

exploitation or abuse, including injuries of unknown source, and misappropriation of resident property are reported in accordance with State law.

4.16.c.6. A nursing home shall document that all alleged violations are thoroughly investigated and shall take appropriate steps to prevent further potential abuse while the investigation is in progress.

4.16.c.7. The results of all investigations shall be reported to the administrator or his or her designated representative and to other officials in accordance with State law, including the director within five (5) working days of the incident, and if the alleged violation is verified appropriate corrective action shall be taken.

4.17. Complaint Procedures.

4.17.a. A nursing home shall develop and implement written procedures for registering and responding to complaints by residents, their legal representatives and the public.

4.17.b. A nursing home shall designate an employee to be responsible for receiving complaints.

4.17.c. A nursing home shall establish a method to inform the administrator of all complaints.

4.17.d. A nursing home shall establish a process for investigation and assessment of the validity of all complaints.

4.17.e. A nursing home shall provide a mechanism to record all complaints received and any action taken on them and to communicate the findings or outcomes to the resident, or the resident=s legal representative, making the complaint.

4.17.f. A nursing home shall assure that careful consideration is given to each complaint even when it has been made by a person who often makes complaints having no valid basis.

4.17.g. A nursing home shall establish a program to assure that its personnel are familiar with complaint policies and procedures.

4.17.h. A nursing home shall establish a program to educate residents and their legal representatives about the nursing home=s complaint policies and procedures.

'64-13-5. Quality of Life.

5.1. A nursing home shall care for its residents in a manner and in an environment that promotes maintenance or enhancement of each resident's quality of life.

5.2. Dignity.

5.2.a. Each resident shall be treated with consideration and respect and with full recognition of his or her dignity and individuality.

5.2.b. The resident shall have the exclusive right to use and enjoy his or her personal property, and the property shall not be used by other residents or staff without the express permission of the resident.

5.3. Privacy.

5.3.a. Communication. A resident may associate and communicate privately with persons of his or her choice.

5.3.b. Mail. A resident shall receive his or her personal mail unopened unless a request to the contrary has been made to the staff by the resident.

5.3.c. Married Couples. A married resident shall be assured privacy for visits by his or her spouse. A resident has the right to share a room with his or her spouse when married residents live in the same nursing home and both spouses consent to the arrangement.

5.4. Telephone. A resident shall be assured reasonable access to a telephone located in a quiet area where the resident can conduct a private conversation without being overheard or disturbed by others.

5.5. A resident has the right to personal privacy regarding accommodations, medical treatment, written communications, personal care, visits, and meetings of family and resident groups, but this does not require the nursing home to provide a private room for each resident.

5.6. Self-Determination and Participation. The resident has the right to:

5.6.a. Choose activities, schedules, and health care consistent with his or her interests, assessments and plans of care;

5.6.b. Interact with members of the community both inside and outside the nursing home;

5.6.c. Make choices about aspects of his or her life in the nursing home that are significant to the resident;

5.6.d. Retain and use personal clothing and possessions and make his or her room as homelike as possible, according to his or her individual tastes and desires taking into consideration, space limitations, other residents' rights, and safety and sanitation issues.

5.6.d.1. A nursing home may specify in the admission contract the nursing home's liability for a resident's personal clothing and possessions;

5.6.e. Practice their religion and religious beliefs as they choose, as long as it does not impinge upon the rights of others; and

5.6.f. Participate in planning care and treatment.

5.7. Access and Resident and Family Groups and Councils. Each resident shall be encouraged and assisted with exercising his or her rights as a resident of the nursing home and as a citizen or resident of the United States. The resident shall be assisted with voicing grievances and recommending changes in policies and services without fear of reprisal, interference, coercion, punishment, or discrimination.

5.7.a. Access.

5.7.a.1. A nursing home shall not deny a resident immediate access to, and shall provide immediate access to a resident by:

5.7.a.1.A. A representative of a government agency with jurisdiction over some aspect of the nursing home;

5.7.a.1.B. The ombudsman; and

5.7.a.1.C. Any other person of the resident=s choosing.

5.7.a.2. A person entering a nursing home, other than a representative of the director, who has not been invited by a resident or a resident=s legal representative shall:

5.7.a.2.A Promptly advise the administrator or other available agent of the nursing home of his or her presence;

5.7.a.2.B. Not enter the living area of a resident without identifying him or herself to the resident and without receiving the resident=s permission to enter;

5.7.a.2.C. Terminate a visit with a resident upon request of the resident;

5.7.a.2.D. Not disclose communications with a resident unless the resident authorizes disclosure;

5.7.a.2.E. Be permitted to visit all areas of the nursing home except:

5.7.a.2.E.1. Living areas of a resident who objects;

5.7.a.2.E.2. Business records of the nursing home unless the administrator consents;

5.7.a.2.E.3. Personal and medical records of the resident, unless the resident or in case of incapacity, the resident=s legal representative, consents in writing;

5.7.a.2.E.4. Food service areas requiring sanitary conditions;

5.7.a.2.E.5. A pharmaceutical or secure area; or

5.7.a.2.E.6. Any other areas where inspection might endanger any person or might invade the privacy of any employee or resident.

5.7.a.3. A nursing home shall establish visiting hours consisting of at least eight (8) hours per day between 8:00 a.m. and 8:00 p.m., seven (7) days a week.

5.7.a.3.A. Visiting hours shall be posted conspicuously in a public place in the nursing home.

5.7.a.4. Relatives and members of the clergy shall be permitted to visit a seriously ill resident without restriction to the extent possible.

5.7.b. Resident=s Refusal.

5.7.b.1. The resident has the right to refuse a visit and the visit shall be terminated upon the resident=s request.

5.7.b.2. In the case of an incapacitated person, the legal representative may refuse visits on behalf of the resident if the legal representative demonstrates that the visits have a harmful effect on the resident. All

relevant information shall be documented in the resident=s medical record.

5.7.c. Administration=s Exclusion.

5.7.c.1. The administrator or designee in charge of the nursing home may refuse a visitor access or require the visitor to leave only if:

5.7.c.1.A. In the judgment of the administrator, or his or her designee, the presence of the visitor is detrimental to the health, safety, or welfare of the resident or other residents or the visitor or the functioning of the nursing home;

5.7.c.1.B. Access is sought for financial solicitation or commercial purposes, or;

5.7.c.1.C. A resident does not wish the visitor to stay.

5.7.c.2. The restriction and the reasons for it shall be documented and kept on file.

5.7.d. Resident and Family Groups and Councils.

5.7.d.1. Residents have the right to organize, maintain, and participate in resident groups in the nursing home.

5.7.d.2. A resident's family has the right to meet in the nursing home with the families of other residents.

5.7.d.3. The nursing home shall provide a resident or family group with private space for meetings.

5.7.d.4. The nursing home shall provide assistance for resident or family group meetings, if requested.

5.7.d.5. Staff or visitors may attend resident or family group meetings only at the group=s invitation.

5.7.d.6. The nursing home shall respond in writing to oral and written requests from resident and family council meetings. Resident councils and family councils shall be encouraged to make recommendations regarding nursing home policies.

5.7.d.7. The nursing home shall provide a designated staff person responsible for providing assistance and responding to written requests that result from group meetings.

5.7.d.8. When a resident or family group exists, the nursing home shall listen to the views and act upon the grievances and recommendations of residents and families concerning proposed policy and operational decisions affecting resident care and life in the nursing home.

5.8. Participation in Other Activities.

5.8.a. A resident has the right, at his or her discretion, to participate in social, religious, and community activities that do not interfere with the rights of other residents in the nursing home.

5.9. Accommodation of Residents= Needs.

5.9.a. A resident has the right to reside and receive services in the nursing home with reasonable accommodations for individual needs and preferences, except when the health or safety of the person or other residents would be endangered.

5.9.b. A resident has the right to receive notice before the resident's room or roommate in the nursing home is changed and to be informed of the reason for the change. The nursing home shall make efforts to assure that the changes are effected with the least disruption to the resident=s life.

5.10. Activities.

5.10.a. The nursing home shall provide for an ongoing program of activities designed to meet, in accordance with the comprehensive assessment, the interests and the physical, mental, and psychosocial well-being of each resident. The ongoing program of activities shall provide for evening and weekend activities.

5.10.b. The activities program shall be directed by a person who:

5.10.b.1. Is a qualified therapeutic recreation specialist or activities professional who has two (2) years of experience in a social or recreational program within the last five (5) years, one (1) of which was full-time in a resident activities program in a health care setting; or

5.10.b.2. Is a qualified occupational therapist or occupational therapy assistant or

5.10.b.3. Has demonstrated the ability to provide for an ongoing program of activities designed to meet, in accordance with the comprehensive assessment, the interests and the physical, mental, and psychosocial well-being of each resident; and has completed a training course approved by the State.

5.10.c. If the intended activities director does not meet the requirements above, he or she shall require regularly scheduled consultation by a person who meets the qualifications described in Subdivision 5.10.c.1. of this rule. The consultation by a qualified consultant may continue until the time a candidate can meet the required qualifications, but not for more than a period of twelve (12) months from the date of hire.

5.10.c.1. A qualified activities consultant is a qualified professional who is a qualified therapeutic recreation specialist or activities professional who is licensed, registered or certified, if applicable, and has three years of experience in a social or recreational program. This person shall:

5.10.c.1.A. Visit the nursing home as indicated by the needs of the nursing home and its residents, but not less than eight (8) hours quarterly; and

5.10.c.1.B. Provide a written, dated report, containing the time and duration of the visit and a summary of the findings with recommendations for improvements in the program to the administrator and the activities director, within ten (10) working days of the completion of the onsite visit.

5.10.d. The duties of the activities director shall include:

5.10.d.1. Developing the nursing home=s recreational and activities plan; organizing and directing the program, developing and implementing a written monthly activities calendar at least one (1) month in advance; completing an accurate resident assessment and care plan; documenting participation or

nonparticipation in activities and reasons for nonparticipation as it relates to the resident=s care plan; and maintaining a current record of community services, resources, programs, and nursing home materials available to the residents, staff, and families; and

5.10.d.2. Designing an activities program to restore, maintain, and improve functioning and well-being in conjunction with the care plan for the individual resident.

5.11. Social Services.

5.11.a. The nursing home shall provide medically-related social services to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident.

5.11.b. A nursing home with sixty (60) or more beds shall employ a qualified social worker on a full-time basis.

5.11.c. A qualified social worker is a person with:

5.11.c.1. A license to practice social work in the State of West Virginia; and

5.11.c.2. Who has a demonstrated ability to provide medically-related social services to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident.

'64-13-6. Resident Assessment.

6.1. The nursing home shall conduct a comprehensive, accurate, standardized, and reproducible assessment of each resident's functional capacity.

6.2. Admission Orders.

6.2.a. At the time each resident is admitted, the nursing home shall have physician orders for the resident's immediate care.

6.3. Comprehensive Assessments.

6.3.a. The nursing home shall make a comprehensive assessment of a resident's needs which:

6.3.a.1. Is based on a uniform data set and instrument specified by the director; and

6.3.a.2. Describes the resident's capability to perform daily life functions and any significant impairments in functional capacity.

6.3.b. The comprehensive assessment shall include the resident=s:

6.3.b.1. Identification and demographic information;

6.3.b.2. Customary routine;

6.3.b.3. Cognitive patterns;

6.3.b.4. Communication;