consent of the resident. If the resident has been legally declared incompetent, obtain written consent from the legal representative; and

4. Include the use of restraint in the plan of care.

D. Restraints shall not be ordered on a standing or PRN basis.

E. Restraints shall be applied only by staff trained in their use.

F. At a minimum, for a resident placed in a restraint, the nursing facility shall:

1. Check the resident at least every 30 minutes;

2. Provide an opportunity for motion, exercise and elimination for not less than 10 minutes each hour in which a restraint is administered; and

3. Document restraint usage, including outcomes, in accordance with facility policy.

G. Emergency orders for restraints shall not be in effect for longer than 24 hours and must be confirmed by a physician within one hour of administration. Each application of emergency restraint shall be considered a single event and shall require a separate physician's order.

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H. Temporary restraints may be used for a brief period to allow a medical or surgical procedure, but shall not be used to impose a medical or surgical procedure which the resident has previously refused.

I. The nursing facility shall notify a resident's legal representative, if any, or designated family member as soon as practicable, but no later than 12 hours after administration of a restraint.

J. Chemical restraint shall only be ordered in an emergency situation when necessary to ensure the physical safety of the resident or other individuals.

K. Orders for chemical restraint shall be in writing, signed by a physician, specifying the dose, frequency, duration and circumstances under which the chemical restraint is to be used. Verbal orders for chemical restraints shall be implemented when an emergency necessitates parenteral administration of psychopharmacologic drugs, but only until a written order can reasonably be obtained.

L. Emergency orders for chemical restraints shall:

1. Not be in effect for more than 24 hours; and
2. Be administered only if the resident is monitored continually for the first 15 minutes after each parenteral administration (or 30 minutes for nonparenteral administration) and every 15 minutes thereafter, for the first hour, and hourly for the next eight hours to ensure that any adverse side effects will be noticed and appropriate action taken as soon as possible.

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**PART IV.
SUPPORT SERVICES.**

12 VAC 5-371-340. Dietary and food service program. (revised 1/11/2006)

- A. The dietary and food service operation shall meet all applicable sections of 12 VAC 5-421.
- B. There shall be a food service manager, qualified as allowed in 12 VAC 5-421-60, responsible for the full-time management and supervision of the dietary service.
- C. If the food service supervisor is not a dietitian qualified according to § 54.1-2731 of the Code of Virginia, the nursing facility shall have a written agreement for ongoing consultation from a registered dietitian who meets the qualifications of § 54.1-2731 of the Code to provide guidance to the food service supervisor on methods for maintaining the dietary service, planning of nutritionally balanced meals, and assessing the dietary needs of individual residents.
- D. The dietitian's duties shall include the following:
1. Developing all menus, including therapeutic diets prescribed by a resident's physician;
 2. Developing, revising, and annually reviewing dietary policies, procedures and job descriptions;
 3. Assisting in planning and conducting regularly scheduled inservice training that includes, but is not limited to:
 - a. Therapeutic diets;
 - b. Food preparation requirements; and
 - c. Principles of sanitation.
 4. Visiting residents on a regular basis to discuss nutritional problems, depending upon their needs and level of care, and recommending appropriate solutions.
- E. Menus shall meet the dietary allowances of the Food and Nutritional Board of the National Academy of Sciences, as adjusted for age, sex, and activity.
- F. A copy of a diet manual containing acceptable practices and standards for nutrition must be kept current and on file in the dietary department.
- G. Food service shall be staffed for not less than 12 hours during the day and evening. Duty schedules shall be retained for at least 30 days.
- H. At least three meals, served at regular intervals, shall be provided daily to each resident, unless contraindicated as documented by the attending physician in the resident's clinical record.

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I. A between meal snack of nutritional value shall be available upon request to each resident or in accordance with their plan of care.

J. Therapeutic diets shall be prepared and served as prescribed by the attending physician.

K. Visitors or employees assigned to other duties in the nursing facility shall not be allowed in the food preparation area during food preparation and resident meal service hours, except in cases of emergency.

L. Weekly menus, including therapeutic diets, substitutes, and copies of menus, as served, shall be retained on file for 12 months.

M. Disposable dinnerware or tableware shall be used only for emergencies, for infection control, as part of special activities, or as indicated in a resident's plan of care.

12 VAC 5-371-350. Food service. Incorporated into 12 VAC 5-371-340.

12 VAC 5-371-360. Clinical records. (revised 1/11/2006)

A. The nursing facility shall maintain an organized clinical record system in accordance with recognized professional practices. Written policies and procedures shall be established specifying content and completion of clinical records.

B. Clinical records shall be confidential. Only authorized personnel shall have access as specified in §8.01-413 and § 32.1-127.1:03 of the Code of Virginia.

C. Records shall be safeguarded against destruction, fire, loss or unauthorized use.

D. Overall supervisory responsibility for assuring that clinical records are maintained, completed and preserved shall be assigned to an employee of the nursing facility. The individual shall have work experience or training which is consistent with the nature and complexity of the record system and be capable of effectively carrying out the functions of the job.

E. An accurate and complete clinical record shall be maintained for each resident and shall include, but not be limited to:

1. Resident identification;
2. Designation of attending physician;
3. Admitting information, including resident medical history, physical examination and diagnosis;
4. Physician orders, including all medications, treatments, diets, restorative and special

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medical procedures required;

5. Progress notes written at the time of each visit;
5. Documented evidence of assessment of resident's needs, establishment of an appropriate treatment plan, and interdisciplinary plan of care;
6. Nurse's notes written in chronological order and signed by the individual making the entry;
7. All symptoms and other indications of illness or injury, including date, time, and action taken on each shift;
8. Medication and treatment record, including all medications, treatments and special procedures performed;
10. Copies of radiology, laboratory and other consultant reports; and
11. Discharge summary.

F. Verbal orders shall be immediately documented in the clinical record by the individual authorized to accept the orders, and shall be countersigned.

G. Clinical records of discharged residents shall be completed within 30 days of discharge.

H. Clinical records shall be kept for a minimum of five years after discharge or death, unless otherwise specified by state or federal law.

I. Permanent information kept on each resident shall include:

1. Name;
2. Social security number;
3. Date of birth;
4. Date of admission and discharge; and
5. Name and address of guardian, if any.

J. Clinical records shall be available to residents and legal representatives, if they wish to see them.

K. When a nursing facility closes, the owners shall make provisions for the safekeeping and confidentiality of all clinical records.

12 VAC 5-371-370. Maintenance and housekeeping. (revised 1/11/2006)

A. The nursing facility shall be maintained and equipped to provide a functional, sanitary, safe, and comfortable environment.

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- B. A documented preventive maintenance program shall be established to ensure that equipment is operative and that the interior and exterior of the buildings are maintained in good repair and free from hazards and litter.
- C. The administrator shall designate an employee responsible for carrying out these functions and for training and supervising housekeeping and maintenance personnel.
- D. The heating, ventilation and air conditioning (HVAC) system shall be capable of maintaining temperatures between 70E F to 80EF throughout resident areas.
- E. The nursing facility shall have an effective pest control program provided either by maintenance personnel or by contract with a pest control company.
- F. The nursing facility shall provide adequate space, equipment and supplies for any special services to be offered.
- G. All furniture shall be kept clean and safe for use.
- H. Over bed tables shall be available as needed.
- I. Stretchers and wheelchairs shall be stored out of the path of normal traffic.
- J. A sufficient number of wheelchairs and chairs shall be provided for residents whose physical conditions indicate a need for such equipment.
- K. Refuse containers shall be cleaned and emptied at frequent intervals.
- L. Hazardous cleaning solutions, compounds and substances shall be labeled, stored and kept under lock in a safe place separate from other materials.

12 VAC 5-371-380. Laundry services.

- A. A quantity of linens shall be available at all times to provide for proper care and comfort of residents.
- B. Linens and other laundry must be handled, stored and processed to control the spread of infection.
- C. Clean linen shall be stored in a clean and dry area accessible to the nursing unit.

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D. Soiled linen shall be stored in covered containers in separate, well ventilated areas and shall not accumulate in the facility.

E. Soiled linen shall not be sorted, laundered, rinsed or stored in bathrooms, resident rooms, kitchens or food storage areas.

F. Soiled linen shall not be placed on the floor.

G. Arrangement for laundering resident's personal clothing shall be provided. If laundry facilities are not provided on premises, commercial laundry services shall be utilized.

12 VAC 5-371-390. Transportation.

A. Provisions shall be made to obtain appropriate transportation in cases of emergency.

B. The nursing facility shall assist in obtaining transportation when it is necessary to obtain medical, psychiatric, dental, diagnostic or other services outside the facility.

12 VAC 5-371-400. Unique design solutions.

A. All unique design solutions shall be described with outcome measures. This shall be reviewed in cooperation with the OLC.

B. The description and outcome measures shall be a part of the material used to review the design solution at the time of the facility survey.

C. All unique design solutions, unless specifically excluded by contract, shall comply with Parts II (12 VAC 5-371-110 et seq.) and III (12 VAC 5-371-200 et seq.) of this chapter.

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**PART V.
PHYSICAL ENVIRONMENT.**

12 VAC 5-371-410. Architectural plans and specifications. (revised 3/1/2007)

A. All construction of new buildings and additions, renovations or alterations of existing buildings for occupancy as a nursing facility shall conform to state and local codes, zoning and building ordinances, and the Uniform Statewide Building Code.

In addition, nursing facilities shall be designed and constructed according to Part 1 (1.1 through 1.6-2) and sections 4.1-1 through 4.1-10 of Part 4 the 2006 Guidelines for Design and Construction of Health Care Facilities of the American Institute of Architects. However, the requirements of the Uniform Statewide Building Code and local zoning and building ordinances shall take precedence.

B. Architectural drawings and specifications for all new construction or for additions, alterations or renovations to any existing building, shall be dated, stamped with licensure seal and signed by the architect. The architect shall certify that the drawings and specifications were prepared to conform to building code requirements.

C. Additional approval may include a Certificate of Public Need.

D. Upon completion of the construction, the nursing facility shall maintain a complete set of legible "as built" drawings showing all construction, fixed equipment, and mechanical and electrical systems, as installed or built.

12 VAC 5-371-420. Building inspection and classification.

All buildings shall be inspected and approved as required by the appropriate building regulatory entity. Approval shall be a Certificate of Use and Occupancy indicating the building is classified for its proposed licensed purpose.

12 VAC 5-371-425. Additional building regulations and standards. (added 1/11/2006)

A. Water shall be obtained from an approved water supply system. Nursing facilities shall be connected to sewage systems approved by the Department of Health or the Department of Environmental Quality.

B. Each nursing facilities shall establish a monitoring program for the internal enforcement of all applicable fire and safety laws and regulations.

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C. The nursing facility's food services operation shall comply with 12 VAC 5-421.

D. Nursing facility pharmacy services shall comply with Chapter 33 (§ 54.1-3300 et seq. of Title 54.1 of the Code of Virginia and 18 VAC 110-200).

12 VAC 5-371-430. Repealed.

12 VAC 5-371-440. Repealed.

12 VAC 5-371-450. Repealed.

12 VAC 5-371-460. Repealed.

12 VAC 5-371-470. Repealed.

12 VAC 5-371-480. Repealed.

12 VAC 5-371-490. Repealed.

12 VAC 5-371-500. Repealed.

12 VAC 5-371-510. Repealed.

12 VAC 5-371-520. Repealed.

12 VAC 5-371-530. Repealed.

12 VAC 5-371-540. Repealed.

12 VAC 5-371-550. Repealed.

12 VAC 5-371-560. Repealed.

DOCUMENTS INCORPORATED BY REFERENCE

Guidelines for the Design and Construction of Health Care Facilities, the American Institute of Architects Academy of Architecture for Health, 2006 Edition.

Guidelines for Preventing Health Care-Associated Pneumonia, 2003, MMWR 53 (RR03), Advisory Committee on Immunization Practices, Centers for Disease Control and Prevention. Prevention and Control of Influenza, MMWR 53 (RR06), Advisory Committee on Immunization

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Chapter 31 of Title 54.1 of the Code of Virginia
Nursing Home and Assisted Living Facility Administrator

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§ 54.1-3100. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Assisted living facility" means any public or private assisted living facility, as defined in § 63.2-100, that is required to be licensed as an assisted living facility by the Department of Social Services under the provisions of Subtitle IV (§ 63.2-1700 et seq.) of Title 63.2.

"Assisted living facility administrator" means any individual charged with the general administration of an assisted living facility, regardless of whether he has an ownership interest in the facility.

"Board" means the Board of Long-Term Care Administrators.

"Nursing home" means any public or private facility required to be licensed as a nursing home under the provisions of Chapter 5 (§ 32.1-123 et seq.) of Title 32.1 and the regulations of the Board of Health.

"Nursing home administrator" means any individual charged with the general administration of a nursing home regardless of whether he has an ownership interest in the facility.

(1970, c. 775, § 54-900; 1988, c. 765; 2005, cc. 610, 924.)

§ 54.1-3101. Board of Long-Term Care Administrators; terms; officers; quorum; special meetings.

The Board of Long-Term Care Administrators is established as a policy board, within the meaning of § 2.2-2100, in the executive branch of state government. The Board of Long-Term Care Administrators shall consist of nine nonlegislative citizen members to be appointed by the Governor. Nonlegislative citizen members shall be appointed as follows: three who are licensed nursing home administrators; three who are assisted living facility administrators; two who are from professions and institutions concerned with the care and treatment of chronically ill and elderly or mentally impaired patients or residents; and one who is a resident of a nursing home or assisted living facility or a family member or guardian of a resident of a nursing home or assisted living facility. One of the licensed nursing home administrators shall be an administrator of a proprietary nursing home. Nonlegislative citizen members of the Board shall be citizens of the Commonwealth.

After the initial staggering of terms, the terms of Board members shall be four years. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. Vacancies shall be filled in the same manner as the original appointments. All members may be reappointed consistent with § 54.1-107.

The Board shall annually elect a chairman and vice-chairman from among its membership. Five members of the Board, including one who is not a licensed nursing home administrator or

assisted living facility administrator, shall constitute a quorum. Special meetings of the Board shall be called by the chairman upon the written request of any three members.

All members shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825. Funding for the costs of expenses shall be provided by the Department of Health Professions.

The Department of Health Professions shall provide staff support to the Board. All agencies of the Commonwealth shall provide assistance to the Board, upon request.

The Board shall be authorized to promulgate canons of ethics under which the professional activities of persons regulated shall be conducted.

(1970, c. 775, §§ 54-903, 54-907; 1973, c. 379; 1981, c. 447; 1987, c. 686, § 54-903.1; 1988, c. 765; 2001, cc. 527, 554; 2005, cc. 610, 924.)

§ 54.1-3102. License required.

A. In order to engage in the general administration of a nursing home, it shall be necessary to hold a nursing home administrator's license issued by the Board.

B. (See Editor's note) In order to engage in the general administration of an assisted living facility, it shall be necessary to hold an assisted living facility administrator's license or a nursing home administrator's license issued by the Board. However, an administrator of an assisted living facility licensed only to provide residential living care, as defined in § 63.2-100, shall not be required to be licensed.

(1979, c. 408, § 54-901.1; 1988, c. 765; 2005, cc. 610, 924.)

§ 54.1-3102.1. Waiver of experiential requirements for licensure authorized.

The Board may waive the experiential or practicum requirements for an applicant for a nursing home administrator's license if the applicant demonstrates significant experience, such as, but not limited to, twenty years of executive experience as an officer in the home office of one or more multi-facility nursing home companies and a minimum of four years of executive responsibility for the operation of one or more nursing homes.

(1996, c. 762.)

§ 54.1-3103. Administrator required for operation of nursing home; operation after death, illness, etc., of administrator; notification of Board.

All licensed nursing homes within the Commonwealth shall be under the supervision of an administrator licensed by the Board. If a licensed nursing home administrator dies, becomes ill, resigns or is discharged, the nursing home that was administered by him at the time of his death, illness, resignation or discharge may continue to operate until his successor qualifies, but in no

case for longer than is permitted by the licensing authority for the nursing home. The temporary supervisor or administrator shall immediately notify the Board of Long-Term Care Administrators and the Commissioner of Health that the nursing home is operating without the supervision of a licensed nursing home administrator.

(1970, c. 775, § 54-901; 1974, c. 600; 1988, c. 765; 2005, cc. 610, 924.)

§ 54.1-3103.1. Administrator required for operation of assisted living facility; operation after death, illness, etc., of administrator; notification of Board; administrators operating more than one facility..

A. All licensed assisted living facilities within the Commonwealth shall be under the supervision of an administrator licensed by the Board, except as provided in subsection B of § 54.1-3102. If a licensed assisted living facility administrator dies, becomes ill, resigns, or is discharged, the assisted living facility that was administered by him at the time of his death, illness, resignation, or discharge may continue to operate until his successor qualifies, but in no case for longer than is permitted by the licensing authority for the facility. The temporary supervisor or administrator shall immediately notify the Board of Long-Term Care Administrators and the Commissioner of the Department of Social Services that the assisted living facility is operating without the supervision of a licensed assisted living facility administrator.

B. Nothing in this chapter shall prohibit an assisted living administrator from serving as the administrator of record for more than one assisted living facility as permitted by regulations of the licensing authority for the facility.

(2005, cc. 610, 924.)
