

14.1.b. The quality improvement and assessment committee shall:

14.1.b.1. Meet at least quarterly to identify issues of quality assessment and improvement activities;

14.1.b.2. Develop and implement appropriate plans of action to correct identified quality deficiencies;

14.1.b.3. Continuously measure, assess, and improve all important resident care and nursing home functions;

14.1.b.4. Collect and review outcome data and use it to systematically benchmark the level of quality with that of other extended care providers; and

14.1.b.5. Collect and review resident satisfaction.

14.2. Disclosure of Records. The State may not require disclosure of the quality improvement committee records insofar as the disclosure is related to the compliance with the requirements of this section.

14.3. Sanctions.

14.3.a. The agency shall not use good faith attempts as documented by a nursing home's committee to identify and correct areas of concern or deficiencies as a basis for citing a new deficiency or as a basis for sanctions.

**'64-13-15. Inspections and Investigations.**

15.1. Regular Inspections.

15.1.a. The director shall make or cause to be made inspections by his or her authorized representatives as necessary to carry out the intent of W. Va. '16-5C-1 and this rule.

15.1.b. All licensed nursing homes shall be inspected annually, or in accordance with Section 17 of this rule to determine the nursing homes' compliance with applicable statutes and rules.

15.1.b.1. Nursing homes with the greatest number of deficiencies shall be investigated with greater frequency as determined by the director.

15.1.c. The director shall provide a nursing home with a written description of its deficiencies within ten (10) working days of the last day of the inspection.

15.2. Complaint Investigation.

15.2.a. Any person may register a complaint with the director alleging violation of applicable statutes and rules by a nursing home.

15.2.a.1. The director shall document all complaints and shall identify the nursing home involved.

15.2.b. A complaint that the director determines is willfully intended to harass a nursing home or is without any reasonable basis shall not be investigated.

15.2.b.1. The director shall notify a complainant presenting a complaint determined either as intended to harass a nursing home or as without reasonable basis that no further investigation will be conducted.

15.2.c. The director shall conduct an unannounced inspection of the nursing home to determine the validity of the complaint.

15.2.c.1. The director shall provide the nursing home with general notice of the substance of the complaint only at the time of the inspection.

15.2.d. The director shall conduct other investigations necessary to determine the validity of the complaint.

15.2.e. No later than twenty (20) working days after investigating and completing a complaint, the director shall notify the complainant and the nursing home in writing of the results of the investigation.

15.2.e.1. A description of the corrective action the nursing home shall be required to take and of any disciplinary action to be taken by the director shall be sent to the complainant.

15.2.e.2. If a complaint has been found to be substantiated, the director shall advise any injured party of the possibility of a civil remedy under W. Va. Code ' 16-5C-1 et. seq.

15.2.f. The names of a complainant or of any person named in a complaint shall not be disclosed by the department without that person's written authorization.

15.2.f.1. If a complaint becomes the subject of a judicial proceeding, nothing in this section shall be construed to restrict disclosure of information that would otherwise be disclosed in a judicial proceeding.

15.2.g. Before any complaint is disclosed to a nursing home or the public pursuant to Subdivision 16.2.v. of this rule, the nursing home shall redact any information in the complaint that could reasonably identify the complainant or a resident.

15.2.h. A nursing home is prohibited from discharging or in any manner discriminating against a resident or employee because the person, legal representative, next of kin or concerned party has filed a complaint or participated in a proceeding authorized by W. Va. Code ' 16-5C-1 et seq.

15.2.h.1. A rebuttable presumption of retaliatory action against a resident shall arise against any nursing home that adversely discriminates against a resident who submitted, or on whose behalf a complaint was submitted, to the director or who is involved in any proceeding instituted under W. Va. Code ' 16-5C-1 et seq., within one hundred and twenty (120) days of the filing of the complaint.

15.2.i. A nursing home shall make investigations of complaints involving immediate jeopardy to resident health or safety within twenty four (24) hours of the date of receipt of the complaint.

15.2.i.1. A nursing home shall make investigations of complaints involving harm that does not present immediate jeopardy, within ten (10) days of the date of the complaint.

15.2.i.2. A nursing home shall make investigations of complaints involving no harm, but with potential for greater than minimal harm, that are not immediate jeopardy, within forty-five (45) days of the date of the complaint.

15.2.i.3. A nursing home shall make investigations of complaints involving no harm with potential for minimal harm and all other complaints at the time of the next inspection.

15.2.j. If within one hundred twenty (120) days of an inspection or a complaint investigation, a nursing home fails to comply with the requirements of this rule, the director shall inform all residents of the nursing home of non-compliance.

15.2.j.1. If the non-compliance results in an action against the license of the nursing home, the director shall notify residents of the time period during which residents may relocate if they wish prior to the deficient nursing home being reported to the Social Security Administration if the nursing home is certified under the Medicare or Medicaid programs.

15.2.j.2. The director shall provide all residents with a list of nursing homes and agencies to assist them in moving if they wish to relocate.

15.2.k. The director shall make copies and information concerning applications, inspections, investigations and other reports available for public inspection from the time of receipt of the plan of correction.

15.2.k.1. A nursing home shall make copies of all inspection reports available to the state long-term ombudsman, the local office of adult protective services, and the Social Security regional offices.

15.2.l. Within two hundred ten (210) days of an inspection or complaint investigation after which deficiencies are not timely corrected, the director shall send the name and address of the deficient nursing home to the appropriate regional office of the Social Security Administration and identify it as a deficient nursing home.

15.2.m. The director shall provide the State long-term care ombudsman with the following within ninety (90) days:

15.2.m.1. A statement of deficiencies reflecting nursing home noncompliance;

15.2.m.2. Reports of adverse actions imposed on a nursing home; and

15.2.m.3. The date and time of any inspection.

15.3. Informal Dispute Resolution. (Informal Hearing).

15.3.a. The director shall offer a nursing home an opportunity for an informal dispute resolution.

15.3.a.1. Documentation for an informal dispute resolution shall be submitted with, but separate from, the plan of correction for existing deficiencies.

15.3.a.2. The request for an informal dispute resolution shall be submitted at the time the plan of correction is submitted for existing deficiencies.

15.3.a.3. The director shall write policy and procedures addressing the manner in which an informal dispute resolution shall be conducted.

15.3.a.4. The policy and procedures for an informal dispute shall be available to the public upon written request.

15.3.b. If the director fails to complete an informal dispute resolution in a timely manner it does not delay the effective date of any enforcement action against the nursing home.

15.3.c. If during the informal dispute resolution process a nursing home is successful in demonstrating that deficiencies should not have been cited, the director shall remove the deficiencies from the statement of deficiencies and rescind any enforcement action imposed solely as a result of those cited deficiencies.

15.3.d. All communications during an informal dispute resolution are confidential and cannot be used by or against the licensee or the director in the event a formal hearing takes place.

**' 64-13-16. Enforcement and Due Process.**

16.1. Enforcement: Director=s Powers, Duties and Rights.

16.1.a. The director may invoke penalties against a nursing home violating the provisions of this rule in accordance with the provisions of this rule.

16.2. Enforcement Generally.

16.2.a. The director may assess civil penalties, and may suspend, revoke, or deny renewal of the license of a nursing home for cause after notice as required by this rule and the provisions of W. Va. Code ' 16-5C-1, et seq., or take any other action contemplated by this rule. Cause may include one (1) or more of the following:

16.2.a.1. Failure to provide standard quality of care for residents;

16.2.a.2. Willfully and knowingly falsifying the material content of resident assessments;

16.2.a.3. Failure to submit a plan of correction required by W. Va. Code ' 16-5C-1 et seq.;

16.2.a.4. Failure to submit a plan of correction that is approved by the director;

16.2.a.5. Failure to correct deficiencies within the time frame specified in an approved plan of correction;

16.2.a.6. Repeat noncompliance within the same regulatory grouping as defined in this rule;

16.2.a.7. Failure to cooperate with or interference with the director or an authorized representative of the director in the inspection of the nursing home;

16.2.a.8. Failure to comply with this rule;

16.2.a.9. Violation of any provision of this rule that produces immediate jeopardy to the health or