

7.4.b.1.E. A provisional and final diagnosis;

7.4.b.1.F. The course of treatment and care in the nursing home;

7.4.b.1.G. Pertinent diagnostic findings;

7.4.b.1.H. Essential information regarding the resident=s illness or problems;

7.4.b.1.I. Restorative procedures;

7.4.b.1.J. Medication instructions; and

7.4.b.1.K. The nursing home, agency or location to which the resident was discharged:

7.4.b.2. Anticipated Discharge. When a discharge is anticipated, a nursing home shall prepare for the resident a discharge summary that includes:

7.4.b.2.A. A recapitulation of the resident=s stay;

7.4.b.2.B. A final summary of the resident=s status to include items in Subdivision 6.2.b. of this rule, prepared at the time of the discharge, that is available for release to authorized persons and agencies with the consent of the resident or legal representative;

7.4.b.2.C. Thirty (30) day notification of the discharge as appropriate and in compliance with other provisions of this rule; and

7.4.b.2.D. If the resident is discharged to his or her home, the resident shall be given appropriate information concerning his or her needs for care and medications including a post-discharge plan of care that is developed with the participation of the resident and his or her family, which will assist the resident to adjust to his or her new living environment.

7.4.b.3. The death of a resident shall be reported immediately to the attending physician and to the resident=s legal representative and family as relevant.

7.4.b.3.A. The discharge summary shall include the requirements specified in this rule.

7.4.b.4. A nursing home shall complete medical records promptly within a time period specified in the nursing homes polices and procedures manual, not to exceed thirty (30) days after the resident is discharged.

7.4.b.4.A. The discharge summary shall contain a dated physician=s signature.

#### **'64-13-8. Quality of Care.**

8.1. Each resident shall receive, and the nursing home shall provide, the necessary care and services to attain or maintain the highest practicable physical, spiritual, mental, and psychosocial well-being of the residents, in accordance with the comprehensive assessment and plan of care.

8.2. Activities of Daily Living. Based on the comprehensive assessment of a resident, the nursing home

shall ensure that:

8.2.a. A resident's abilities in activities of daily living do not diminish unless circumstances of the resident's clinical condition demonstrate that diminution was unavoidable. Activities of daily living include the resident's ability to:

8.2.a.1. Bathe, dress, and groom;

8.2.a.2. Transfer and ambulate;

8.2.a.3. Use the toilet;

8.2.a.4. Eat; and

8.2.a.5. Use speech, language, or other functional communication systems.

8.2.b. A resident is given the appropriate treatment and services to maintain or improve his or her abilities specified in Subdivision 8.2.a. of this rule.

8.2.b.1. Assistive devices. The nursing home shall provide special eating equipment and utensils for residents who need them.

8.2.b.2. The nursing home shall evaluate residents having potential to benefit from the assistive devices to assure that the assistive devices meet the residents' needs; and

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

8.3. Vision and Hearing.

8.3.a. To ensure that residents receive proper treatment and assistive devices to maintain vision and hearing abilities, the nursing home shall, if necessary, assist the resident:

8.3.a.1. In making appointments; and

8.3.a.2. By arranging for transportation to and from the office of a practitioner specializing in the treatment of vision or hearing impairment or the office of a professional specializing in the provision of vision or hearing assistive devices.

8.4. Pressure Sores. Based on the comprehensive assessment of a resident, the nursing home shall ensure that:

8.4.a. A resident who enters the nursing home without pressure sores does not develop pressure sores unless the resident's clinical condition demonstrates that they were unavoidable; and

8.4.b. A resident having pressure sores receives necessary treatment and services to promote healing, prevent infection and prevent new sores from developing.

8.5. Urinary Incontinence. Based on the resident's comprehensive assessment, the nursing home shall ensure that:

8.5.a. A resident who enters the nursing home without an indwelling catheter is not catheterized unless the resident's clinical condition demonstrates that catheterization is necessary;

8.5.b. A resident who has an in-dwelling catheter has a documented medical reason for the catheter; and

8.5.c. A resident who is incontinent of bladder receives appropriate treatment and services to prevent urinary tract infections and to restore as much normal bladder function as possible, unless the restoration of function is not possible due to the physical or cognitive condition of the resident.

8.6. Range of Motion. Based on the comprehensive assessment of a resident, the nursing home shall ensure that:

8.6.a. A resident who enters the nursing home without a limited range of motion does not experience a reduction in range of motion unless the resident's clinical condition demonstrates that a reduction in range of motion is unavoidable; and

8.6.b. A resident with a limited range of motion receives appropriate treatment and services to increase range of motion or to prevent further decrease in a range of motion.

8.7. Mental and Psychosocial Functioning. Based on the comprehensive assessment of a resident, the nursing home shall ensure that:

8.7.a. A resident who displays mental or psychosocial adjustment difficulty receives appropriate treatment and services to correct the assessed problem; and

8.7.b. A resident whose assessment did not reveal a mental or psychosocial adjustment difficulty does not display a pattern of decreased social interaction or increased withdrawn, angry or depressive behaviors, unless the resident's clinical condition demonstrates that such a pattern is unavoidable.

8.8. Feeding Tubes. Based on the comprehensive assessment of a resident, the nursing home shall ensure that:

8.8.a. A resident who has been able to eat enough alone or with assistance is not fed by tube unless the resident's clinical condition demonstrates that use of a feeding tube is unavoidable; and

8.8.b. A resident who is fed enterally receives the appropriate treatment and services to prevent secondary complications such as reflux, aspiration, aspiration pneumonia, diarrhea, vomiting, dehydration, and metabolic abnormalities, and to restore, if possible, normal eating skills.

8.9. Accidents.

8.9.a. A nursing home shall provide an environment that remains as free of accident hazards as possible; and

8.9.b. Where each resident receives adequate supervision and assistive devices to prevent accidents.

8.9.c. The nursing home shall complete a written report of any incident or accident in which a resident is involved, either inside or outside of the nursing home.

8.9.d. The report shall include the:

8.9.d.1. Date of the occurrence;

8.9.d.2. Time of the occurrence;

8.9.d.3. Place of the occurrence;

8.9.d.4. Details of the occurrence; and

8.9.d.5. Date and signature of the reviewing physician.

8.9.e. The report shall be written and signed by the person who is responsible for the resident at the time that the accident or incident occurred.

8.10. Nutrition. Based on a resident's comprehensive assessment, the nursing home shall ensure that a resident:

8.10.a. Maintains acceptable parameters of nutritional status, unless the resident's clinical condition demonstrates that this is not possible;

8.10.b. Receives a therapeutic diet when there is a nutritional problem; and

8.10.c. Who has an unplanned weight loss of ten percent (10%) or more in six (6) months, or a gradual progressive unexplained weight loss of ten percent (10%) or more below the person's admission body weight, shall have a thorough nutritional assessment, including appropriate laboratory studies.

8.11. Hydration. A nursing home shall provide each resident with sufficient fluid intake to maintain proper hydration and health.

8.12. Special Needs. A nursing home shall ensure that residents receive proper treatment and care for the following special needs:

8.12.a. Injections;

8.12.b. Parenteral and enteral fluids;

8.12.c. Colostomy, ureterostomy, or ileostomy care;

8.12.d. Tracheostomy care;

8.12.e. Tracheal suctioning;

8.12.f. Respiratory care;

8.12.g. Foot care;

8.12.h. Prostheses; and

8.12.i. Skin conditions.

8.13. Medications and Drugs.

8.13.a. Each resident's drug regimen shall be free from unnecessary drugs. An unnecessary drug is any drug used in any of the following circumstances or combinations of circumstances:

8.13.a.1. In excessive doses (including duplicate therapy);

8.13.a.2. For excessive duration;

8.13.a.3. Without adequate monitoring;

8.13.a.4. Without adequate indications for its use; or

8.13.a.5. In the presence of adverse consequences that indicate the dose should be reduced or discontinued.

8.13.b. Antipsychotic Drugs. Based on a comprehensive assessment of a resident, the nursing home shall ensure that:

8.13.b.1. Residents who have not used antipsychotic drugs are not given these drugs unless antipsychotic drug therapy is necessary to treat a specific condition as diagnosed and documented in the clinical record; and

8.13.b.2. Residents who use antipsychotic drugs receive gradual dose reductions and behavioral interventions, unless clinically contraindicated, in an effort to discontinue these drugs.

8.13.c. Medication Errors. The nursing home shall ensure that:

8.13.c.1. It is free of medication error rates of five percent (5%) or greater; and

8.13.c.2. Residents are free of any significant medication errors.

8.13.d. Controlled Drugs Policy. The nursing home shall have policies and procedures regarding the procurement, storage, dispensing, administration and disposition of controlled substances that conform to the Uniform Controlled Substances Act, W. Va. Code ' 60A-1-1 et seq, Federal regulations and the rules of the West Virginia Board of Pharmacy.

8.14. Nursing Services Staffing.

8.14.a. A nursing home shall have sufficient nursing personnel to provide nursing and related services to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident, as determined by resident assessments and individual plans of care. Staffing shall not, other than during short unforeseeable emergencies, be less than an average of two and twenty five one hundredths (2.25) hours of nursing personnel time per resident per day.

8.14.a.1. Minimum hours of resident care personnel to residents are outlined in table 64-13.A of this rule.

8.14.a.2. Facilities with fewer than fifty-one (51) beds are staffed at higher hours as outlined in table 64-13.A. of this rule.

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8.14.b. A nursing home shall provide services by sufficient numbers of each of the following types of personnel on a twenty-four (24) hour basis to provide nursing care to all residents in accordance with resident care plans:

8.14.b.1. Licensed nurses; and

8.14.b.2. Other nursing personnel. Based on the residents= needs and the nursing home services, the nursing home may determine the combination of licensed nurse time and nursing assistant time if the total meets the minimum 2.25 hours nursing personnel time requirement.

8.14.c. Charge Nurse. A nursing home shall designate a licensed nurse to serve as a charge nurse on each shift;

8.14.d. Registered Nurse. A nursing home shall have a registered nurse on duty in the facility for at least eight (8) consecutive hours, seven (7) days a week.

8.14.d.1. In facilities with fewer than sixty (60) beds, the director of nursing may serve to meet this requirement.

8.14.e. Nurse on Call. If there is not a registered professional nurse on duty, there shall be a registered professional nurse on call.

8.14.f. Director of Nursing. A nursing home shall designate in writing a registered nurse to serve as the director of nursing services on a full-time basis, who shall be on duty at least five (5) days a week, eight (8) hours a day during the day shift.

8.14.g. The director may require staffing ratios above the specified minimum ratios if necessary to meet the residents= needs.

8.15. Dietary Services.

8.15.a. Dietary Staffing.

8.15.a.1. Dietitian. A nursing home shall employ a qualified dietitian either full-time, part-time, or on a consultant basis.

8.15.a.1.A. A qualified dietitian is one who is registered by the Commission on Dietetic Registration and licensed by the West Virginia Board of Licensed Dietitians; or

8.15.a.1.B. Is qualified as defined by the West Virginia Board of Licensed Dietitians, and is licensed by that board to provide professional nutritional services in West Virginia.

8.15.a.1.C. Consultation shall be based upon the residents= needs and shall occur at intervals of no less than every thirty (30) days and for no less than eight (8) hours.

8.15.a.2. A dietary manager shall be employed if a dietitian is not employed full-time and shall be one of the following:

8.15.a.2.A. A dietetic technician, registered by the American Dietetic Association;

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8.15.a.2.B. A certified dietary manager, as certified by the Dietary Manager=s Association; or

8.15.a.2.C. A graduate of an associate or baccalaureate degree program in foods and nutrition or food service management.

8.15.a.3. The dietary manager, under the direction of the dietitian, is responsible for the daily operation of the dietetic service;

8.15.b. Sufficient staff. A nursing home shall employ sufficient support personnel competent to carry out the functions of the dietary service.

8.15.c. Menus and Nutritional Adequacy.

8.15.c.1. A nursing home shall meet the nutritional needs of residents in accordance with the Recommended Dietary Allowances of the Food and Nutrition Board of the National Research Council, National Academy of Sciences;

8.15.d. Food. A nursing home shall provide each resident with:

8.15.d.1. Food prepared by methods that conserve nutritive value, flavor, and appearance.

8.15.d.1.A. Meals shall be prepared and served the same day;

8.15.d.2. Food that is palatable, attractive, and at the proper temperature;

8.15.d.2.A. At the time of receipt by the resident, foods shall be at a temperature of no less than 120EF for hot foods and at no more than 50EF for cold foods;

8.15.d.3. Food prepared in a form designed to meet individual needs;

8.15.d.4. Food substitutes of similar nutritive value for food the resident refuses;

8.15.d.5. Food prepared with salt, unless contraindicated by a physician=s order; and

8.15.d.6. Iodized salt, if used.

8.15.e. Diets including regular diets. All residents shall have a physician=s order for the specific type of diet he or she is to receive as set forth in the nursing home=s diet manual.

8.15.e.1. Therapeutic and texture modified diets shall be served to residents in accordance with the physician=s orders.

8.15.e.2. Nursing personnel shall advise food service in writing of each resident=s diet order, and a copy of the order shall be kept on file for at least one (1) year.

8.15.e.3. Therapeutic Diets.

8.15.e.3.A. Therapeutic diets shall be prescribed by the attending physician. A current therapeutic diet manual that is not more than five (5) years old and is approved by the dietitian shall be

available for nursing personnel and physicians.

8.15.e.4. Recognizing that the resident has the right to refuse medical treatment, all residents have the right to request substitute foods even when this violates the physician=s orders.

8.15.e.4.1. A nursing home shall provide education to the resident regarding the benefits of the prescribed diet and consequences of his or her refusal to eat the prescribed diet.

8.15.e.4.2. A nursing home shall document the informed decision in the resident=s clinical record.

8.15.f. Frequency of meals.

8.15.f.1. A nursing home shall provide at least three (3) meals daily at regular times, or in accordance with residents= preferences and customary routines.

8.15.f.2. No more than fourteen (14) hours shall elapse between a substantial evening meal and breakfast the following day.

8.15.f.2.A. Breakfast shall not be served before 7:00 A.M., unless by a resident=s request.

8.15.f.3. A nursing home shall offer a nourishing snack at bedtime daily, as determined by the residents= needs.

8.15.f.3.A. The amount of the snacks consumed by the resident shall be recorded in the resident=s medical record.

8.15.g. Sanitary conditions. A nursing home shall:

8.15.g.1. Procure food from sources approved or considered satisfactory by Federal, State or local authorities;

8.15.g.2. Store, prepare, distribute, and serve food under sanitary conditions;

8.15.g.2.A. Hold hot foods above 140EF and cold foods at or below 40EF; and

8.15.g.3. Dispose of garbage and refuse properly.

8.15.h. Emergency supplies.

8.15.h.1. A nursing home shall have a planned three (3) day disaster menu that correlates with the emergency food supply.

8.15.h.2. The emergency food supply shall be maintained on the premises with non-perishable foods and disposable supplies to meet all resident needs for three (3) days.

8.15.h.3. The emergency food supply may be incorporated with the regular stock of food supplies.

8.15.i. A nursing home shall maintain a dietetic service that is organized either directly by a nursing

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home or through a written agreement with a contractor who complies with the standards of this rule.

8.15.j. The dietetic service shall be in substantial compliance with the Division of Health rule, AFood Establishments,@ 64CSR17.

### 8.16. Physician and Physician Extender Services.

A physician shall personally approve in writing a recommendation that a person be admitted to a nursing home. Each resident shall remain under the care of a physician.

#### 8.16.a. Physician supervision. A nursing home shall ensure that:

8.16.a.1. The medical care of each resident is supervised by a physician; and

8.16.a.2. Another physician supervises the medical care of residents when their attending physician is unavailable.

#### 8.16.b. Physician visits. The physician shall:

8.16.b.1. Review the resident's total program of care, including medications and treatments, and examine the resident personally at each visit required by Subdivision 8.16.c. of this subsection;

8.16.b.2. Write, sign, and date progress notes at each visit; and

8.16.b.3. Sign and date all orders.

#### 8.16.c. Frequency of physician visits. The resident shall be seen by a physician:

8.16.c.1. Within five (5) days prior to admission or within seventy-two (72) hours following admission; and

8.16.c.2. At least every thirty (30) days for the first ninety (90) days after admission, and as the resident=s condition warrants. A nursing home shall assure that physician visits occur as clinically indicated for the resident.

8.16.c.3. After the ninety (90) day requirement has expired, the physician shall visit every sixty (60) days and as the resident=s condition warrants.

8.16.d. Except as provided in Subdivision 8.16.e. of this Subsection, all required physician visits shall be made by the physician personally.

8.16.e. After the initial visit, at the option of the physician, the required visit every sixty (60) days may be alternated between personal visits by the physician and visits by a physician=s assistant, nurse practitioner or clinical nurse specialist in accordance with subdivision 8.16.g. of this Subsection.

8.16.f. Availability of physicians for emergency care. A nursing home shall provide or arrange for the provision of physician services twenty-four (24) hours a day, in case of an emergency.

8.16.g. Physician delegation of tasks. Except as specified in paragraph 8.16.c.2 of this section, a physician may delegate tasks to a physician assistant, nurse practitioner, or clinical nurse specialist who:

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8.16.g.1. Is licensed by the State;

8.16.g.2. Is acting within the scope of practice as defined by W. Va. Code ' 30-3-1 et seq.; and

8.16.g.3. Is under the supervision of the physician.

### 8.17. Specialized Rehabilitative Services.

8.17.a. Provision of services. If specialized rehabilitative services such as, but not limited to, physical therapy, speech-language pathology, occupational therapy, and psychological or psychiatric rehabilitative services, are required in the resident's comprehensive plan of care, a nursing home shall:

8.17.a.1. Provide the required services; or

8.17.a.2. Obtain the required services from an outside resource, in accordance with Subsection 11.4 of this rule, from a provider of specialized rehabilitative services.

8.17.b. Qualifications. Specialized rehabilitative services shall be provided under the written order of a physician by qualified personnel as determined by licensing boards of those personnel.

### 8.18. Dental Services.

8.18.a. A nursing home shall provide, or obtain from an outside resource in accordance with Subsection 11.4 of this rule, the following dental services to meet the needs of each resident:

8.18.a.1. Routine dental services (to the extent the resident is covered under the State Medicaid Plan); and

8.18.a.2. Emergency dental services twenty-four (24) hours a day.

8.18.b. A nursing home shall assist a resident in need of dental services by:

8.18.b.1. Making dental appointments;

8.18.b.2. Arranging for transportation to and from the dentist's office; and

8.18.b.3. Referring residents with lost or damaged dentures to a dentist.

### 8.19. Pharmacy Services.

8.19.a. A nursing home shall provide routine and emergency drugs and biologicals to its residents, or obtain them under an agreement described in Subsection 11.4 of this rule.

8.19.b. All drugs shall be provided in conformance with the requirements of federal, state and local laws, regulations and rules.

8.19.c. Procedures. A nursing home shall provide pharmaceutical services, including procedures that assure the accurate acquiring, receiving, dispensing, and administering of all drugs and biologicals, to meet the needs of each resident.

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8.19.d. Service consultation. A nursing home shall employ or obtain the services of a licensed pharmacist who:

8.19.d.1. Provides consultation on all aspects of the provision of pharmacy services in the nursing home;

8.19.d.2. Establishes a system of records of receipt and disposition of all controlled drugs in sufficient detail to enable an accurate reconciliation; and

8.19.d.3. Determines that drug records are in order and that an account of all controlled drugs is maintained and periodically reconciled.

8.19.e. Drug regimen review.

8.19.e.1. The drug regimen of each resident shall be reviewed, by a licensed pharmacist, at least every thirty-seven (37) days.

8.19.e.2. The drug regimen review shall include substances that are regarded as herbal products or dietary supplements.

8.19.f. The nursing home shall conduct a drug regimen review on the premises.

8.19.g. The pharmacist shall report any irregularities in the drug regimen review to the attending physician and the director of nursing, who shall act upon these reports.

8.19.h. Labeling of drugs and biologicals.

8.19.h.1. Drugs and biologicals used in the nursing home shall be labeled in accordance with currently accepted professional principles, and include the appropriate accessory and cautionary instructions, with the expiration date when applicable.

8.19.i. Storage of drugs and biologicals.

8.19.i.1. In accordance with state and federal laws, the nursing home, shall store all drugs and biologicals in locked compartments under proper temperature controls and permit only authorized personnel to have access to the keys.

8.19.i.2. A nursing home shall provide separately locked, permanently affixed compartments for the storage of controlled drugs listed in Schedule II of the Comprehensive Drug Abuse Prevention and Control Act of 1970, 42 U.S.C. ' 812, and other drugs subject to abuse, except when the nursing home uses single unit package drug distribution systems in which the quantity stored is minimal and a missing dose can be readily detected.

8.19.j. A nursing home shall establish policy to assure that residents' requests for prescription medications from sources other than the contracted pharmacy be honored.

8.20. Infection Control.

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

disease and infection.

8.20.b. Infection control program. A nursing home shall establish and implement an infection control program under which it:

8.20.b.1. Investigates, controls, and prevents infections in the nursing home;

8.20.b.2. Determines what procedures, such as isolation, should be applied to a resident and isolates only to the extent that is required to protect the resident and others; and

8.20.b.3. Maintains a record of incidents, investigations, and corrective actions related to infections.

8.20.b.3.A. The records shall provide for analysis of causal factors and identification of preventative actions to be implemented.

8.20.c. Preventing spread of infection.

8.20.c.1. Policies and Procedures. A nursing home shall establish and implement policies and procedures consistent with current accepted standards of practice regarding the administration of pneumococcal vaccine, influenza vaccine, and screening for tuberculosis.

8.20.c.2. Isolation. When the nursing home staff determines by means of the infection control program that a resident needs isolation to prevent the spread of infection, the nursing home shall isolate the resident or make arrangements to have the resident transferred to a nursing home which can better meet the needs of the resident if the nursing home is unable to provide the required degree of isolation.

8.20.c.3. Employee restrictions. A nursing home shall prohibit employees with a communicable disease or infected skin lesions from direct contact with residents or their food, if direct contact will transmit the disease.

8.20.c.4. Hand-washing. A nursing home shall require staff to wash their hands after each direct resident contact and after engaging in any activity for which hand washing is indicated by accepted standards of professional practice.

8.20.d. Linens. Personnel shall handle, store, process, and transport linens in order to prevent the spread of infection.

**'64-13-9. Physical Facilities, Equipment and Site Information.**

9.1. Applicability; Construction, Additions; Renovations; Other Standards.

9.1.a. If the director determines that changes necessary for compliance with this section of this rule would create an undue hardship for a nursing home in existence at the time this rule becomes effective, the nursing home may be governed by rules which were in effect prior to the effective date of this rule.

9.1.b. The standard for construction, renovations, and alterations are the relevant sections of the 1996-1997 edition of *The Guidelines for Design and Construction of Hospitals and Health Care Facilities*, as recognized by the American Institute of Architects, Academy of Architecture for Health with assistance from the U. S. Department of Health and Human Services.