

**Title 20. Public Health and Welfare**

**Chapter X. Office of Long-Term Care, Division of Provider Services and Quality Assurance, Department of Human Services**

**Subchapter A. Generally**

**Part 400. Rules for Nursing Homes**

**Subpart 1. Definitions — Abbreviations**

**20 CAR § 400-101. Definitions.**

For the purpose of this part the following definitions shall apply:

(1) "Administrator" means a person licensed as a nursing home administrator by the Department of Human Services who administers, manages, supervises, or is in general administrative charge of a nursing home;

(2) "Alteration" means any work other than maintenance in an existing building and which does not increase the floor or roof area or the volume of enclosed space;

(3) "Consultant" means a qualified person who gives professional advice or service within his or her specialty, with or without remuneration;

(4) "Consultant dietitian" means a person who:

(A) Is registered by the Commission on Dietetic Registration;

(B) Has a baccalaureate degree with major studies in:

(i) Food and nutrition;

(ii) Dietetics; or

(iii) Food service management;

(C) Has one (1) year of supervisory experience in the dietetic service of a health care institution; and

(D) Participates annually in continuing dietetic education;

(5)(A) "Consultant pharmacist" means a qualified licensed, registered pharmacist, who under arrangement with an institution, renders assistance in developing, implementing, evaluating, and revising where indicated, policies and procedures for providing the administrative and technical guidance of the

pharmaceutical services relative to labeling, storing, handling, dispensing, and all other matters pertaining to the administration and control of drugs and medication.

(B) He or she provides such services and monitors activities within the institution with the express purpose of creating and maintaining the highest standards in medication distribution, control, and service;

(6) "Controlled substances" means a drug, substance, or immediate precursor in Schedules I – V of Article 11 of the Uniform Controlled Substances Act, Arkansas Code § 5-64-101 et seq.;

(7) "Department" means the Department of Human Services;

(8) "Director" means the Director of the Division of Provider Services and Quality Assurance;

(9) "Disinfection" means the process employed to destroy harmful microorganisms, but ordinarily not viruses and bacterial spores;

(10) "Distinct part" means an identifiable unit accommodating beds and related facilities including, but not limited to, a wing, floor, or building that is approved by the Division of Provider Services and Quality Assurance for a specific purpose;

(11) "Division" means the Department of Human Services, Division of Provider Services and Quality Assurance;

(12)(A) "Drug" means articles:

(i) Recognized in the Official United States Pharmacopeia, Official Homeopathic Pharmacopeia of the United States, or Official National Formulary, or any supplement to any of them;

(ii) Intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animal;

(iii) Other than food, intended to affect the structure or any function of the body of man or other animals; and

(iv) Specified in subdivisions (12)(A)(i), (12)(A)(ii), or (12)(A)(iii).

(B) "Drug" does not include devices or their:

(i) Components;

(ii) Parts; or

(iii) Accessories;

(13)(A) "Drug administration" means an act restricted to nursing personnel as defined in Nurses Practice Act, Acts 1971, No. 432, in which a single dose of a prescribed drug or biological is given to a patient.

(B) This activity includes:

(i) The removal of the dose from a previously dispensed, properly labeled container;

(ii) Verifying it with the prescriber's orders, giving the individual dose to the proper patient; and

(iii) Recording the time and dose given;

(14)(A) "Drug dispensing" means an act restricted to a pharmacist which involves the issuance of one (1) or more doses of a medication in a container other than the original, with such new containers being properly labeled by the dispenser as to content and directions for use as directed by the prescriber.

(B) This activity also includes the compounding, counting, and transferring of medication from one (1) labeled container to another;

(15) "Existing facilities" are those facilities which were in operation, or those proposed facilities which began construction or renovation of a building under final plans approved by the Division of Provider Services and Quality Assurance, prior to adoption of this part;

(16) "Fire resistance rating" means the time in hours or fractions thereof that materials or their assemblies will resist fire exposure as determined by fire test conducted in accordance with recognized standards;

(17) "Governing body" means the individuals or group in whom the ultimate authority and legal responsibility is vested for conduct of the nursing home;

(18) "Guardian" means a court appointed person who by law is responsible for a patient's affairs;

(19) "Institution" means any facility requiring licensure under this part;

(20)(A) "Intermediate care facility (ICF)" means a nursing home licensed by Arkansas Social Services as meeting the intermediate care facility rules.

(B) It is a health facility, or a distinct part of a hospital or skilled nursing facility, that is staffed, organized, operated, and maintained to provide twenty-four-hour long-term inpatient care and other restorative services under nursing supervision;

(21)(A) "Legend drugs" means drugs which, because of their toxicity or other potentiality for harmful effect, or the method of their use, or the collateral measures necessary to their use, are not safe for use except under the supervision of a practitioner licensed by law to administer such drugs, or shall be dispensed only on prescription by the pharmacist.

(B) Such drugs bear the label "Caution: Federal Law Prohibits Dispensing Without Prescription";

(22)(A) "License" means the basic document issued by the Division of Provider Services and Quality Assurance permitting the operation of nursing homes.

(B) This document constitutes the authority to receive patients and to perform the services included within the scope of this part;

(23) "Licensed bed capacity" means the exact number of beds for which license application has been made and granted;

(24) "Licensee" means any state, municipality, political subdivision, institution, public, or private corporation, association, individual, partnership, or any other entity to whom a license is issued for the purpose of operating the nursing home, who shall assume primary responsibility for complying with approved standards for the institution;

(25) "Medication assistant" means any medication assistive person who is qualified and certified under Arkansas Code § 17-87-701 et seq.;

(26) "New construction" means those facilities which are constructed or renovated for the purpose of operating an institution according to architectural plans approved by the Division of Provider Services and Quality Assurance after adoption of this part;

(27) "Nursing home" means and shall be construed to include any buildings, structure, agency, institution, or other place for the reception, accommodation, board, care, or treatment of two (2) or more unrelated individuals, who, because of physical or mental infirmity are unable to sufficiently or properly care for themselves, and for which

reception, accommodation, board, care, and treatment, a charge is made, provided the term "nursing home" shall not include the offices of private physicians and surgeons, boarding homes, hospitals, or institutions operated by the federal government (Acts 1961, No. 141, § 2, as amended);

(28) "Nursing home classification" means the level of care the nursing home is capable of rendering such as:

- (A) Skilled nursing facility;
- (B) Intermediate care facility; and
- (C) Intermediate care facility for individuals with intellectual disabilities;

(29) "OTC drugs" means drugs commonly referred to as "over-the-counter", or patient medication that may be provided without prescription;

(30) "Patient" (interchangeable with "resident") means any individual who is being treated by a physician or whose health is being supervised by a physician while residing within the respective facility;

(31) "Patient unit" means an area designated to accommodate:

- (A) An individual patient:
  - (i) Bed;
  - (ii) Bedside cabinet;
  - (iii) Chair;
  - (iv) Reading light; and

(B) Other necessary equipment placed at the bedside for the proper care and comfort of a patient;

(32) "Provisional licensure" means a temporary grant of authority to the purchaser to operate an existing long-term care facility upon application for licensure to the Department of Provider Services and Quality Assurance;

(33) "Qualified social worker" means a person who is:

- (A) Registered by the Arkansas Social Work Licensing Board; and
- (B) A graduate of a school of social work accredited or approved by the

Council on Social Work Education;

(34) "Responsible party" means the person who is accountable for the

patient's affairs but who has not been appointed by the court;

(35) "Restorative nursing" or "rehabilitative nursing" means measures directed toward:

(A) Prevention of deterioration in normal body alignment and muscle tone;

(B) Restoration of the resident to full activity insofar as their health problems permit; and

(C) Maintaining a state in which their total need for care is minimal;

(35)(A) "Restraint" means any device or instrument used to limit, restrict, or hold patients under control, not including safety vests or other instruments such as bed rails used for the safety and positioning of patients.

(B) Personal safety devices and postural support devices that restrict movement are considered restraints;

(36) "Routine" means the regular performance of a particular task;

(37) "Sanitation" means the process of promoting hygiene and preventing disease by maintaining sanitary conditions;

(38)(A) "Skilled nursing facility (SNF)" means a nursing home, or a distinct part of another facility, licensed by the Department of Human Services as meeting the skilled nursing facility licensure rules.

(B) A health facility that provides skilled nursing care and supportive care on a twenty-four-hour basis to residents whose primary need is for availability of skilled nursing care on an extended basis;

(39) "State Health Officer" means the Secretary of the Department of Health, Secretary of the State Board of Health;

(40) "Sterile" means the state of being free from all forms of micro-organisms; and

(41)(A) "Unit dose medication system" means a system in which single doses of drugs are:

(i) Prepackaged and prelabeled in accordance with all applicable laws and rules governing these practices; and

(ii) Made available separated by resident and by dosage time.

(B) The system includes all equipment and records deemed necessary and used in making the doses available to the resident in an accurate and safe manner.

(C) A pharmacist shall be in charge of and responsible for the system.

## **20 CAR § 400-102. Abbreviations.**

As used in this part:

(1) "F.T." means full-time forty (40) hours per week in this part and should not be confused with Fair Labor Standards Act;

(2) "L.P.N." means licensed practical nurse;

(3) "L.P.T.N." means licensed psychiatric technician nurse;

(4) "LTC" means long-term care;

(5) "N.H." means nursing home;

(6) "N.A." means nurse's aide;

(7) "OLTC" means the Office of Long-Term Care;

(8) "O.T.C." means over-the-counter drugs;

(9) "P.T." means part-time; and

(10) "R.N." means registered nurse.

## **Subpart 2. General Provisions for Licensure**

### **20 CAR § 400-201. Licensure.**

(a)(1) Nursing homes, or related institutions, shall be operated, conducted, or maintained in this state by obtaining a license pursuant to the provisions of these licensing standards.

(2) Separate institutions operated by the same management require separate licenses.

(3) Separate licenses are not required for separate buildings on the same grounds.

(4) The classification of license shall be:

- (A) Skilled nursing facility;
- (B) Intermediate care facility; and
- (C) Intermediate care facility for individuals with intellectual disabilities.

(b)(1) Whenever ownership or controlling interest in the operation of a facility is sold, both the buyer and the seller must notify the Office of Long-Term Care at least thirty (30) days prior to the completed sale.

(2) The thirty-day notice shall be the date the paperwork is stamped received by the Office of Long-Term Care.

**20 CAR § 400-202. Application for license.**

(a)(1) Applicants for license shall:

(A) File a notarized application with the Division of Provider Services and Quality Assurance upon forms prescribed by the division; and

(B) Pay an annual license fee of ten cents (10¢) per patient bed or ten dollars (\$10.00), whichever is greater.

(2) This fee shall be paid to the State Treasury.

(3) If the license is denied, the fee will be returned to the applicant.

(4) Facilities operated by any unit or division of state or local government shall be exempted from payment of a licensing fee.

(5) The application shall be signed by:

(A) The owner if individually owned;

(B) One (1) partner if owned under partnership;

(C) Two (2) officers of the board if operated under corporation, church, or nonprofit association; and

(D) In case of a governmental unit, by the head of the governmental entity having jurisdiction over it.

(6) Applicants shall set forth:

(A) The full name and address of the institutions for which license is sought;

(B) The names of the persons in control;

(C) A signed statement by a registered nurse indicating responsibility for nursing services of the home; and

(D) Such other information as the division may require.

(b) In these instances where a distinct part of a facility is to be licensed as a skilled nursing facility and the remainder of the facility is to be licensed under some other category:

(1) Separate applications must be filed for each license; and

(2) Separate licensure fees shall be required with each application.

(c) Each home applying for and receiving a license must furnish the following information to the Department of Human Services:

(1) The identity of each person directly or indirectly having an ownership interest of five percent (5%) or more in such nursing home;

(2) In case such nursing home is organized as a corporation, the identify of each officer and director of the corporation;

(3) In case such nursing home is organized as a partnership, the identity of each partner;

(4) Identity of owners of building and equipment leased, including ownership breakdown of the leasing entity;

(5) Information on the:

(A) Administrator;

(B) Directors;

(C) Management company;

(D) Owner;

(E) Operator; or

(F) Other management agent that the applicant or applicants will use to manage the facility;

(6) Information on the owner or owners of the building or other structures that will be used in the operation of the facility;

(7) Information on all other facilities owned, operated, or managed by the applicant or applicants;

(8) Information on all other facilities owned, operated, or managed by the:

- (A) Administrators;
- (B) Directors;
- (C) Management company;
- (D) Owner;
- (E) Operator; or
- (F) Other management agent that the applicant or applicants will use to manage the facility; and

(9) Affirmative evidence of ability to comply with standards, rules, and regulations as may be lawfully prescribed.

(d) The department may deny a license if:

(1) The administrator, officers, directors, or management company, operator, or other management agent that the applicant will use to manage the facility has ever been convicted of a felony;

(2) A facility or facilities owned or operated by the applicant or applicants have been found, after final administrative decision, to have committed a Class A violation;

(3) A facility or facilities owned or operated by the administrator, directors, management company, operator, or other management agent (that the applicant or applicants will use to manage the facility) has been found, after final administrative decision, to have committed a Class A violation;

(4) The applicant or applicants have had a license revoked or suspended;

(5) The administrator, directors, management company, operator, or other management agent that the applicant or applicants will use to manage the facility have had a license revoked;

(6) The applicant or applicants have not demonstrated to the satisfaction of the department that any other facility owned, operated, or administered by the applicant or applicants, administrator, directors, management company, operator, or other management agent that the applicant or applicants will use to manage the facility, is and has been in substantial compliance with the standards as set by applicable state and federal law; or

(7) The applicant or applicants have not demonstrated to the satisfaction of the department that any other facility (owned, operated, or administered by the administrator, directors, management company, operator, or other management agent that the applicant or applicants will use to manage the facility) is and has been in substantial compliance with the standards as set by applicable state and federal law.

(e) The department may consider the mitigation of compliance issues by an applicant or applicants that would fall under subsection (d) of this section, including the administrator, directors, management company, operator, or other management agent that the applicant or applicants will use to manage the facility.

**20 CAR § 400-203. Renewal of application for licensure.**

(a) Annual licensure fees shall be tendered with each application for a new long-term care facility license and annually thereafter by the anniversary of the date the Department of Human Services issued the long-term care facility license.

(b) A license or licensure renewal shall not be issued unless the initial annual licensure fee has been paid in full.

(c) Any fee not paid when due shall be delinquent and shall be subject to assessment of a ten-percent penalty.

(d) If a long-term care facility fails to pay the annual licensure fee within sixty (60) calendar days of the anniversary of the date that the department issued the long-term care facility license, the department may suspend the license until the annual licensure fee is paid in full.

**20 CAR § 400-204. Issuance of license.**

(a) A license shall remain effective unless revoked, suspended, or terminated by the Department of Human Services.

(b) A license shall be issued only for the premises and persons in the application and shall not be assignable or transferable.

**20 CAR § 400-205. Denial, revocation, or suspension of license.**

The Division of Provider Services and Quality Assurance is empowered to deny, suspend, or revoke licenses on any of the following grounds:

(1) Violation of any of the provisions of Acts 1979, No. 28, or the rules lawfully promulgated hereunder;

(2) Permitting, aiding, or abetting the commission of any unlawful act in connection with the operation of the institution, as defined in this part;

(3) Conduct or practices detrimental to the health or safety of residents and employees of any such institutions, but this provision shall not be construed to have any reference to healing practices authorized by law, as defined in this part; or

(4)(A) Failure to comply with the provisions of Acts 1969, No. 58, and the rules promulgated thereunder.

(B) **Note.** The aforementioned act requires the licensure of nursing home administrators.

#### **20 CAR § 400-206. Change of ownership/management.**

(a)(1) If a long-term care facility intends to add, remove, or otherwise change the management company, owner, operator, or other management agent that manages the long-term care facility, the long-term care facility shall notify the Department of Human Services.

(2) The long-term care facility shall notify the department of the change and request approval at least thirty (30) days before the change occurs.

(b)(1) The long-term care facility shall complete the appropriate documents and provide the department with the information required to allow the department to evaluate whether the new management company, owner, operator, or other management agent that manages the long-term care facility meets the eligibility criteria set forth in the disqualifying criteria stated in the aforementioned section.

(2) The long-term care facility shall receive approval of the change from the department before the change occurs unless the change is required due to an emergency.

(c)(1) If a change occurs without prior approval from the department due to an

emergency, the long-term care facility shall notify the department within ten (10) days of the change.

(2)(A) The department may deny a requested change based on the criteria established in subsection (b) of this section.

(B) If the department denies a requested change, the long-term care facility may not employ or otherwise use the denied:

- (i) Management company;
- (ii) Owner;
- (iii) Operator; or
- (iv) Other management agent.

(3) A long-term care facility is not required to notify or receive approval from the department for a change involving vendors that provide services to the long-term care facility but do not manage the facility.

(d) Responsibilities of the seller and buyer:

(1) The seller shall remain responsible for the operation of the facility until such time as a license is issued to the buyer;

(2) The buyer shall be subject to any plan of correction:

- (A) Submitted by the previous licensee; and
- (B) Approved by the department;

(3) The seller shall remain liable for all penalties assessed against the facility that are imposed for violations or deficiencies occurring before the date the department issues the long-term care facility license to the buyer; and

(4) The seller shall remain liable for all quality assurance fees and license fees that are assessed to the facility before the date that the department issues the long-term care facility license to the buyer.

**20 CAR § 400-207. Notice and procedure on hearing prior to denial, suspension, or revocation of license.**

(a) Whenever the Division of Provider Services and Quality Assurance decides to deny, suspend, or revoke a license, it shall send to the applicant or licensee a notice

stating the reasons for the action by certified mail.

(b) The applicant or licensee may appeal such notice to the Long-Term Care Facility Advisory Board as permitted by Arkansas Code § 20-10-303 [repealed].

(c) Procedures for appeal to the Long-Term Care Facility Advisory Board [abolished] are incorporated in this part as Appendix A.

#### **20 CAR § 400-208. Appeals to courts.**

(a) Any applicant or licensee who considers himself or herself injured in his or her person, business, or property by final agency action shall be entitled to judicial review thereof.

(b) Proceedings for review shall be made by filing a petition in the circuit court of any county in which the petitioner does business or in the Circuit Court of Pulaski County, within thirty (30) days after service, upon the petitioner of the agency's final decision.

(c) All petitions for judicial review shall be in accordance with the Arkansas Administrative Procedure Act, Arkansas Code § 25-15-201 et seq.

#### **20 CAR § 400-209. Penalties.**

Any person, partnership, association, or corporation establishing, conducting, managing, or operating any institution within the meaning of Acts 1961, No. 414 (Arkansas Code §§ 20-9-201 – 20-9-217, § 20-9-219, and §§ 20-10-214 – 20-10-228), without first obtaining a license therefor as herein provided, or who violates any provision of Acts 1961, No. 414, or rules lawfully promulgated under Acts 1961, No. 414, shall be guilty of a misdemeanor, and upon conviction thereof shall be liable to a fine of not less than twenty five dollars (\$25.00) nor more than one hundred dollars (\$100) for the first offense and not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) for each subsequent offense, and each day such institution shall operate after a first conviction shall be considered a subsequent offense (Acts 1961, No. 414, § 27).

**20 CAR § 400-210. Inspection.**

All institutions to which this part applies shall be subject to inspection for reasonable cause at any time by the authorized representation of the Division of Provider Services and Quality Assurance.

**20 CAR § 400-211. Compliance.**

An initial license will not be issued until the applicant has demonstrated to the satisfaction of the Division of Provider Services and Quality Assurance that the facility is in substantial compliance with the licensing standards set forth in this part.

**20 CAR § 400-212. Noncompliance.**

(a) When noncompliance of the licensing standards is detected during surveys, licensees will be notified of the violations and will be requested to provide a plan of correction with a timetable for corrections.

(b) If an item of noncompliance is of a serious nature that affects the health and safety of patients and is not promptly corrected, action will be taken to suspend or revoke the facility's license.

**20 CAR § 400-213. Voluntary closure.**

Any nursing home, or related institution, that voluntarily closes must meet the rules for new construction to be eligible for relicensure.

**20 CAR § 400-214. Exception to licensing standards.**

(a)(1) The Division of Provider Services and Quality Assurance reserves the right to make temporary exceptions to these standards where it is determined that the health and welfare of the community requires the services of the institution.

(2) Exceptions will be limited to unusual circumstances and the safety and well-being of the residents will be carefully evaluated prior to making such exceptions.

(b) "Overbeds" means beds the Department of Human Services may in writing authorize a skilled nursing facility to temporarily add and operate more than the

facility's regular licensed capacity when the department has determined that a disaster or other emergency has caused a serious shortage of hospital or skilled nursing facility beds and that the additional capacity is necessary to protect patient health and safety.

(c)(1) Overbeds will be authorized only in cases of emergency.

(2)(A) An emergency exists when it can be demonstrated that the resident's health or safety would be placed in immediate jeopardy if relocation were not accomplished.

(B) A fire, natural disaster (such as a tornado or flood), or other catastrophic event that necessitates resident relocation, will be considered an emergency.

(3) The department must be contacted for prior authorization of the overbed, and all authorizations must be in writing.

#### **20 CAR § 400-215. Provisional licensure.**

(a)(1) Subject to the requirements below, a provisional license shall be issued to the applicant and new operator of the long-term care facility when the Department of Human Services has received the Application for Licensure to Conduct a Long-Term Care Facility.

(2) A provisional license shall remain in effect unless the provisional license is revoked, suspended, or terminated by the department.

(3) With the exception of Medicaid or Medicare provider status, a provisional license confers upon the holder all the rights and duties of licensure.

(b) Prior to the issuance of a provisional license:

(1) The purchaser and the seller of the long-term care facility shall provide the department with written notice of the change of ownership at least thirty (30) days prior to the effective date of the sale;

(2) The applicant and new operator of the long-term care facility shall provide the department with the application for licensure, including all applicable fees; and

(3) The applicant and new operator of the long-term care facility shall provide the department with evidence of transfer of operational control signed by all applicable

parties.

(c)(1) A provisional license holder may operate the facility under a new name, whether fictitious or otherwise.

(2) For purposes of this section:

(A) "New name" means a name that is different than the name under which the facility was operated by the prior owner; and

(B) "Operate" means that the provisional license holder may hold the facility out to the public using the new name.

(3) Examples include, but are not limited to, signage, letterhead, brochures, or advertising (regardless of media) that bears the new name.

(d)(1)(A) In the event that the provisional license holder operates the facility under a new name, the facility shall utilize the prior name in all communications with the Office of Long-Term Care until such time as the license is issued.

(B) Such communications include, but are not limited to:

(i) Incident reports;

(ii) Notices;

(iii) Plans of correction; and

(iv) MDS submissions.

(2) Upon the issuance of the license, the facility shall utilize the new name in all communications with the Office of Long-Term Care.

### **Subpart 3. Administration**

#### **20 CAR § 400-301. Management.**

(a) **Bylaws.** The governing body shall adopt effective patient care policies and administrative policies and bylaws governing the operation of the facility in accordance with legal requirements.

(b) **Administrator.**

(1)(A) Each nursing home shall have a full-time (minimum forty (40) hours per week) administrator on the premises during normal business hours who shall be

currently licensed as a nursing home administrator in accordance with Arkansas Code § 20-10-401 et seq., and the rules promulgated thereunder.

(B) Each facility administrator, if required, should provide verification that a minimum of forty (40) hours is spent in the facility.

(C) The administrator must have responsibility for overall operation of the facility and is responsible for any noncompliance with rules found in the nursing home.

(D) Correspondence between the Office of Long-Term Care and the facility shall be through the licensed administrator.

(2)(A) The licensed administrator shall not leave the nursing home premises during the day tour of duty without first delegating authority in writing to a qualified individual who may manage the facility temporarily during the administrator's absence.

(B) Nursing personnel on the day tour of duty shall not be delegated authority to operate the facility unless relief nursing personnel are employed to replace the selected nurse.

(C) Also, the facility administrator shall notify the office in writing if an absence from the facility will exceed seven (7) consecutive days.

(D) The name of the individual who will be administratively in charge of the facility should also be listed in the letter.

(3)(A) Administrators-in-training shall receive training in facilities that employ a full-time licensed administrator.

(B) Administrators-in-training shall not serve as a nursing home administrator until such time that a nursing home administrator's license is obtained.

(C) Applicants that qualify to take the administrator's examination shall not practice as a nursing home administrator until licensed by this office.

(4) As specified in Arkansas Code § 20-10-402(a), it is unlawful for any person to act or serve in the capacity of nursing home administrator in this state unless such person has been licensed under Arkansas Code § 20-10-401 et seq.

## **20 CAR § 400-302. General administration.**

### **(a) Visitation rights.**

(1) Visitation rights of certified skilled nursing facility residents are governed by federal resident visitation rights and procedures specified in 42 C.F.R. § 483.10(f)(4).

(2) Visitation rights of residents of an intermediate care facility for individuals with intellectual disabilities, intermediate care facility, or noncertified skilled nursing facility are as follows:

(A) A resident of the facility has a right to receive visitors of their choosing at the time of their choosing, subject to the resident's right to deny visitation (except as provided in this subdivision (a)(2)), and in a manner that does not impose on the rights of another resident; and

(B) The facility shall provide immediate access at any time to the resident by:

(i) A representative of the Department of Human Services;

(ii) A representative of the United States Department of Health and Human Services;

(iii) The resident's physician; and

(iv) The resident's representative.

(b) Incident and accident reports of patients and personnel shall be completed and reviewed to identify health and safety hazards.

(c) An accurate daily census sheet as of midnight shall be available to the Division of Provider Service and Quality Assurance at all times.

(d) There shall be keys readily available for all locked doors within the home.

(e)(1) Birds, cats, dogs, and other companion animals are at the discretion of the nursing home.

(2) A resident's trained guide dog must be authorized and supported in the facility.

(f) The name, address, and telephone number of attending physicians shall be available at each nurses' station.

(g) All containers of substances used by the facility shall be legibly and accurately labeled as to content.

(h) Fire extinguishers shall be adequate, of the correct type, and properly located

and installed as defined by NFPA 101, 1973 edition.

(i)(1) A quiet atmosphere shall be maintained.

(2) Disturbances created within the home will not be permitted.

(j)(1) Laboratories and radiological facilities operated in nursing homes shall comply with the rules for hospitals and related institutions in Arkansas.

(2) Pharmacies operated in nursing homes shall be:

(A) Operated in compliance with Arkansas laws; and

(B) Subject to inspection by personnel from the division.

(k) Children under sixteen (16) years of age shall not be cared for in a room with nonrelated adults.

(l)(1) Adult male and female patients shall not have adjoining rooms which do not have full floor to ceiling partition and closing doors.

(2) They shall not be housed in the same room, except husband and wife of the same marriage or parent and child.

(m)(1) Child patients, male and female, shall not be housed in the same room when they are seven (7) or more years old.

(2) They shall be provided the same privacy required for adults.

(n)(1) The facility shall maintain written accounts for all patients' funds received by or deposited with the facility for safekeeping.

(2) A trustworthy employee shall be designated to be responsible for patient accounts.

(3) The funds may be withdrawn by the patient upon request.

(4) The patient shall be provided an itemized accounting of deposits, disbursements, and withdrawals including the current balance at least quarterly.

### **20 CAR § 400-303. Personnel administration.**

(a) The administrator shall establish and maintain a personnel file for each employee.

(b)(1) Applications for each employee shall contain sufficient information to support placement in the position to which assigned.

(2) All applications from licensed and/or registered personnel shall contain the appropriate certificate or registration number and current renewal date.

(3) These registrations and/or certifications shall be verified.

(c)(1) No employee caring for patients shall be less than sixteen (16) years of age.

(2) Employees shall comply with applicable dress codes and wear identification with their name and job title at all times.

(d)(1) Written job descriptions shall:

(A) Be developed for each employee classification, i.e., R.N., L.P.N., aide, housekeepers, maids, etc.; and

(B) Include, as a minimum, the responsibilities and/or actual work to be performed in such classification.

(2) In addition, the job description shall include the physical and educational qualifications and licenses or certificates required for each job classification.

(e)(1) Sufficiently trained personnel shall be on duty at all times.

(2) Provisions shall be made for relief of direct care personnel during vacations and other relief periods.

**(f) Availability of data on staffing hours.**

(1) An intermediate care facility and an intermediate care facility for individuals with intellectual disabilities shall, upon request, make employee payroll records and contracted staff payment records showing hours performed by employed and contracted staff during recent pay periods available to Department of Human Services representatives.

(2)(A) Department requirements for reporting and availability of staffing and hours data by certified and noncertified skilled nursing facilities are governed by Arkansas Code § 20-10-1402 and described in 20 CAR §§ 400-1404 and 400-1405.

(B) Additional staffing and hours reporting requirements applicable to certified skilled nursing facilities are governed under Section 1128I(g) of the Social Security Act and 42 C.F.R. § 483.70(q).

(g)(1) Copies of this part shall be available to all personnel.

(2) All personnel shall be instructed by the administrator in the requirements

of the law and in the rules pertaining to their respective duties.

**(h) Assignment of food preparation, housekeeping, and laundry tasks.**

Under Arkansas Code § 20-10-1402(d)(1)(C)(iii), a skilled nursing facility is permitted to use the universal worker model and assign nondirect care tasks (such as food preparation, laundry, and housekeeping tasks) to some or all certified nurse aides in addition to their direct care responsibilities.

(i) A weekly time schedule shall be prepared and posted for each week and shall include the:

(1) Employee's first and last name, classification, i.e., aide, R.N., cook, etc.;

and

(2) Beginning and ending time of each tour of duty, such as 7:00 a.m. to 3:00 p.m., etc.

(j)(1) Pursuant to Arkansas Code § 5-13-202(a)(4)(E), the administration of a facility shall post a notice that attacking a healthcare professional, including a nurse, is a felony.

(2)(A) Said notice shall be posted:

(i) At entrances to a healthcare facility, emergency department, clinic, or long-term care facility that are used by patients, residents, and visitors; and

(ii) In patient or resident waiting areas of a healthcare facility, emergency department, clinic, or long-term care facility.

(B) The text of the notice shall read: "We respect you. Please respect our staff. Attacking a healthcare worker is a FELONY\*. \*Arkansas Code § 5-13-202.".

**20 CAR § 400-304. Staff development.**

(a)(1) Job orientation shall be provided for all personnel to acquaint them with the:

(A) Needs of the residents;

(B) Physical facility;

(C) Disaster plan; and

(D) Employee's specific duties and responsibilities.

(2) There should be written documentation maintained to verify that

orientation and in-service training are planned and conducted.

(3) A continuing in-service training program is planned and conducted.

(4) Attendance at such training shall be verified by each employee by signing their names on the attendance record.

(5) Records of orientation shall include the signature of the employee as well as topic of instruction and date of successful completion.

(b)(1) A reasonable supply of textbooks on basic practices shall be available in the nursing home for the specific job needs of all employees.

(2) If print textbooks are not available in sufficient supply or on the relevant topics, the facility shall provide employees with no-charge, on-demand access to textbooks and other instructional materials in digital format.

(c)(1) At least ninety percent (90%) of personnel on each shift shall be trained at least on a quarterly basis in the:

- (A) Proper use of all firefighting equipment;
- (B) Procedures for evacuation of patients; and
- (C) Procedures to follow in case of fire or explosion.

(2) Disaster drills, including tornado drills, should be conducted semiannually for each shift.

(3) A record of the drills held shall be maintained, and this record shall include the time and date the drill was held, along with the signature of all staff participating.

### **20 CAR § 400-305. Emergency call data.**

(a) The administrator shall be responsible for ensuring that emergency call information is posted in a conspicuous place so as to be immediately available to all personnel of the nursing home.

(b) Emergency call data shall include at least the following:

- (1) Telephone number of fire and police departments;
- (2) Names, addresses, and telephone numbers for:
  - (A) Emergency supplies;
  - (B) Ambulance;

- (C) Minister;
- (D) Advisory dentist;
- (E) Red Cross; and
- (F) Poison control center;

(3) Name, address, and telephone number of all personnel to be called in case of fire or emergency (to include the administrator and the director of nursing services); and

(4) Name, address, and telephone number of an available physician to furnish necessary medical care in case of emergency.

**20 CAR § 400-306. Reporting suspected abuse, neglect, exploitation, incidents, accidents, deaths from violence, and misappropriation of resident property.**

(a)(1) Pursuant to federal regulation 42 C.F.R. § 483.13 and state law Arkansas Code § 5-28-101 et seq., and Arkansas Code § 12-12-501 et seq., the facility must develop and implement written policies and procedures to ensure incidents, including alleged or suspected abuse or neglect of residents, accidents, including accidents resulting in death, unusual deaths or deaths from violence, unusual occurrences, and exploitation of residents or any misappropriation of resident property are prohibited, reported, investigated, and documented as required by this part.

(2)(A) A facility is not required under this part to report death by natural causes.

(B) However, nothing in this part negates, waives, or alters the reporting requirements of a facility under other rules or statutes.

(3) Facility policies and procedures regarding reporting, as addressed in this part, must be:

- (A) Included in orientation training for all new employees; and
- (B) Addressed at least annually during in-service training for all facility

staff.

**(b) Reporting of incidents.**

(1) The following events shall be reported to the Department of Human Services electronically through the Enterprise Licensing System (ELS) at: [https://ardhslicensing.my.site.com/elicensing/s/?language=en\\_US](https://ardhslicensing.my.site.com/elicensing/s/?language=en_US).

(2) The following events shall be reported to the department via ELS no later than 11:00 a.m. on the next business day following discovery by the facility:

(A) Any alleged, suspected, or witnessed occurrences of abuse or neglect to residents;

(B) Any alleged, suspected, or witnessed occurrence of misappropriation of resident property, or exploitation of a resident;

(C)(i) Any alleged, suspected, or witnessed occurrences of verbal abuse.

(ii) For purposes of this part, "verbal abuse" means the use of oral, written, or gestured language that willfully includes disparaging and derogatory terms to residents, or within their hearing distance, regardless of their age, ability to comprehend, or disability.

(iii) Examples of verbal abuse include, but are not limited to:

(a) Threats of harm; and

(b) Saying things to frighten a resident, such as telling a resident that he or she will never be able to see his or her family again;

(D) Any alleged, suspected, or witnessed occurrences of sexual abuse to residents by any individual; and

(E) Resident-on-resident physical altercations if involving a willful action that resulted in physical injury, mental anguish, or pain.

(3) Questions about the submission of reports should be directed to the Incident and Accidents Unit at [IandAReports@dhs.arkansas.gov](mailto:IandAReports@dhs.arkansas.gov).

(4) In addition to the requirement of electronic submission of Form DMS-7734 by the next business day through the ELS, the facility shall electronically complete an electronic Form DMS-762 in accordance with subsection (c) of this section.

(c)(1) **Incidents or occurrences that require internal reporting only.** The following incidents or occurrences shall require the facility to prepare an internal report only and do not require electronic submission to DHS:

(A) Incidents in which a resident attempted to cause physical injury to another resident without resultant injury (the facility shall maintain written reports on these types of incidents to document patterns of behavior for subsequent actions;

(B) All cases of reportable disease, as required by the department; and

(C) Loss of heating, air conditioning, or fire alarm system for a duration of greater than two (2) hours.

(2)(A) The internal report shall include all content specified in subsection (d) of this section, as applicable.

(B) Nursing facilities must maintain these incident record files in a manner that allows verification of compliance with this provision.

**(d) Internal-only reporting procedure.**

(1)(A) Written reports of all incidents and accidents included in subsection (c) of this section shall be completed within five (5) days after discovery.

(B) The written incident and accident reports shall be comprised of all information specified in forms DMS-7734 and Form DMS-762 as applicable.

(2)(A) All written reports will be reviewed, initialed, and dated by the facility administrator or designee within five (5) days after discovery.

(B) All reports involving accident or injury to residents will also be reviewed, initialed, and dated by the director of nursing services or other facility R.N.

(3) Reports of incidents specified in subsection (c) of this section:

(A) Will be maintained in the facility only; and

(B) Are not required to be submitted to the Office of Long-Term Care.

(4) All written incident and accident reports shall be maintained on file in the facility for a period of three (3) years.

(e) **Other reporting requirements.** The facility's administrator is also required to make any other reports of incidents, accidents, suspected abuse or neglect, actual or suspected criminal conduct, etc. as required by state and federal laws, rules, and regulations.

**(f) Abuse investigation report.**

(1)(A) The facility must ensure that all alleged or suspected incidents involving

resident abuse, exploitation, neglect, or misappropriations of resident property are thoroughly investigated.

(B) The facility's investigation must:

(i) Be in conformance with the process and documentation requirements specified by the department; and  
(ii) Prevent further potential incidents while the investigation is in progress.

(2) The results of all investigations must be reported to:

(A) The facility's administrator or designated representative; and  
(B) Other officials in accordance with state law, including the department.

(3) The electronic submission may be amended and resubmitted at any time circumstances require.

(g) **Reporting suspected abuse or neglect.** The facility's written policies and procedures shall include, at a minimum, requirements specified in this subsection:

(1)(A) The requirement that the facility's administrator or his or her designated agent immediately reports all cases of suspected abuse or neglect of residents of a long-term care facility as specified below:

(i) Suspected abuse or neglect of an adult (eighteen (18) years of age or older) shall be reported to the local law enforcement agency in which the facility is located, as required by Arkansas Code § 5-28-203(b); and

(ii) Suspected abuse or neglect of a child (under eighteen (18) years of age) shall be reported to the local law enforcement agency and to the central intake unit of the department, as required by Acts 1991, No. 1208.

(B) Central intake may be notified by telephone at 1-800-482-5964;

(2) The requirement that the facility's administrator or his or her designated agent report suspected abuse or neglect to the Office of Long-Term Care as specified in this part;

(3) The requirement that facility personnel, including but not limited to, licensed nurses, nursing assistants, physicians, social workers, mental health professionals, and other employees in the facility who have reasonable cause to suspect

that a resident has been subjected to conditions or circumstances which have or could have resulted in abuse or neglect are required to immediately notify the facility administrator or his or her designated agent;

(4) The requirement that, upon hiring, each facility employee:

(A) Be given a copy of the abuse or neglect reporting and prevention policies and procedures; and

(B)(i) Sign a statement that the policies and procedures have been received and read.

(ii) The statement shall be filed in the employee's personnel file; and

(5) The requirement that:

(A) All facility personnel receive annual, in-service training in identifying, reporting, and preventing suspected abuse or neglect; and

(B) The facility develops and maintains policies and procedures for the prevention of abuse, neglect, and accidents.

#### **Subpart 4. Institutional Policies and Procedures**

##### **20 CAR § 400-401. Patient care policies.**

The administrator, in consultation with one (1) or more physicians and one (1) or more registered professional nurses, department heads, and other related professional health care personnel, shall develop and at least annually review appropriate written policies and procedures for all services and/or patient care practices to include but not limited to:

- (1) Dietary;
- (2) Medical records;
- (3) Nursing;
- (4) Pharmaceutical;
- (5) Diagnostic services;
- (6) Laboratory and radiological;
- (7) Housekeeping;

- (8) Maintenance; and
- (9) Laundry services.

**20 CAR § 400-402. Restraint of residents.**

(a)(1) Patients shall not be unduly restrained.

(2) Patients shall not be confined to rooms or restrained except when:

- (A) Necessary to prevent injury to the patient or others; and
- (B) Alternative measures are not sufficient to accomplish these

purposes.

(3) In any event, no locked doors or locked restraints are to be used at any time to restrain a patient.

(4) Doors (screen type), or the lower one-half (1/2) of a dutch door or approved type louvered doors may be hooked on the hall side of the door.

(5)(A) Restraints, of the nonlocking type, may be used only upon the order of a physician.

(B) In the event the order is obtained by phone, the signature of a physician shall be obtained within five (5) days.

(6)(A) **Note.** The aforementioned restraining type doors shall be installed in addition to the regular door to the room.

(B) They shall be removed during periods when they are not needed for the restraint of patients.

(7) Upon the advice of the attending physician, unruly or excessively noisy patients shall be transferred from the home to an institution equipped for such patient care, since this type patient creates a disturbance for other patients in the home.

(b) The written policy and procedures governing the use of restraints shall specify which staff member may authorize the use of restraints and clearly delineate at least the following:

- (1) Orders indicating the specific reasons for the use of restraints;
- (2) Their use is temporary, and the resident will not be restrained for an indefinite amount of time;

(3) Orders for restraints shall not be enforced for longer than twelve (12) hours, unless the patient's condition warrants; and

(4) Restraints must be checked every thirty (30) minutes and loosened every two (2) hours for range of motion to restrained extremities.

**20 CAR § 400-403. Protection of patient property.**

An inventory of a patient's personal belongings should be maintained for all items brought to the facility on admission and updated as appropriate for items added or sent home or disposed of.

**20 CAR § 400-404. Notification of change in patient's status.**

(a) There shall be written policies and procedures available at each nurses' station for personnel to follow requiring the notification of the patient's attending physician and other responsible persons in the event of severe illness, accident, or death of the patient or other significant change in the patient's status.

(b) The name, address, and telephone number of the patient's attending physician shall be recorded for ready reference.

**20 CAR § 400-405. Physician's services policies.**

The facility shall have a written policy indicating that the health care of every patient is under the supervision of a physician who, based on a medical evaluation of the patient's immediate and long-term needs, prescribes a planned regimen of total care.

**20 CAR § 400-406. Specialized rehabilitative service policies.**

If a facility offers specialized rehabilitative services, written administrative and patient care policies and procedure for rehabilitative services shall be developed for appropriate therapists and representatives of the medical, administrative, and nursing staffs.

**20 CAR § 400-407. Social service policies.**

Facilities that do not directly provide social service shall have written procedures for referring patients in need of social services to appropriate service agencies.

**20 CAR § 400-408. Confidentiality of social information.**

Policies and procedures shall be established for ensuring the confidentiality of all patients' social information.

**20 CAR § 400-409. Rights of residents.**

Facilities shall establish policies and procedures setting forth the rights of residents and prohibiting their mistreatment or abuse.

**20 CAR § 400-410. Registration of complaints.**

Facilities shall establish policies for the registration and disposition of complaints without threat of discharge or other reprisal against any patient.

**20 CAR § 400-411. Admission, transfer, and discharge policies.**

These policies shall include, at a minimum, the following:

(1) Patients shall be admitted to the facility only on the recommendation of a physician licensed to practice medicine in the State of Arkansas;

(2)(A) All persons admitted to a nursing home shall have a history and physical examination at the time of admission or within seventy-two (72) hours following admission unless such examination was performed within fifteen (15) days prior to admission.

(B) A copy of the hospital history, physical, and discharge summary (after completion) will satisfy the requirement if the history and physical was completed within thirty (30) days.

(C) The examination will be:

(i) For medical evaluation purposes; and

(ii) To determine if the patient is free from communicable diseases;

(3)(A) Recording shall be made of initial examination and all subsequent examinations, including:

- (i) Findings;
- (ii) Recommendations; and
- (iii) Progress notes.

(B) Hospital discharge summaries are to be obtained after each hospitalization;

(4)(A) Patients who are not receiving public assistance from the Division of Provider Services and Quality Assurance shall be classified on admission and subsequently reclassified by the attending physician as skilled care, intermediate care, or minimum care patients, and a report shall be kept in the home and available to the division.

(B) The classification shall be based upon the division criterion;

(5) Only those persons are accepted whose needs can be met by the facility directly or in cooperation with the community resources or other providers of care with which it is affiliated or has contracts;

(6) As changes occur in their physical or mental condition necessitating service or care which cannot be adequately provided by the facility, residents shall be transferred promptly to facilities which can provide appropriate care; and

(7)(A) Except in the case of an emergency or voluntary discharge, the resident, responsible party, attending physician, and the responsible agency, if any, are consulted in advance of the transfer or discharge of any resident.

(B) The resident or responsible party will be provided written notification of his or her transfer ten (10) days prior to the transfer.

### **20 CAR § 400-412. Confidentiality of medical record information.**

There shall be written policies adopted by the management of the nursing home covering confidentiality of medical records and procedures regarding release of medical information.

**20 CAR § 400-413. Infection prevention and control.**

**(a) Infection prevention and control policies and procedures.**

(1) Infection prevention and control policies and procedures of a certified skilled nursing facility are governed by federal regulations at 42 C.F.R. § 483.80 and applicable subregulatory guidance issued by the Centers for Medicare and Medicaid Services.

(2)(A) Each intermediate care facility for individuals with intellectual disabilities, intermediate care facility, and noncertified skilled nursing facility shall establish and administer written policies and procedures for investigating, controlling, and preventing infections.

(B) These policies and procedures shall be consistent with:

(i) Centers for Disease Control and Prevention published guidelines on infection prevention and control applicable to long-term care facilities; and

(ii) Department of Health rules and guidance.

(3) Tuberculosis screening, testing, and treatment of facility personnel must follow the published joint recommendations of the Centers for Disease Control and Prevention and the National Tuberculosis Controllers Association.

**(b) Care and treatment of residents with contagious disease.** Any facility caring for a resident with a contagious disease or diseases shall follow applicable Centers for Disease Control and Prevention guidelines and department rules and guidance on infection control or generally accepted clinical guidelines concerning treatment, consistent with orders and guidance from the facility medical director or the resident's physician if attending.

**(c) Communicable disease reporting.**

(1) A facility shall report cases of communicable diseases to the department as required by State Board of Health rules.

(2)(A) Additional infectious disease reporting requirements for certified skilled nursing facilities are governed by federal regulations at 42 C.F.R. § 483.80 and applicable subregulatory guidance issued by the Centers for Medicare and Medicaid Services.

(B) These federal reporting requirements are in addition to the required reporting of communicable diseases to the department.

(3)(A) Under these licensing regulations, facility participation in the National Healthcare Safety Network, the Centers for Disease Control and Prevention tracking system for healthcare-associated infections, is optional.

(B) However, a certified skilled nursing facility may be required by the Centers for Medicare and Medicaid Services to participate in or submit data to the National Healthcare Safety Network under 42 C.F.R. § 483.80 and applicable Centers for Medicare and Medicaid Services-issued subregulatory guidance.

**20 CAR § 400-414. Handling of oxygen and flammable gases.**

Policies shall be written for the proper handling of oxygen and flammable gases.

**20 CAR § 400-415. Personnel policies.**

Written personnel policies shall be provided and shall be available to all personnel and to the Division of Provider Services and Quality Assurance.

**20 CAR § 400-416. Transportation of residents.**

(a) The facility shall establish a written policy regarding transportation of residents, when necessary, to:

- (1) The hospital;
- (2) Medical clinics; and
- (3) Dentist offices.

(b) The facility must assume responsibility for seeing that the patient's transportation needs are met.

**20 CAR § 400-417. Bedpan sanitation.**

Written policies shall be established to ensure all individually assigned bed pans are sanitized by:

- (1) The boiling method for a minimum of twenty (20) minutes at least once a

week; or

(2) Other methods approved by the Division of Provider Services and Quality Assurance.

## **Subpart 5. Other Services**

### **20 CAR § 400-501. Specialized rehabilitative services.**

(a) If the facility does not offer specialized rehabilitative services directly, patients in need of such services, such as physical therapy, occupational therapy, speech pathology, and audiology, shall not be admitted or retained in the facility unless arrangements for these services have been provided with an outside resource.

(b) Terms of the agreement should include:

- (1) Reimbursement;
- (2) Responsibility of each party; and
- (3) Documentation responsibilities.

### **20 CAR § 400-502. Advisory dentist.**

(a) Facilities shall establish a written cooperative agreement with an advisory dentist or dental service.

(b) The agreement shall include provisions for a dentist or dental service.

(c) The agreement shall include provisions for a dentist to:

- (1) Participate annually in the staff development program; and
- (2) Recommend oral hygiene policies and practices.

### **20 CAR § 400-503. Social services.**

If a facility provides social services directly and the designated staff member is not a qualified social worker, a written agreement shall be established to provide consultation from such a qualified person or a recognized social agency.

### **20 CAR § 400-504. Activity director.**

(a) In a nursing facility, if the staff member designated responsible for the activity program is not a qualified patient activity coordinator, a written agreement shall be established with a person so qualified.

(b) The master social worker (MSW) consultant may also serve as consultant to the activity director.

**20 CAR § 400-505. Medical and remedial services.**

A nursing home shall establish a written agreement for all medical and remedial services, i.e., laboratory, radiological, and other services, required by the resident but not regularly provided within the facility.

**20 CAR § 400-506. Transfer agreement.**

(a) A facility shall have in effect a written transfer agreement with one (1) or more hospitals sufficiently close to the facility to make feasible the transfer of patients.

(b) It shall be the duty of each nursing home administrator to supply basic information at the time of a patient's transfer from one nursing home to another or to a hospital.

**Subpart 6. Electronic Records and Signatures**

**20 CAR § 400-601. Electronic records generally.**

(a)(1) Facilities have the option of utilizing electronic records rather than, or in addition to, paper or "hardcopy" records.

(2) The facility must have:

(A) Safeguards to prevent unauthorized access to the records; and

(B) A process for reconstruction of the records in the event of a system breakdown.

(b) Any electronic record or signature system shall, at a minimum:

(1)(A)(i) Require authentication and dating of all entries.

(ii) "Authentication" means identification of the author of an entry by

that author and no other, and that reflects the date of entry.

(B) An authenticated record shall be evidence that the entry to the record was what the author entered.

(C)(i) To correct or enhance an entry, further authenticated entries may be made, by the original author, or by any other author, as long as the subsequent entries are authenticated as to who entered them, complete with date and time stamp of the entry, and that the original entries are not modified.

(ii) "Entry" means:

(a) Any changes, deletions, or additions to a record; or

(b) The creation of a record.

(D) The electronic system utilized by the facility shall:

(i) Retain all entries for the life of the medical record; and

(ii) Record the date and time of any entry, as well as identifying the individual who performed the entry.

(E) The electronic system must not allow any original signed entry or any stored data to be modified from its original content except for computer technicians correcting program malfunction or abnormality.

(F) A complete audit trail of all events as well as all "before" and "after" data must be maintained;

(2)(A) Require data access controls using unique personal identifiers to ensure that unauthorized individuals cannot:

(i) Make entries to a record; or

(ii) Create or enter an electronic signature for a record.

(B) The facility shall maintain a master list of authorized users, past and present.

(C) Facilities shall terminate user access when the user leaves employment with the facility;

(3)(A) Include physical, technical, and administrative safeguards to ensure confidentiality of patient medical records, including procedures to limit access to only authorized users.

(B) The authorized user must certify in writing that:

(i) The identifier will not be shared with or used by any other person;

and

(ii) They are aware of the requirements and penalties related to improper usage of their unique personal identifier;

(4)(A) Provide audit controls.

(B) The system must be capable of tracking and logging user activity within its electronic files.

(C) These audit logs shall include the:

(i) Date and time of access; and

(ii) User ID under which access occurred.

(D) These logs shall be maintained a minimum of six (6) years.

(E) The facility must certify in writing that it is:

(i) Monitoring the audit logs to:

*(a)* Identify questionable data access activities;

*(b)* Identify breaches; and

*(c)* Assess the security program; and

(ii) Taking corrective actions when a breach in the security system becomes known;

(5)(A) Have a data recovery plan.

(B) Data must be backed up either locally or remotely.

(C) Backup media shall be stored at both on-site and off-site locations or alternatively at multiple offsite locations.

(D)(i) The backup system must have the capability of timely restoring the data to the facility or to the central server in the event of a system failure.

(ii) Barring a natural disaster of epic proportions (e.g., earthquake, tornado), "timely" means that the restoration of the backup occurs within a period of time that will permit no more than minimal disruption in the delivery of care and services to the residents.

(E) Pending restoration from backup, the facility shall:

- (i) Maintain newly generated records in a paper format; and
- (ii) Copy or transfer the contents of the paper records to the electronic system upon restoration of the system and backup.

(F) A full backup shall be performed at least weekly, with incremental or differential backups daily.

(G) Back up media shall be maintained both locally and at the off-site location or alternatively at multiple off-site locations until the next full weekly backup is successfully completed.

(H)(i) Backups shall be tested periodically, but no less than monthly.

(ii) Testing shall include restoration of the backup to a computer or system that shall not interfere with, or overwrite, current records.

(I) If utilizing a third-party company for computer data storage and retrieval, the facility shall require that said third-party company shall comply with these requirements; and

(6)(A) Provide access to United States Department of Health and Human Services and Centers for Medicare and Medicaid Services personnel.

(B) Access may be by means of an identifier created for the United States Department of Health and Human Services, Office of Long-Term Care, or Centers for Medicare and Medicaid Services personnel, by a printout of the record, or both, as requested by United States Department of Health and Human Services, office, or Centers for Medicare and Medicaid Services personnel.

(C) Access must be in a "human readable" format and shall be provided in a manner that permits United States Department of Health and Human Services, office, or Centers for Medicare and Medicaid Services personnel to view the records without facility personnel being present.

(D) Access shall:

- (i) Include all entries and accompanying logs; and
- (ii) List the date and time of any entry, as well as identifying the individual who performed the entry.

(E) Any computer system utilized, whether in-house or from a third-party

vendor, must comply with this part.

**20 CAR § 400-602. Physicians' orders.**

(a) When facility personnel take telephone orders from physicians or other individuals authorized by law or rules to issue orders, the facility documents the appropriate information, including but not limited to, the:

(1) Date and time of the order; and

(2) Identity of the physician or other authorized individual giving the order as well as the identity of the facility personnel taking the order.

(b) The facility shall ensure that the physician electronically countersigns the physician's order upon the physician's next rounds at the facility or through Internet access from the physician's office.

**20 CAR § 400-603. Use of electronic records or signatures in lieu of written records or signatures.**

For purposes of this part, in all instances in which the rules require, or appears to require, the facility to use written records or written signatures, the facility may use electronic records or electronic signatures in lieu of written records or written signatures when doing so conforms to the requirements of this subpart for the use of electronic records or electronic signatures.

**Subpart 7. Physical Environment — General Standards for Existing Structures**

**20 CAR § 400-701. General.**

Every institution must be maintained, managed, and equipped to provide adequate care, safety, and treatment of each resident.

**20 CAR § 400-702. Facility grounds and parking.**

(a) All homes shall be provided with dust free drives and parking lots.

(b) Parking areas shall be provided in a ratio of one (1) individual parking space for

each five (5) licensed beds.

**20 CAR § 400-703. Doors.**

(a) All exterior doors shall be effectively weather stripped.

(b) Doors shall swing into rooms except closet, toilet, and exit doors.

(c) The doors to all rooms, toilets, baths, and closets shall be legibly marked with names or numbers, as appropriate to identify the area.

(d)(1) Exit doors shall not be locked in such a way that a key is necessary to open the door from the inside of the building.

(2) A latch or other fastening device on the door shall be provided with a knob, handle, panic bar, or other simple type of releasing device, which is part of the door handle hardware, of which the method of operation is obvious even in darkness.

**20 CAR § 400-704. Standard patient rooms, bath, and toilet facilities.**

(a) Standard patient rooms shall not have more than five (5) beds.

(b)(1) Single standard patient rooms shall measure at least one-hundred square feet (100 sq. ft.).

(2) Multipatient rooms shall provide a minimum of seventy-two square feet (72 sq. ft.) per bed.

(3) Patient beds shall be located in rooms and placed at least three feet (3') apart in all directions and so located as to avoid contamination (respiratory droplets), drafts, excessive heat, or other discomfort to patients, to:

(A) Provide adequate room for nursing procedures; and

(B) Minimize the transmission of disease.

(c)(1) Each standard patient room shall be equipped with or conveniently located near adequate toilet and bathing facilities.

(2) At least four (4) patients toilet facilities and three (3) bathing units shall be provided for each thirty-five (35) beds.

(3) Each toilet facility shall be in a separate stall.

(4) Toilets shall be equipped with hand-washing facilities and toilet paper

hangers.

(d) Each standard patient room shall have hand-washing facilities with both hot and cold running water, unless adequately provided in a nearby room.

(e) Each patient room shall have direct access to a corridor.

(f)(1) Rooms extending below ground level shall not be used for patients unless they are:

(A) Dry;

(B) Well-ventilated by required window space; and

(C) Otherwise suitable for occupancy.

(2) Nonambulatory patients may not be housed below ground level.

(g)(1) Each patient room shall have a window not less than one-sixteenth (1/16) of the floor space or outside door arranged and located so that it can be opened from the inside.

(2) The window shall be so located that the patients have a reasonable outside view.

(h) Each patient shall be provided with storage space, closet, or other enclosed space, within his or her room, for clothing and other possessions.

**20 CAR § 400-705. Intensive care room.**

(a) An intensive care room shall be:

(1) Provided for each thirty-five (35) beds or major portion thereof; and

(2) Located near the nurses' station.

(b) Each room shall have the standard square footage as set forth in this part.

(c) The room shall be provided with:

(1) Standard unit equipment;

(2) A lavatory with a gooseneck spout and elbow or wrist-action blade-handle controls; and

(3) A soap and a towel dispenser.

(d) At least one (1) of these rooms is a single room which can be used for isolation.

**20 CAR § 400-706. Corridors.**

Corridors in facilities licensed prior to 1973 shall be at least six feet (6') wide.

**20 CAR § 400-707. Handrails.**

(a)(1) Standard handrails shall be provided on each side of the corridor in all areas used by patients.

(2) However, a six-foot passageway must be maintained.

(b) For six-foot corridors, a handrail shall be required only on one (1) side.

**20 CAR § 400-708. Bedpan cleaning and storage room.**

(a) There shall be one (1) properly equipped bedpan cleaning room with deep metal sink.

(b) In addition to bedpan cleaning equipment, appropriate hand-washing facilities shall be provided.

(c) The room shall include equipment for sterilization, unless a separate central sterilization is provided.

**20 CAR § 400-709. Day room and dining room.**

(a) A well-lighted, clean, orderly, and ventilated room or rooms shall be provided for patient activities and for dining areas.

(b)(1) A minimum of twenty square feet (20 sq. ft.) per bed shall be provided for this purpose.

(2) At least half of the required area may be used for dining.

**20 CAR § 400-710. Ceilings, walls, and floors.**

(a) **Ceiling.**

(1) Kitchens, and other rooms where food and drink are prepared shall have a smooth, nonperforated surface that is washable.

(2) Wallpaper shall not be used.

(b) **Walls.**

(1) The walls of the facility shall be a smooth surface with painted or equally washable finish.

(2)(A) They shall be without cracks, and in conjunction with floors, shall be waterproof and free from spaces which may harbor ants and roaches.

(B) The walls in the examining room and treatment room shall have waterproof paint.

(3) All walls shall be kept clean and in good repair.

(c) **Floors.**

(1)(A) All floor surfaces throughout the building shall provide a surface or finish which is:

- (i) Smooth;
- (ii) Waterproof;
- (iii) Grease proof; and
- (iv) Resistant to heavy wear.

(B) Safety devices shall be provided on ramps.

(C)(i) All floors in baths, toilets, lavatories, beneath kitchen dish washing facilities, and bedpan rooms shall have a floor covering of a continuous type.

(ii) No cracks or joints in the floor covering shall be permitted in these rooms.

(D) Carpet is permitted as floor covering for the following areas, provided the carpet meets the following requirements: The carpet has a flame spread rating of seventy-five (75) or less, has a smoke density of one hundred (100) or less, when the carpet is treated in accordance with NFPA 253, Flooring Radiant Panel Test:

- (i) Offices;
- (ii) Corridors;
- (iii) Chapels; and
- (iv) Day rooms.

(2)(A) No pad will be permitted under the carpet.

(B) The carpet is to be glued directly to the floor.

(C) Prior approval by the Division of Provider Services and Quality

Assurance is required before the carpet is installed.

(D) In nursing homes where carpet is installed, the home must furnish equipment and have written cleaning procedures to clean and maintain the carpet.

(E) This equipment must include, as a minimum, a shampooer and wet/dry vacuum.

(3)(A) Facilities presently having carpets in areas other than those listed above may keep that carpet as long as it is maintained properly and free of odors.

(B) If not properly maintained and free of odors, the carpet will be removed and replaced with a hard smooth surface.

### **20 CAR § 400-711. Heating and cooling.**

(a)(1)(A) The institution shall be equipped with heating and cooling equipment that will maintain a minimum temperature of seventy-five degrees Fahrenheit (75°F) during winter and eighty degrees Fahrenheit (80°F) during summer in all patient areas when the temperature outside does not exceed ninety-five degrees Fahrenheit (95°F).

(B) If temperature outside exceeds one hundred degrees Fahrenheit (100°F), there shall be a fifteen-degree Fahrenheit difference in exterior to interior temperature.

(2) If an air conditioner should break down or malfunction, the Office of Long-Term Care should be notified immediately.

(3) Patients' toilets and bathroom temperature shall be maintained at eighty degrees Fahrenheit (80°F).

(b) Central heating systems shall be provided with Underwriters, approved temperature controls throughout the building.

### **20 CAR § 400-712. Lighting.**

(a)(1) Each patient's room shall have natural lighting during the day and have general lighting at night.

(2) Natural lighting shall be augmented when necessary by artificial illumination.

(b) Approved "exit" lights shall be provided at all exit areas and shall be continuously illuminated.

**20 CAR § 400-713. Emergency power.**

(a)(1) The facility shall provide an emergency source of electrical power necessary to protect the health and safety of patients in the event the normal electrical supply is interrupted.

(2) The emergency electrical power system must supply power adequate at least for:

(A) Lighting in all means of egress; and

(B) Equipment to maintain fire detection, alarm, and extinguishing systems.

(3) Dry battery or wet-cell batteries may be used as emergency power in facilities where life support systems are not used.

(b) Where life support systems are used, emergency electrical service is provided by an emergency generator located on the premises.

**20 CAR § 400-714. Water service.**

(a) The water supply used by the institution shall meet the requirements of the Department of Health.

(b) There shall be procedures to ensure water to all essential areas in the event of loss of normal water supply.

(c) The water service shall be:

(1) Brought into the building to comply with the requirements of the Arkansas Plumbing Code, 17 CAR pt. 65; and

(2) Free of cross connections.

(d) **Hot water heaters.**

(1)(A) Hot water heating and storage equipment shall have sufficient capacity to supply:

(i) Four (4) gallons of water at one hundred ten degrees Fahrenheit

(110°F) (forty-three degrees Celsius (43°C)), per hour per bed for institution fixtures;

(ii) One (1) gallon at one hundred sixty degrees Fahrenheit (160°F) (seventy-one degrees Celsius (71°C)), per hour per bed for the laundry; and

(iii) One (1) gallon at one hundred eighty degrees Fahrenheit (180°F) (eighty-two degrees Celsius (82°C)) per hour per bed for the kitchen.

(B) The water temperature in patient areas shall not exceed one hundred ten degrees Fahrenheit (110°F) (forty-nine degrees Celsius (49°C)).

(2) The hot water storage tank, or tanks, shall have a capacity equal to forty percent (40%) of heater capacity.

(3) Tanks and heaters shall be fitted with pressure temperature relief valves.

(4)(A) Temperatures of hot water at plumbing fixtures used by residents shall be automatically regulated by control valves.

(B) Water temperature in patient areas shall be checked weekly.

(5) All gas, oil, or coal heaters shall be vented to the outside.

**(e) Plumbing and other piping systems.**

(1)(A) All plumbing systems shall be designed and installed in accordance with the requirements of Arkansas Plumbing Code, 17 CAR pt. 65.

(B) From the cold water service and hot water tanks, cold water and hot water mains and branches shall be run to supply all plumbing fixtures and equipment which require hot and cold water or both for their operation.

(C) Pipes shall be sized to supply hot and cold water to all fixtures with a minimum pressure of fifteen pounds (15 lbs.) at the top floor fixtures during maximum demand periods.

(2) Water closets shall be the elongated type, and water closet seats shall be of the open-front type.

(3) Gooseneck spouts shall be used for patients' lavatories and sinks, which may be used for filling pitchers.

(4) Knee, elbow, wrist, or foot action faucets shall be used in treatment rooms.

(5) An electrically operated water fountain shall be so located as to be accessible to patients.

(6)(A) Backflow preventers (vacuum breakers) shall be installed with any water supply fixture where the outlet's end may at times be submerged.

(B) Examples of such fixtures are hoses, sprays, direct flushing valves, aspirators and under-rim water supply connections to a plumbing fixture or receptacle in which the surface of the water in the fixture or receptacle is exposed at all times to atmospheric pressure.

**20 CAR § 400-715. Nurses' station.**

(a)(1) Nurses' stations shall be provided and so designated that they contain a minimum of sixty square feet (60 sq. ft.) per each thirty-five-bed patient unit, and are not more than one hundred twenty linear feet (120 LF) from each patient room.

(2) The station shall include:

- (A) Adequate storage and preparation area or areas;
- (B) Medication;
- (C) Toilet and hand-washing facilities; and
- (D) Sufficient lighting.

(b)(1) A separate utility room shall be provided for clean items and soiled items for each nurses' station.

(2) They shall be mechanically ventilated to the outside and adequately lighted.

(3) Two (2) or more electrical convenience outlets shall be provided for each utility room.

(4) Blade handle control faucets shall be provided.

(5) Gooseneck spouts shall be in a separate room and ventilated to the outside.

(c)(1) A closet for soiled linens shall be provided for each nurses' station.

(2) This dirty linen storage shall be in a separate room and ventilated to the outside.

**20 CAR § 400-716. Janitors' closets.**

(a)(1) Janitors' closets shall be provided for each nursing unit, and a separate janitor's closet shall be provided within the kitchen area.

(2) These closets shall be provided with:

(A) Hot and cold running water;

(B) A floor receptor or service sink; and

(C) Shelves for the storage of janitorial equipment and supplies.

(b) The closets shall be mechanically vented to the outside.

(c) Janitors' closets in patient areas must be kept locked.

**20 CAR § 400-717. Nurses' call system.**

(a) A nurses' call system comprised of an electric buzzer or light system shall be so designed that the location of a call can be determined from the corridor and nurses' station.

(b) In addition, emergency call stations shall be provided in all patient bath, toilet, and shower areas.

(c)(1) Wireless nurse call systems may be substituted for wired call systems.

(2) Wireless call systems shall meet the requirements set forth in 20 CAR § 400-818.

**20 CAR § 400-718. Fire alarm system.**

Each nursing home shall have an electrically supervised, manually operated fire alarm system in accordance with Section 6-3 NFPA 101, Life Safety Code handbook that applies to their nursing home.

**Subpart 8. Physical Environment — Standards for New Construction and/or Alterations**

**20 CAR § 400-801. General.**

(a)(1) A "new institution" is one (1) that had a plan approved by the Office of Long-Term Care and began operation and/or construction or renovation of a building

for the purpose of operating an institution on or after the adoption date of this part.

(2) The rules and codes governing new institutions apply if and when the institution proposes to begin operation in a building not previously and continuously used as an institution licensed under this part.

(b) Additions to existing facilities shall meet the standard for new construction.

(c) The requirements outlined under Physical Environment — General Standards for Existing Structures, 20 CAR § 400-701 et seq., also apply when applicable.

**20 CAR § 400-802. Site location, inspection, approvals, and subsoil investigation.**

(a)(1) The building site:

(A) Shall afford good drainage; and

(B) Shall not be:

(i) Subject to flooding; or

(ii) Located near:

(a) Insect breeding areas, noise, or other nuisance-producing locations;

(b) Hazardous locations;

(c) Industrial developments;

(d) Airports;

(e) Railways;

(f) Penal or other objectionable institutions; or

(g) A cemetery.

(2) The site shall afford the safety of patients and not be subject to air pollution.

(b)(1) A site shall be adequate to accommodate roads and walks within the lot lines to at least the:

(A) Main entrance;

(B) Ambulance entrance; and

(C) Service entrance.

(2) All facility sites shall contain enough square footage to provide at least as much space for walks, drives, and lawn space as the square footage contained in the building.

(c) The building site shall be inspected and approved by the Division of Provider Services and Quality Assurance before construction is begun.

**20 CAR § 400-803. Submission of plans, specifications, and estimates.**

(a)(1) When construction is contemplated either for new buildings, additions, or major alterations in excess of one hundred thousand dollars (\$100,000), plans and specifications shall be submitted in duplicate one (1) to the Office of Long-Term Care and one (1) to the Plumbing Division of the Department of Health, for review, along with a copy of the statement of approval from the comprehensive health planning agency.

(2) Final plan approval will be given by the office.

(b)(1) Such plans and specifications should be prepared by a registered professional engineer or an architect licensed in the State of Arkansas (Acts 1941, No. 270, as amended) and should be drawn to scale with the title and date shown thereon.

(2) The Division of Provider Services and Quality Assurance shall be a minimum of three (3) weeks to:

(A) Review the drawing and specifications; and

(B) Submit their comments to the applicant.

(3) Any proposed deviations from the approved plans and specifications shall be submitted to the Division of Provider Services and Quality Assurance prior to making any changes.

(4) Construction cannot start until approval of plans and specifications have been reviewed from the Division of Provider Services and Quality Assurance.

(5) The Division of Provider Services and Quality Assurance shall be notified as soon as construction of a new building or alteration to an existing facility is started.

(c) An estimate shall accompany all working plans and specifications when the total cost of construction is more than one hundred thousand dollars (\$100,000).

(d) Representatives from the Division of Provider Services and Quality Assurance shall have access to the construction premises and the construction project for purposes of making whatever inspections deemed necessary throughout the course of construction.

**20 CAR § 400-804. Plans and specifications.**

(a)(1) All institutions licensed under these standards shall be designated and constructed to substantially comply with pertinent local and state:

- (A) Laws;
- (B) Codes;
- (C) Ordinances; and
- (D) Standards.

(2) All new nursing home construction shall be in accordance with requirements of Section 10-132 of NFPA Standard 101, 1973 edition.

(b) Plans shall be submitted to the Division of Provider Services and Quality Assurance in the following stages:

(1) **Preliminary submission.** The architect preparing plans should contact Office of Long-Term Care for preliminary review; and

(2) **Final submission.**

(A) **Step 1.**

(i) Working drawings and specifications which shall be well prepared so that clear and distinct prints may be obtained.

(ii) Accurate dimensions and including all necessary explanatory notes, schedules, and legends.

(iii) Working drawings shall be complete and adequate for contract purposes.

(iv) Separate drawings shall be prepared for each of the following branches of work: architectural, structural, mechanical, and electrical and shall include the following:

*(a)(1)* Approved plan showing all new topography, newly

established levels and grades, existing structures on the site (if any), new buildings and structures, roadways, walks, and the extent of the areas to be seeded.

(2) All structures and improvements which are to be removed under the construction contract shall be shown.

(3) A print of the survey shall be included with the working drawings;

(b) Plan of each floor and roof;

(c) Elevations of each façade;

(d) Sections through building;

(e) Scale and full-size details as necessary to properly indicate portions of the work; and

(f) Schedule of finishes.

(B) **Step 2.** Equipment drawings. Large scale drawings of typical and special rooms indicating all fixed equipment and major items of furniture and movable equipment.

(C) **Step 3.** Structural drawings.

(i)(a) Plans of foundations, floors, roofs, and all intermediate levels shall show a complete design with sizes, sections, and the relative location of the various members.

(b) Schedule of beams, girders, and columns shall be included.

(ii) Floor levels, column centers, and offsets shall be dimensioned.

(iii) Special openings and pipe sleeves shall be dimensioned or otherwise noted for easy reference.

(iv) Details of all special connections, assemblies, and expansion joints shall be given.

(D) **Step 4.** Mechanical drawings. The drawings with specifications shall show the complete heating, steam piping and ventilation systems, plumbing, drainage and standpipe system, and laundry.

(i) Heating, steam piping, and air-conditioning systems:

(a) Radiators and steam heated equipment, such as sterilizers,

warmers, and steam tables;

(b) Heating and steam mains and branches with pipe sizes;

(c) Sizes, types, and heating surfaces of boilers, furnaces, with stokers and oil burners, if any;

(d) Pumps, tanks, boiler breeching and piping, and boiler room accessories;

(e) Air-conditioning systems with required equipment, water and refrigerant piping, and ducts;

(f) Exhaust and supply ventilating systems with steam connections and piping; and

(g) Air quantities for all room supply and exhaust ventilating duct openings.

(ii) Plumbing, drainage, and standpipe systems:

(a) Size and elevation of street sewer, house sewer, house drains, street water main and water service into the building;

(b) Locations and size of soil, waste, and vent stacks with connections to house drains, clean outs, fixtures, and equipment;

(c) Size and location of hot, cold and circulating mains, branches and risers from the service entrance and tanks;

(d) Riser diagram to show all plumbing stacks with vents, water risers, and fixture connections;

(e) Gas, oxygen, and special connections; and

(f) Plumbing fixtures and equipment which require water and drain connections.

(iii) Elevators and dumbwaiters. Details and dimensions of shaft, pit and machine room, sizes of car platform, and doors.

(iv)(a) Kitchens, laundry, refrigeration, and laboratories.

(b) These shall be detailed at a satisfactory scale to show the location, size, and connections of all fixed equipment.

(E) **Step 5.** Electrical drawings.

(i) Drawings shall show all electrical wirings, outlets, smoke detectors, and equipment which require electrical connections.

(ii) Electrical service entrances with switches, and feeders to the public service feeders shall be shown.

(iii) Plan and diagram showing main switchboard power panels, light panels, and equipment.

(iv) Light outlets, receptacles, switches, power outlets, and circuits.

(v) Nurses' call systems with outlets for:

(a) Beds;

(b) Duty stations;

(c) Door signal lights;

(d) Enunciators; and

(e) Wiring diagrams.

(vi) Fire alarm system with stations, signal devices, control board and wiring diagrams.

(vii) Emergency electrical system with outlets, transfer switch, source of supply, feeders, and circuits.

(F) **Step 6.** Specifications. Specifications shall supplement the drawings to fully describe types, sizes, capacities, workmanships, finishes, and other characteristics of all materials and equipment and shall include the following:

(i) Cover or title sheet;

(ii) Index;

(iii) General conditions;

(iv) General requirements; and

(v) Sections describing material and workmanship in detail for each class of work.

### **20 CAR § 400-805. Codes and standards.**

The following codes and standards are incorporated into and made a part of this part:

(1)(A) The 1973 edition of the National Fire Code (NFPA) applies to new construction and alterations or additions to existing facilities.

(B) This edition includes NFPA No. 101, Life Safety Code (1973);

(2) The 1967-68 edition of the National Fire Code (NFPA) applies to existing facilities which met such standards as of June 1, 1976;

(3) American National Standards Institute (ANSI) Standard No. A117.1, American Standard Specifications for making building and facilities accessible to, and usable by, the physically handicapped;

(4) Arkansas Plumbing Code, 17 CAR pt. 65;

(5) Fire Resistance Index 1971, Underwriters Laboratories, Inc.;

(6) Handbook of Fundamentals, American Society of Heating, Refrigeration and Air- conditioning Engineers (ASHRAE), United Engineer Center, 345 East 47th Street, New York, New York 10017;

(7) Method of Test for Surface Burning Characteristics of Building Materials, Standard No. E 84-61 American Society for Testing and Materials (ASTM) Standard No. 84- 61, 1961 Race Street, Philadelphia, Pennsylvania 19103;

(8) Methods of Fire Test of Building Construction and Materials, Standard No. E 119, American Society of Testing and Materials (ASTMO), 1961 Race Street, Philadelphia, Pennsylvania 19103; and

(9) Minimum Power Supply Requirements, Bulletin No. XR4-10 National Electrical Manufacturers Association (NEMA), 155 East 44th Street, New York, New York 10017.

**20 CAR § 400-806. Standard patient room and toilet design.**

(a) Built-in closets shall be provided in each patient room for storage of clothing and other possessions.

(b) Each patient bed shall be provided with a suitable fixed light:

(1) Equipped with a noncombustible shade to prevent direct glare for reading or other purposes; and

(2) Capable of being switched on and off by the patient.

(c) To ensure privacy in multipatient rooms, each bed shall be provided with fixed flame-retardant cubicle curtain.

(d) Each patient room shall have an adequate toilet, bathing, and hand-washing facility with hot and cold running water unless provided in an adjacent room.

(e) Each room has direct access to a corridor and outside exposure, with the floor at or above grade level.

(f)(1) Every patient unit shall be provided with a bedside cabinet with at least two (2) enclosed storage spaces.

(2) The top drawer shall be for storage of personal items and the bottom for individually assigned bedpans, urinals, etc.

(g)(1) Standard patient rooms shall measure at least one hundred square feet (100 sq. ft.).

(2) Multipatient rooms shall provide a minimum of eighty square feet (80 sq. ft.) per bed.

(h) Multipart rooms shall be limited to four (4) beds.

#### **20 CAR § 400-807. Intensive care room design.**

(a) Other than requirements set forth for existing structures, 17 CAR § 400-705, an intensive care room shall be mechanically vented to the outside and provided with a standard private toilet and hand-washing facility.

(b) The intensive care room may also serve as an isolation room.

#### **20 CAR § 400-808. Corridors.**

Corridors shall be at least eight feet (8') wide.

#### **20 CAR § 400-809. Laundry.**

(a) Laundry in new facilities must provide complete separation (by partition) of the soiled laundry area (including washer) and the clean laundry area.

(b) A lavatory with soap and towel dispensers must be provided for the staff in each area, and a rinsing sink provided in the soiled laundry area.

(c) A linen folding table must be provided in the clean laundry area.

(d) If the laundry area is included in the main nursing home building, it shall be so located as to be as removed as possible from the patient area.

**20 CAR § 400-810. Storage.**

(a) There shall be a minimum of five square feet (5 sq. ft.) per bed for general storage space provided in those cases where built-in closets are provided in patient rooms.

(b) It is recommended that this be concentrated in one (1) general area except for small storage areas within the nursing units for wheelchairs, patient lifts, walkers, etc.

**20 CAR § 400-811. Administrative offices.**

Separate office space shall be provided for administrative and business functions as follows:

- (1) Office for the administrator;
- (2) Office for the director of nursing services; and
- (3) Office or space for social and activity director.

**20 CAR § 400-812. Resident's dining and recreation areas.**

(a) The total area set aside for residents' dining and recreation purposes shall be not less than twenty square feet (20 sq. ft.) per bed.

(b) Additional space shall be provided if the facility participates in a day care program.

(c) The areas shall be well lighted and well ventilated.

**20 CAR § 400-813. Utility rooms.**

(a) A separate utility room shall be provided for clean items and soiled items for each nurses' station.

(b)(1) Utility rooms shall be mechanically ventilated to the outside and adequately lighted.

(2) Two (2) or more electrical convenience outlets shall be provided for each utility.

(3) Blade-handle control faucets shall be provided.

(4) Gooseneck spouts shall be provided in the clean utility room.

**20 CAR § 400-814. Bedpan room.**

(a) There shall be at least one (1) bedpan cleaning room.

(b) In addition to the bedpan cleaning equipment, hand-washing facilities with blade-handle controls shall be provided.

(c) There shall be provisions for equipment sterilization.

**20 CAR § 400-815. Janitors' closets.**

(a) Janitors' closets shall be provided for each nursing unit, and a separate janitor's closet shall be provided within the kitchen area.

(b) These closets shall be provided with:

(1) Hot and cold running water;

(2) A floor receptor and service sink; and

(3) Shelves for the storage of janitorial equipment and supplies.

(c) The closets shall be mechanically vented to the outside.

(d) Janitor closets in patient areas must be kept locked.

**20 CAR § 400-816. Linen closets.**

Closets for clean linens shall be provided for each nurses' station.

**20 CAR § 400-817. Soiled linen closets.**

(a) Closet for soiled linens shall be provided for each nurses' station.

(b) This dirty linen storage shall be in a separate room and ventilated to the outside.

**20 CAR § 400-818. Nurses' call system.**

(a)(1) In general patient areas, each room shall be served by at least one (1) calling station, and each bed shall be provided with a call button.

(2) Two (2) call buttons serving adjacent beds may be served by one (1) calling station.

(3) Calls shall:

(A) Register with the floor staff at the nurses' station; and

(B) Activate a visible signal at the patient's room and audible signal at the nursing station.

(4) In multicorridor nursing units, additional visible signals shall be installed at corridor intersections if patient room lights are not visible from the nurses' station.

(5) Nurses' calling systems which provide two-way voice communication shall be equipped with an indicating light at each calling station which lights and remains lighted as long as the voice circuit is operating.

(b)(1) A nurses' call emergency button shall be provided for patients' use at each patient's toilet, bath, and shower room.

(2) These call lights should be so designed that they can only be turned off in the patient area.

**(c) Wireless nurse call systems.**

(1) Facilities may:

(A) Substitute a wireless nurse call system for wired call systems; or

(B) Operate both a wireless and a wired nurse call system in parallel.

(2) Wireless nurse call systems shall at a minimum:

(A) Provide a call button at each patient bed, bath, and toilet and at each whirlpool and each physical therapy room;

(B)(i) Utilize Federal Communications Commission-approved radio frequencies.

(ii) Frequencies must not interfere with or disrupt:

(a) Pacemakers;

(b) Defibrillators; or

(c) Other medical equipment;

- (C) Receive only signals initiated from the manufacturer's system;
- (D) Provide signal coverage and penetration throughout the entire facility and all facility grounds;
- (E) Provide an audible signal to any nurses' station that provides coverage to the room from which the signal originates;
- (F)(i) Provide signaling for all wireless devices utilized by staff to receive the signal.

(ii) Signaling shall:

(a) Include either an audible tone or vibration to alert the person carrying the receiving device; and

(b) Display on the receiving device the specific location from which the signal originated; and

(G)(i) Provide escalation.

(ii) "Escalation" means that if a signal is unanswered for a designated period of time, the signal is repeated and sent to other nurses' stations or to facility staff that were not designated to receive the original signal.

**20 CAR § 400-819. Nurses' station.**

(a) A nurses' station shall be provided and so designed that it:

(1) Contains a minimum of sixty square feet (60 sq. ft.) per each thirty-five-bed patient unit; and

(2) Is not more than one hundred twenty linear feet (120 LF) from each patient room.

(b) The station shall include:

(1) Adequate storage and preparation areas;

(2) Medication;

(3) Toilet and hand-washing facilities; and

(4) Sufficient lighting.

**20 CAR § 400-820. Fire alarm system.**

Each nursing home shall be an electrically supervised, manually operated fire alarm system in accordance with Section 6-3 NFPA 101, Life Safety Code handbook that applies to their nursing home.

**20 CAR § 400-821. Limitations.**

The following limitations shall apply:

(1)(A) No nursing home shall be connected to any building other than:

- (i) A general hospital;
- (ii) A chronic disease hospital;
- (iii) A rehabilitation facility;
- (iv) A boarding home;
- (v) An adult day care; or
- (vi) A home health agency.

(B) Upon request from the Office of Long-Term Care, supporting documentation must be provided to evidence proper allocation of costs and compliance with all applicable state and federal laws and regulations;

(2) A nursing home shall not be located within thirty feet (30') from another nonconforming structure or the property line of the facility except where prohibited by local codes; and

(3) Occupancies not under the control of, or not necessary to the administration of, a nursing home are prohibited therein with the exception of the residence of the owner or manager.

**20 CAR § 400-822. Ceilings, walls, and floors.**

(a) Ceilings shall be a minimum of eight feet (8') (refer to 20 CAR § 400-710 for surfaces).

(b) Walls (refer to 20 CAR § 400-710).

(c) Floors (refer to 20 CAR § 400-710).

**20 CAR § 400-823. Water cooler.**

(a) An electrically operated water fountain of an approved type shall be provided for each nurses' station.

(b) The water fountain shall be accessible to the physically handicapped.

(c) Water fountains must be recessed not to obstruct the corridor.

## **Subpart 9. Furnishings, Equipment, and Supplies**

### **20 CAR § 400-901. Furnishings.**

(a) Each patient's bed unit, bath, and toilet shall be provided with a standard type, buzzer/light, nurses' call signal, or, alternatively when a wireless nurse call system is utilized, a call button designed to operate with the wireless nurse call system.

(b) Each bed shall be provided with a light with a noncombustible shade to prevent direct glare for reading or other purposes.

(c)(1) To ensure privacy in multipatient rooms, each bed shall be provided with flame retardant cubicle curtains.

(2) In existing facilities, partitions or free-standing folding screens may be used.

(d)(1) Each patient shall be provided with a rigid single bed in good repair measuring a minimum of thirty-six inches (36") in width.

(2)(A) Beds shall be provided with three-inch casters and at least two (2) of the four (4) casters shall be of the locking type.

(B) Roll-away beds, cots, or folding beds are not acceptable.

(3) The beds shall be:

(A) Equipped with a comfortable pillow and a comfortable, firm mattress at least five inches (5") thick; and

(B) Covered with a moisture repellent material.

(4) There shall be hospital type adjustable beds available for patients receiving bed nursing care.

(e)(1) Each patient shall be provided with a bedside table with a:

(A) Compartment or drawer for personal belongings, such as:

- (i) Soap;
- (ii) Hairbrushes;
- (iii) Combs;
- (iv) Toothbrushes; and
- (v) Dentifrice; and

(B) Lower enclosed compartment for storage of individual bedpan or urinal.

(2) Open-shelved stands are not acceptable.

(f) A comfortable chair shall be:

(1) Provided for each licensed bed; and

(2) Available at the bedside unless contraindicated by the patient's condition.

(g) Each window shall be provided with a shade or flame-retardant curtains.

(h) Bed rails shall be provided for bed patients and disoriented patients.

(i) Furniture and play equipment used in the care of children shall be painted with lead free paint.

(j) All wastebaskets shall be the metal type.

### **20 CAR § 400-902. Linens and bedding.**

(a) Extra pillows shall be available as need for treatment and/or comfort of patients.

(b) Moisture-proof rubber or plastic sheeting shall be provided as necessary to keep mattress or pillows clean or dry.

(c)(1) A supply of clean bed linen shall be available at all times.

(2) A minimum of two (2) clean sheets and one (1) pillowcase shall be provided for each bed on a weekly basis.

(3) Linens shall be changed as often as necessary in order to keep the patients:

- (A) Clean;
- (B) Comfortable; and
- (C) Dry.

(d) Each bed shall be covered with a suitable bedspread or blanket at least during the hours of the day when the bed is not occupied.

(e) The minimum supply of linen based on patient capacity shall be:

- (1) Sheets — four (4) times bed capacity;
- (2) Draw sheets — three (3) times bed capacity;
- (3) Pillowcases — three (3) times bed capacity;
- (4) Bath towels — two (2) per patient per week;
- (5) Washcloths — four (4) per patient per week; and
- (6) Bedspreads or blankets — two (2) times bed capacity.

(f)(1) Blankets shall be:

- (A) Provided to ensure the warmth of each patient; and
- (B) Laundered to ensure cleanliness and freedom from odors.

(2) The blankets shall be individually assigned to patients and not passed indiscriminately to patients without first being laundered.

(g) Where laundry is provided on the facility premises:

- (1) An employee shall be designated in charge of the service;
- (2) Table linens shall be laundered separately from bed linen and clothing;
- (3) Patients and personal laundry shall not be washed with bed linen;
- (4)(A) Equipment and doorways in existing laundries must be so arranged that soiled linen and clothing can be delivered to the washing machines without coming near the dryers and clean laundered material.

(B) Hand-washing facilities must be provided for the staff with soap and towel dispensers nearby;

(5) Soiled linens shall be covered or placed in enclosed containers before being transported to the laundry;

(6) Soiled linens shall be stored in a vented area designated only for soiled linens; and

(7)(A) Infected linens shall be tagged with a label marked "Infected" prior to being sent to the soiled linen storage room.

(B) In the laundry, infected linens shall be disinfected by soaking in a

chemical solution before being laundered.

**20 CAR § 400-903. Equipment and supplies.**

(a) Nursing equipment and supplies shall be:

(1) Provided to meet the patients' needs; and

(2) Maintained in good condition to ensure adequate nursing care of the patients.

(b)(1) In nursing homes licensed as intermediate care facilities, the following equipment and supplies shall be provided:

(A) \*Individual soap dishes;

(B) \*Mouthwash cups;

(C) \*Drinking glasses or cups;

(D) \*Items for personal care and grooming;

(E) \*Denture cups;

(F) \*Wash basins;

(G) \*Emesis basins;

(H) \*Bedpans;

(I) \*Bedpan covers;

(J) \*Urinals;

(K) Hypodermic syringes and needles;

(L) Insulin syringes and needles;

(M) Forceps and forceps jars;

(N) Rubber and plastic sheeting;

(O) Hot water bottles and ice caps with covers;

(P) Grab bars in all bathtub, shower, and toilet areas;

(Q) Catheter trays and cover;

(R) Irrigation stands or rods;

(S) Suction machine for each thirty-five (35) patients or a major fraction thereof;

(T) Occupational therapy equipment according to patient needs;

(U) Adjustable crutches, canes, and walkers for fifteen percent (15%) of licensed capacity;

(V) One (1) oxygen unit;

(W) Enema equipment;

(X) Rubber rings;

(Y) Flashlights;

(Z) Examination lights;

(AA) Gloves;

(BB) Footboards;

(CC) Bed rails;

(DD) Commode chairs;

(EE) Weight scales;

(FF) Thermometers;

(GG) Bedpan brushes and containers;

(HH) Sphygmomanometer;

(II) A bed cover cradle;

(JJ) Stethoscope;

(KK) First aid equipment and supplies;

(LL) Heating pads (waterproof type);

(MM) An emergency medical kit;

(NN) A stretcher (collapsible stretcher recommended);

(OO) Trapeze frames for five percent (5%) of licensed capacity;

(PP) Wheelchairs for ten percent (10%) of licensed capacity; and

(QQ) Dressing cart or tray with sterile supplies.

(2) **Note.** \*These items shall be assigned to individual patients, kept clean, and maintained or stored at patient's bedside cabinet.

(c) In nursing homes licensed as skilled nursing facilities, the following equipment and supplies shall be provided in addition to the equipment and supplies necessary for facilities licensed as intermediate care facilities:

(1) Additional trapeze frames as needed;

- (2) Oxygen unit (total of two (2) units required);
- (3) Sterile I.V. equipment;
- (4) Tube feeding tray for each thirty-five (35) skilled care patients or major fraction thereof;
- (5) One (1) patient lift for each thirty-five (35) skilled care patients or major fraction thereof;
- (6) Wheelchairs for fifteen percent (15%) of licensed capacity;
- (7) Sphygmomanometer (total of two (2) required); and
- (8) Stethoscope (total of two (2) required).

**20 CAR § 400-904. Care and cleaning of medical supplies and equipment.**

(a)(1) In homes where commercially packaged sterile disposable items, i.e., dressings, syringes, needles, gloves, catheters, etc., are not provided, a method shall be utilized to achieve sterility for these required items.

(2) Suitable methods for sterilization are:

- (A) Steam autoclave;
- (B) Pressure cooker;
- (C) Liquid sterilizing solution; and
- (D) Dry heat sterilizer.

(b)(1) Thermometers shall be disinfected by methods approved by the Office of Long-Term Care.

(2) One (1) suitable method is to clean the thermometer thoroughly with soap and water and place in solution of iodine one percent (1%) and isopropyl alcohol for at least ten (10) minutes, and then rinse thoroughly with cold water before use.

(c) Methods approved by the office shall be used to sanitize:

- (1) Bedpans;
- (2) Urinals; and
- (3) Emesis basins.

**20 CAR § 400-905. Storage.**

(a)(1) If bedpans, urinals, and emesis basins are assigned to individual patients, they shall be name labeled and stored in the patient's bedside cabinet.

(2) They shall be cleansed after each use and sanitized by an approved method at least weekly.

(3) If the utensils are not individually assigned, they shall be thoroughly cleansed and effectively sanitized between each use and stored in a bedpan room.

(4) After the discharge or transfer of any patient, all such equipment shall be cleansed and boiled or autoclaved prior to reuse.

(b) There shall be convenient storage space for all:

(1) Linens;

(2) Pillows; and

(3) Other bedding items.

(c) There shall be allotted at least five square feet (5 sq. ft.) of general storage space per bed.

(d)(1) Approved storage shall be provided for all materials such as oxygen and flammable gases.

(2) One (1) cylinder of oxygen may be chained onto a cart and maintained at each nurses' station for emergency use in the treatment of patients.

(3) All other such flammable gases shall be stored:

(A) Outside the building in a sheltered area; or

(B) In an oxygen storage room having dual ventilation and at least a one and three-quarter inch (1 3/4") solid core door.

(4) Such gases shall be chained or secured in such manner to support them in an upright position.

(5) They shall not be stored in an exit-way.

(e) Facilities shall be provided for:

(1) Storage and preparation of medications and treatments; and

(2) Storage of active and inactive medical records.

(f) Storage space shall be provided for recreational equipment and supplies.

## **Subpart 10. Housekeeping/Maintenance**

### **20 CAR § 400-1001. Housekeeping — Maintenance.**

(a)(1) Housekeeping services of the nursing home shall be under the direction of a full-time experienced person.

(2) The facility shall have on duty one (1) housekeeper per thirty (30) residents in order to maintain the nursing home.

(3) Housekeeping services shall be provided daily, including weekend daytime coverage and for clean up after the evening meal.

(4) Additional staff will be required if deficiencies are found that relate to personnel shortage.

(b) Sufficient housekeeping and maintenance equipment shall be available to enable the facility to maintain a safe, clean, and orderly interior.

(c) If a facility has a contract with an outside resource for housekeeping services, the facility and/or outside resource shall meet the requirements of these standards.

(d)(1) All rooms and every part of the building (exterior and interior) shall be kept clean, orderly, and free of offensive odors.

(2) Bath and toilet facilities and food areas shall be clean and sanitary at all times. (e) Rooms shall be cleaned and put in order daily.

(f) If a patient keeps his or her own room, he or she shall be closely supervised to ensure a clean, orderly room.

(g)(1) After discharge of a patient, the room and its contents shall be thoroughly cleaned, aired, and disinfected if necessary.

(2) Clean linens shall be provided.

(3) All patients' utensils shall be washed and sanitized.

(h)(1) Polish or wax used on floors shall be of a type that provides a nonslip finish.

(2) Floors shall be maintained in a clean and safe condition.

(i)(1) Deodorants shall not be used to cover up odors.

(2) Odor control shall be achieved by:

(A) Prompt cleansing of:

- (i) Bedpans;
- (ii) Urinals; and
- (iii) Commodes;

(B) Prompt and proper care of patients and soiled linens; and

(C) Approved ventilation.

(j) Attics, cellars, beneath stairs, and similar areas shall be kept clean of accumulation of:

- (1) Refuse;
- (2) Old newspapers; and
- (3) Discarded furniture.

(k) Storage areas shall be kept in a safe and neat order.

(l) Combustibles such as rags and cleaning compounds and fluids shall be kept in closed metal containers and should be labeled as to contents.

(m) Buildings and grounds shall be kept free from refuse and litter.

(n) Storage facilities with proper ventilation shall be provided for mattresses.

(o) All useless items and materials shall be removed from the institution area and premises.

(p) Matches and other flammable or dangerous items shall be:

- (1) Stored in metal containers with tight-fitting lids; and
- (2) Labeled as to contents.

(q) Mechanical rooms, boiler rooms, and similar areas shall not be used for storage purposes.

(r)(1) All inside openings to attics and false ceilings shall be kept closed at all times.

(2) The attic area shall be clean at all times.

(s) Mop heads shall be of the removable type and shall be laundered or replaced at frequent intervals to ensure a standard of cleanliness.

(t) Straw brooms shall not be used for cleaning facility floors.

(u)(1) Garbage must be kept in approved containers with tight-fitting covers.

(2) The containers must be thoroughly cleaned before reuse.

(3) Garbage or rubbish and trash shall be disposed of by:

- (A) Incineration;
- (B) Burial;
- (C) Sanitary fill; or
- (D) Other approved methods.

(4) Garbage areas shall be kept clean and in a state of good repair.

(v)(1) All poisons, bleaches, detergents, and disinfectants shall be kept in a safe place accessible only to employees.

(2) They shall not be kept in storage areas or containers previously containing food or medicine.

(3) Containers must have a label that states:

- (A) Name;
- (B) Ingredients; and
- (C) Antidote.

(w) Unnecessary accumulation of possessions, including equipment and supplies of patients, staff, or the home's owner, shall not be kept in the home.

(x) A minimum of one (1) full-time laundry worker must be provided for each seventy (70) patients in the facility to ensure that:

- (1) Clean linen and clothing is provided each patient; and
- (2) Dietary and nursing personnel are not required to perform laundry duties.

(y)(1) Facilities that perform their own pest control, rather than employing licensed pest control experts or exterminators, and utilize restricted-use pesticides, shall be licensed by the State Plant Board for the use of the pesticides.

(2) To obtain a list of restricted-use pesticides, please contact the State Plant Board.

## **Subpart 11. Patient Room Classification in Certified Skilled Nursing Facilities**

### **20 CAR § 400-1101. Purpose of assignment and reporting of licensed beds by class.**

(a) This subpart establishes a classification system and process for a Medicaid-certified skilled nursing facility to differentiate, document, and report to the Department of Human Services:

(1) The facility's resident rooms by private single occupancy or semi-private double occupancy status and by private, en suite, and communal bathroom facilities associated with each resident room; and

(2) Each facility's total number of bed licenses and the assignment of each bed license to Class A, B, or C as described in 20 CAR § 400-1102.

(b) The department will use information provided through reports submitted under this subpart to:

(1) Determine the property component of each Medicaid-certified skilled nursing facility's Medicaid daily rate, consistent with the methodology established in the Arkansas Medicaid State Plan, 20 CAR pt. 570 (see Attachment 4.19-D of the State Plan);

(2) Quantify, monitor, and track changes over time in the:

(A) Supply and distribution of resident rooms and bathroom facilities by type and key characteristics; and

(B) Adoption of modern facility design practices in facility construction, renovations, and expansions;

(3) Help inform future policy decisions on building, resident room, and bathroom standards and help assess the impact of future changes in federal physical environment standards; and

(4) Help surveyors visualize and understand:

(A) The physical layout of a Medicaid-certified skilled nursing facility;

(B) The use of available bed licenses;

(C) The types and locations of resident rooms and private, en suite, and communal bathrooms; and

(D) Changes in room configurations.

(c) Nothing in this subpart affects:

(1) Minimum standards for resident rooms or bathrooms in a licensed skilled

nursing facility, certified or noncertified;

(2)(A) Federal requirements for participation in Medicaid and Medicare under 42 C.F.R. pt. 483 subpt. B, including federal requirements under 42 C.F.R. § 483.90 for a certified facility's physical environment, resident rooms, and bathroom facilities.

(B) Federal regulations are enforced through the survey and certification process under 42 C.F.R. pt. 488 subpt. E and not under these department rules or the licensing process; and

(3) Requirements and processes of the Health Services Permit Agency under Arkansas Code § 20-8-101 et seq.

## **20 CAR § 400-1102. Classes of resident rooms.**

### **(a) Class A.**

(1) A Class A room is a private single occupancy resident bedroom in a Medicaid-certified skilled nursing facility that:

(A) Has an adjoining private bathroom or an en suite bathroom shared with one (1) other adjoining Class A or Class B room, as described in 20 CAR § 400-1103; and

(B) Is designed, constructed, set up, equipped, furnished, and maintained to accommodate one (1) skilled nursing facility resident, consistent with the requirements of 42 C.F.R. § 483.90.

(2) One (1) bed license shall be assigned to each resident room that meets the criteria for Class A.

### **(b) Class B.**

(1) A Class B room is a semi-private double occupancy resident bedroom in a Medicaid-certified skilled nursing facility that:

(A) Has an adjoining private bathroom or an en suite bathroom shared with one (1) other adjoining Class A or Class B room, as described in 20 CAR § 400-1103; and

(B) Is designed, constructed, set up, equipped, furnished, and maintained to accommodate two (2) skilled nursing facility residents, consistent with the

requirements of 42 C.F.R. § 483.90.

(2)(A) A maximum of two (2) bed licenses shall be assigned to each resident room that meets the criteria for Class B.

(B) Each Class B room must be assigned two (2) bed licenses unless only one (1) of the facility's total bed licenses remains available after all others have been assigned to other Class A or Class B rooms in the facility.

(c) **Class C.**

(1) A Class C room is any resident room (private single occupancy room or semi-private double occupancy room) that does not meet the criteria in subsections (a) and (b) of this section for designation as a Class A or Class B room:

(A)(i) If the room's occupant or occupants must rely (with or without assistance) on communal, hallway-accessible bathroom facilities for their toileting or hand and face washing needs.

(ii) For example, if a resident room lacks private or en suite bathroom facilities described in 20 CAR § 400-1103 and is required for all Class A and Class B rooms, that room may only be counted and reported as a Class C resident room;

(B) Each resident room designated as a Class C room must be designed, constructed, set up, equipped, furnished, and maintained to accommodate one (1) or two (2) skilled nursing facility residents, consistent with the requirements of 42 C.F.R. § 483.90; and

(C) Each Class C resident room shall be assigned a maximum of two (2) bed licenses, with one (1) bed license assigned to each private single occupancy Class C resident room and a maximum of two (2) bed licenses assigned to each semi-private double occupancy Class C resident room.

(2) Of the facility's total number of bed licenses, each bed license not otherwise assigned for any reason to a Class A, Class B, or Class C resident room within the facility must be assigned and reported as Class C.

(d) **Counting physical space not immediately available.**

(1) On occasion, a physical space or physical spaces in a Medicaid-certified skilled nursing facility may be suitable for a Class A, Class B, or Class C resident room or

rooms but, at the time of reporting, is not ready and available for immediate occupancy due to repairs, maintenance, renovations, forthcoming equipment or furnishings on order, or temporary use for another resident care or facility purpose.

(2) The facility may designate and report such physical space or spaces as a Class A, Class B, or Class C resident room or rooms, provided:

(A) Of the facility's total number of bed licenses, the appropriate number of bed licenses are assigned to the physical space, meaning, one (1) per room if Class A, two (2) per room if Class B, and a maximum of two (2) if Class C room; and

(B) At any time within twenty-four (24) hours, the physical space or physical spaces can be brought into readiness for immediate occupancy, meet applicable resident room requirements of 42 C.F.R. § 483.90, and, if designated as a Class A or Class B resident room, has an attached private or en suite bathroom consistent with 20 CAR § 400-1103.

**20 CAR § 400-1103. Private and en suite bathroom facilities for Class A and Class B rooms.**

(a) For designation as Class A or Class B, a Medicaid-certified skilled nursing facility resident room must have either:

(1) An adjoining private bathroom to only serve one (1) Class A or Class B room, accessible only through the one (1) resident room, not shared with any other resident room, and not connected to or otherwise accessible directly through a hallway or common room; or

(2) An adjoining en suite bathroom, also called a "jack and jill bathroom", shared with only one (1) other Class A or Class B resident room, with separate doors connecting the en suite bathroom to the two (2) resident rooms, and not connected to or otherwise accessible directly through a hallway or common room.

(b)(1) Each private and en suite bathroom must be equipped with a toilet, sink, mirror, nurse call button or cord system, and appropriate safety equipment, for example, grab bars or poles.

(2) However, instead of the sink and mirror being placed in the private or en

suite bathroom, they may be installed and available in the adjoining resident room.

(c)(1) In addition to necessary bathing facilities provided elsewhere in the facility, at the facility's discretion, a private or en suite bathroom may be equipped with a shower or tub for resident bathing.

(2) However, this will not affect the classification of a resident room.

**20 CAR § 400-1104. Registered architect required.**

(a) Each Medicaid-certified skilled nursing facility shall contract with a registered architect to:

(1) Physically inspect the facility's resident rooms and bathroom facilities;

(2) Prepare the simplified annotated floor plan described in 20 CAR § 400-1105, consistent with Department of Human Services instructions;

(3) Assist the facility administrator in assigning all the facility's total number of bed licenses according to the classes described in 20 CAR § 400-1102;

(4) Assist the facility administrator in correctly completing the report form consistent with the requirements of this subpart and the form instructions issued by the Division of Provider Services and Quality Assurance;

(5) Together with the facility administrator, attest to the accuracy and completeness of each simplified annotated floor plan and report on resident room classification and assignment of bed licenses; and

(6) Assist the facility administrator in answering any questions the department or department contractors may have in reviewing or auditing information in any report or annotated floor plan submitted under this subpart.

(b) The architect engaged by the facility must be a registered architect practicing professional architectural services in Arkansas under the rules of the Arkansas State Board of Architects, Landscape Architects, and Interior Designers.

(c) The facility is responsible for compensating the registered architect.

**20 CAR § 400-1105. Simplified annotated floor plans.**

(a) A simplified annotated floor plan shall be submitted with each report on

resident room classifications and assignment of total bed licenses described in 20 CAR § 400-1106.

(b) Each simplified annotated floor plan shall:

(1) Provide a scale visual representation of the physical layout of the facility building or buildings showing the key elements relevant to the reports, including each:

- (A) Class A, Class B, and Class C resident room;
- (B) Attached private or en suite bathroom;
- (C) Communal bathroom; and
- (D) Associated connecting doorways and hallways;

(2) Include annotations using numbers, text, symbols, or icons, as appropriate, to convey key information, including:

(A) For each resident room:

- (i) A unique numeric or alphanumeric identifier;
- (ii) The classification (Class A, B, or C);
- (iii) Number of bed licenses assigned;
- (iv) Square footage;
- (v) Number of physical beds; and
- (vi) Presence, if any, of a sink in the room; and

(B) Which private, en suite, and communal bathrooms contain toilets, sinks, tubs, or showers;

(3) Be updated as appropriate for changes in resident room configurations, classifications, and bathroom configurations and characteristics from the last report to ensure an accurate, up-to-date floor plan accompanies each report under 20 CAR § 400-1106; and

(4) Follow the technical specifications provided by the Department of Human Services in the instructions for report forms and floor plans.

(c) A simplified annotated floor plan required in this section does not substitute for detailed floor plans, blueprints, architectural or engineering drawings, or building systems information:

(1) Required under this part for department review of license applications or

building renovations, expansions, or new construction; or

(2) Necessary for state or local inspections for compliance with applicable building codes, fire prevention and life safety codes, and other codes required under state or federal regulations.

**20 CAR § 400-1106. Reports on resident room classifications and assignment of bed licenses.**

(a) **Purpose.** This section specifies the required and optional reports by a Medicaid-certified skilled nursing facility to document the classification of each resident room and the assignment of the facility's total number of bed licenses.

(b) **Total number of bed licenses.** For purposes of this section, a facility's total number of bed licenses is the total number of bed licenses approved (permitted) by the Health Services Permit Agency for the facility, excluding bed licenses designated by the Health Services Permit Agency as beds in transition and bed licenses specifically approved for a new facility that is under construction or not yet Medicaid-certified.

(c) **Occupancy status does not affect reports and floor plans.** The status of a resident room as fully or partially occupied, unoccupied, or reserved under a bed-hold does not affect the classification of the resident room, assignment of total bed licenses, reporting, or floor plans under this subpart.

(d) **Required annual report.** Annually, by November 1, each Medicaid-certified skilled nursing facility shall prepare and submit a report documenting the classification of each resident room and the assignment of the facility's total number of bed licenses as of July 1 of the same year according to the Health Services Permit Agency.

(e) **Events requiring a report.**

(1) A Medicaid-certified skilled nursing facility must prepare and submit a new or updated report whenever any of the following events affecting the facility occur:

(A)(i) The Department of Human Services approves a change of ownership of the facility.

(ii) The report is the responsibility of the new owner or owners;

(B) A newly constructed facility receives Medicaid certification and begins

operations;

(C) An expansion or major renovation of an existing Medicaid-certified skilled nursing facility is completed, resulting in new or renovated resident rooms and bathroom facilities; or

(D) An existing noncertified or Medicare-only certified skilled nursing facility becomes Medicaid-certified.

(2) Each report required under subdivision (e)(1) of this section:

(A) Must document the classification of each resident room and the assignment of the facility's total number of bed licenses in effect following the completion or conclusion of the applicable event; and

(B) Is due within sixty (60) days after the completion or conclusion of the event.

(3)(A) An event-based report is not required if, since the last annual report, the facility's ownership, Medicaid certification status, total number of bed licenses, classification of resident rooms, and assignment of bed licenses have not changed.

(B) In this case, within sixty (60) days of the event, the facility must notify the department in writing why an event-based report is not required.

**(f) Optional report.**

(1) In any calendar quarter in the interim between annual reports, a Medicaid-certified skilled nursing facility may prepare and submit a report in the event of changes to the facility's physical configuration, such as changes in the:

(A) Number and class of resident rooms;

(B) Availability of private and en suite bathrooms;

(C) Conversion of Class C resident rooms to Class A or Class B rooms;

(D) Total number of bed licenses; and

(E) Assigning bed licenses to Class A, Class B, or Class C.

(2) An optional report should address changes that became effective during the preceding calendar quarter and be submitted to the department within thirty (30) days of that quarter's end.

**(g) Report form, instructions, and attestation.**

(1) Each report submitted to the department must:

(A) Use the form and follow the form instructions issued by the Division of Provider Services and Quality Assurance;

(B) Include an up-to-date simplified annotated floor plan as specified in 20 CAR § 400-1105; and

(C) Include signed attestations by the facility administrator and registered architect that the report and accompanying annotated floor plan are accurate and complete.

(2) The Division of Medical Services and the Division of Provider Services and Quality Assurance will coordinate to ensure that the department's form and instructions are written consistent with this subpart and efficiently provide the information to meet the Division of Medical Services and the Division of Provider Services and Quality Assurance's respective purposes described in 20 CAR § 400-1101(b).

**20 CAR § 400-1107. Department review of reports and annotated floor plans.**

(a) To verify the accuracy and completeness of a report submitted under 20 CAR § 400-1106 or an annotated floor plan submitted under 20 CAR § 400-1105, the Department of Human Services may, through department staff or a designated contractor:

(1) Inspect the facility's physical environment as part of a survey or separately;

(2)(A) Interview the registered architect.

(B) The facility shall be responsible for compensating the registered architect for their time;

(3) Conduct a desk or on-site audit of the facility, either as part of the annual Medicaid rate development process or separately; and

(4) Require the facility to correct material errors or omissions in the report or floor plan.

(b) The Division of Medical Services and the Division of Provider Services and

Quality Assurance will coordinate review activities concerning facility reports and simplified annotated floor plans to:

- (1) Prevent duplication of effort;
- (2) Ensure consistency in department interpretations; and
- (3) Minimize disruptions for facilities and participating registered architects.

## **Subpart 12. Patient Care Services — Physician Services**

### **20 CAR § 400-1201. Admission only on recommendation of a physician.**

(a) Patients shall be admitted to the facility only on recommendation of a physician.

(b) At the time of admission the physician must document level of care needed by the patient.

(c) A certification statement by the physician explaining the reason for nursing home placement should be obtained on the date of admission and a recertification statement obtained every sixty (60) days.

### **20 CAR § 400-1202. Continued supervision of care.**

(a) The health care of every patient shall be under the continuing supervision of a physician, who, based on a medical evaluation of the patient's immediate and long-term needs, prescribes a planned regimen of total patient care.

(b) Patients in need of skilled care should be seen by a physician at least every sixty (60) days, and all others seen at least every one hundred twenty (120) days.

(c) A notation should be made at each visit and orders for treatment and medication renewed.

### **20 CAR § 400-1203. Physical examination of patients.**

(a) The medical evaluation of the patient shall be based on a history and physical examination done within seventy-two (72) hours of admission unless such examination was performed within fifteen (15) days prior to admission.

(b)(1) A history and physical completed during the patient's hospitalization may have been completed up to thirty (30) days prior to admission to the nursing home.

(2) However, the hospital discharge summary (upon completion) is to be forwarded to the nursing home.

**20 CAR § 400-1204. Planned regimen of care.**

The planned regimen of total care for each patient shall be based on the attending physician's order and shall cover:

- (1) Medication;
- (2) Treatment;
- (3) Rehabilitative services (where appropriate);
- (4) Diets;
- (5) Precautions related to activities undertaken by the patient; and
- (6) Plans for continuing care and discharge.

**20 CAR § 400-1205. Establishment restoration potential.**

(a) The attending physician shall establish at the time of admission a restoration potential for the patient.

(b) This should be updated as needed but not less than on an annual basis.

**20 CAR § 400-1206. Emergency physician.**

(a) The facility should make arrangements for emergency coverage by a physician if the attending physician or his or her attendant cannot be located.

(b) This should be done by a written agreement signed by the physician and the facility administrator.

**Subpart 13. Patient Care Services — Nursing**

**20 CAR § 400-1301. Professional nurse supervision.**

(a)(1) A licensed registered nurse shall be employed full time as the director of

nursing services and normally work on the day shift.

(2) In skilled nursing facilities registered nurse relief shall be provided for the off days of the director of nursing services.

(3) If the director of nursing services has other institutional responsibilities in addition to the written job description, a licensed registered nurse shall serve as assistant so that there is the equivalent of a full-time director of nursing services on duty.

(b)(1) In intermediate care facilities the registered nurse must work forty (40) hours per week, normally on the day shift.

(2) An L.P.N. may serve as relief on the director of nursing services' days off.

(c) The director of nursing services shall be responsible for:

(1) The development and maintenance of:

(A) Nursing service objectives;

(B) Standards of nursing practice;

(C) Nursing policy and procedures manuals;

(D) Written job descriptions for each level of nursing personnel;

(E) Scheduling of daily rounds to see all patients; and

(F) Methods for coordination of nursing service with other patient

services;

(2) Recommending the number and levels of nursing personnel to be employed to meet the needs of the patients;

(3) Nursing staff development; and

(4) Supervision of nursing documentation.

(d) The director of nursing services can serve as director of nursing services in only one (1) facility.

**20 CAR § 400-1302. Charge nurse.**

(a)(1) In skilled nursing facilities, the director of nursing services shall designate as charge nurse for each shift a:

(A) Registered nurse;

- (B) Licensed practical nurse; or
- (C) Licensed psychiatric technician nurse.

(2) Responsibilities of the charge nurse shall include supervision of the total nursing activities in the facility during his or her assigned tour of duty.

(b)(1) In intermediate care facilities, the director of nursing services shall designate as charge nurse for each shift a:

- (A) Registered nurse;
- (B) Licensed practical nurse; or
- (C) Licensed psychiatric technician nurse.

(2) In facilities admitting or retaining patients requiring medications or treatments on the night shift, the charge nurse designated on the night shift must be a licensed nurse.

(c) The charge nurse's duties shall include as a minimum:

- (1) Responsibility for observation of work performance of aides in delivery of direct care;
- (2) Administration of medication if there is no assigned medication nurse;
- (3) Ordering medications from the pharmacy;
- (4) All direct observations of patients to observe and evaluate physical and emotional status;
- (5) Delegate responsibility for the direct care of specific patients to the nursing staff based on the need of the patients;
- (6) Taking phone orders from physicians or dentists;
- (7) Giving shift report to the next shift;
- (8) Shift count of control drugs; and
- (9) Dietary observations.

(d)(1) The director of nursing services shall not serve as charge nurse in a skilled nursing facility with an average daily total occupancy of seventy-one (71) or more patients.

(2) Waivered licensed practical nurses shall not serve as charge nurse unless they have passed the state pool examination or public health proficiency examination.

**20 CAR § 400-1303. Nursing staff.**

(a) All registered nurses, licensed practical nurses, and licensed psychiatric technicians employed in the nursing home shall be currently licensed in the State of Arkansas.

(b) The licensed nursing staff required shall be computed in accordance with 20 CAR § 400-1401 et seq.

(c) The nursing aide requirement shall be computed in accordance with 20 CAR § 400-1401 et seq.

(d) In nursing homes with more than one (1) classification of license, each distinct part shall be staffed according to the requirements for each classification.

**20 CAR § 400-1304. Personal assignments.**

(a) The nursing staff shall be engaged in the direct care and treatment of the patients.

(b) No aide shall be permitted to combine the duties of housekeeping, laundry, or kitchen duties with nursing because of the danger of cross infection to the patient.

(c) In multistory homes, each floor should be staffed as an individual unit.

**20 CAR § 400-1305. Restrictions in employment and/or assignment.**

No person who has been a patient in a mental hospital and who has not been completely discharged by that institution shall be employed in a nursing home in a supervisory capacity.

**20 CAR § 400-1306. Nursing care requirements.**

**(a) Charting.**

(1) Summary charting should address:

(A) The resident's problems/needs;

(B) Interventions to resolve those needs; and

(C) The progress made toward achieving the resident goals as listed on

the care plan.

(2) All disciplines (nursing, dietary, therapies, social, etc.) may document their progress notes on the same chart to promote continuity of care.

(3) All charting notations made on the nurse's progress notes or flow sheets shall be:

(A) Entered by time and date; and

(B) Signed or initialed.

(4) Minimum requirements for summary charting based on the resident's level of care are as follows:

(A) Skilled, every two (2) weeks;

(B) Intermediate I, every two (2) weeks;

(C) Intermediate II, monthly; and

(D) Intermediate III, monthly.

(5)(A) The following observations must be charted upon occurrence:

(i)(a) Accidents/incidents.

(b) Charting will be done every shift for at least forty-eight (48) hours or until the resident returns to preaccident status or stable condition, whichever is longer;

(ii)(a) Significant changes in the resident's physical, mental, or psychosocial status, i.e., a deterioration in health, mental, or psychosocial status in either life-threatening conditions or clinical complications.

(b) Charting will be required on every shift until the resident's condition becomes stable;

(iii) Any need to alter treatment significantly (i.e., a need to discontinue an existing form of treatment due to adverse consequences or to commence a new form of treatment);

(iv)(a) Use of physical restraints to include the type applied, time of application, checks, releases, and exercise of resident.

(b) Flow sheet may be used;

(v)(a) Bedtime snacks for therapeutic diets and physician ordered

supplemental feedings to include:

- (1) The type;
- (2) Amount served; and
- (3) Amount consumed.

(b) Flow sheet may be used;

(vi)(a) Meal consumption for residents at nutritional risk to include percentage of meal consumed.

(b) Flow sheet may be used;

(vii)(a) PRN medications to include:

- (1) Name;
- (2) Amount;
- (3) Route of administration;
- (4) Time;
- (5) Reason given; and
- (6) Response.

(b) PRN "controlled" drugs must also be charted in the nurse's notes, which must also contain the condition of the patient before and after administration;

(viii)(a) Foley catheters to include documentation of:

- (1) Insertion;
- (2) Reinsertion;
- (3) Removal; and
- (4) Catheter irrigations.

(b) The total amount of urinary output must be documented, at a minimum, every eight (8) hours.

(c) Flow sheet may be used;

(ix)(a) Nasogastric or gastrostomy tubes to include documentation of:

- (1) Insertion;
- (2) Reinsertion;
- (3) Removal;

- (4) Placement checks;
- (5) Care of site;
- (6) Type of formula;
- (7) Amount of formula;
- (8) Rate of feeding; and
- (9) Flushes.

(b) Total fluid intake must be documented, at a minimum, every eight (8) hours to include formula and flushes.

(c) Flow sheet may be used;

(x)(a) Problem skin conditions to include date of onset and weekly progress notes.

(b) Documentation must identify the skin problem, stage, size, color, odor, and drainage, if any.

(c) The chart shall also document the date and time of treatments and dressings.

(d) Flow sheet may be used;

(xi) Physician visits to include date of visit;

(xii) Any contacts with the physician (date and time) regarding the resident's condition and the physician's response/instructions;

(xiii) Resident's condition on discharge or transfer;

(xiv) Disposition of personal belongings and medications upon discharge; and

(xv) Time of death of a resident, the name of person pronouncing death, and disposition of the body.

(B) If a flow sheet is utilized for documentation under subdivision (e)(1) of this section, it is only necessary to document a summarization on the nurse's progress notes based on the time frequencies in subdivision (a)(4) of this section.

(6) Vital signs must be charted weekly and weights monthly unless ordered more frequently (flow sheet may be used).

**(b) Routine care and services.**

(1) Each patient in the home shall receive the type of nursing care, including restorative nursing, as required by his or her condition.

(2) Patients shall be encouraged to:

(A) Be active;

(B) Develop techniques for self-help; and

(C) Be stimulated to develop hobbies and interests.

(3) Criteria for determining adequate and proper care includes:

(A) Kind and considerate care and treatment at all times;

(B)(i) A minimum of a complete bath twice a week for all ambulatory patients with adequate assistance or supervision as needed.

(ii) Patients who are incontinent or are confined to bed shall have a complete bath daily and partial baths each time the bed or clothing is wet or soiled.

(iii) All soiled linen or clothing shall be replaced with clean, dry linen or clothing;

(C)(i) A minimum of one (1) shampoo every week and assistance with daily hair grooming.

(ii) Patients shall not be required to pay for routine hair grooming provided by facility staff;

(D)(i) Assistance with or supervision of shaving of men patients at least every other day except when contraindicated or refused by the patient.

(ii) Patients shall not be required to pay for routine shaving;

(E) Oral care shall be provided at least twice a day;

(F)(i) Hands and feet shall have proper care and attention.

(ii) Nails shall be kept clean and trimmed.

(iii) Additional lotion shall be applied to hands and feet when indicated.

(iv) Precautions shall be taken to prevent foot drop in bed patients;

(G) Bed linens shall be:

(i) Changed weekly or more often as needed; and

(ii) Adjusted at least daily;

(H) Patients shall have clean and seasonal clothing as needed to:

- (i) Present a neat and clean appearance;
- (ii) Be free of odors; and
- (iii) Be comfortable;

(I)(i) Measures shall be taken toward the prevention of pressure sores, and if they exist, treatment shall be given on written medical order.

(ii) The position of bed patients shall be changed every two (2) hours during the day and night;

(J)(i) Each mattress and pillow shall be moisture proof or must have a moisture proof cover.

(ii) Rubber or plastic sheets shall be cleaned often to prevent accumulation of odors.

(iii) Clean cloth draw sheets shall be used over the rubber or plastic sheet;

(K)(i) Assistance with the use of commode, bedpan, or toilet, and keeping the commode, bedpan, and urinal clean and free of odors.

(ii) Bedpans, urinals, and wash basins shall be:

- (a) Name-labeled;
- (b) Cleaned after each use;
- (c) Properly stored in the patient's bedside cabinet; and
- (d) Sanitized at least weekly.

(iii) Any of these utensils not name-labeled and stored in individual bedside cabinets must be sterilized after each use;

(L) Each patient shall be up and out of bed for at least a brief period everyday unless the physician has written an order for him or her to remain in bed;

(M)(i) Fluids shall be offered at frequent intervals when the patient is unable to obtain them.

(ii)(a) Water pitchers shall be refilled at least once each shift and should be kept in reach of patients.

(b) Clean drinking glasses shall be kept with each water pitcher;

(N)(i) Physical findings (temperature, pulse, respiration, and blood pressure) shall be taken and recorded as ordered by the physician, but not less frequently than one (1) time a week.

(ii) All residents with indwelling catheters should have urine output recorded each shift;

(O) Administration of oxygen;

(P) Documentation that a continuous program of bowel or bladder training is provided when appropriate;

(Q) Proper bed and chair positioning;

(R) Nursing equipment is:

(i) In sufficient supply;

(ii) In good condition;

(iii) Properly cleaned and cared for;

(iv) Well organized; and

(v) Readily available;

(S)(i) Precautions to ensure the safety of patients are continuously in effect.

(ii) See also 20 CAR § 400-402 regarding restraints;

(T) Bedside nursing care;

(U) Administration of hypodermic medications as prescribed; and

(V)(i) Rehabilitation programs such as physical therapy, occupational therapy, speech therapy, etc., as required by written physician orders.

(ii) Such therapies must be administered by qualified persons.

**(c) Skilled nursing facilities.**

(1) In addition, the following services will be required in skilled nursing facilities:

(A) Intravenous feedings;

(B) Complex dressings;

(C) Skilled nursing care; and

(D) Tube feedings.

(2) There will be no administration of blood in the nursing home unless the nursing home is physically connected to a hospital.

(3) In any nursing home administering blood, a registered nurse must be on duty throughout the entire administration.

**20 CAR § 400-1307. Treatment and medications.**

(a)(1) No medication or treatment shall be given without the written order of the physician or dentist.

(2) Drugs shall be administered in accordance with orders.

(3) Venapuncture by licensed practical nurses to obtain blood samples for lab work is permitted after the L.P.N. has been trained by:

(A) The director of nurses; or

(B) An R.N. designated by the director.

(4) The director and the L.P.N. trained shall sign a form that states that:

(A) The L.P.N. is qualified; and

(B) Has been trained by a registered nurse.

(5) The facility shall have policies and procedures for venapuncture that are available for review by nursing personnel and the Office of Long-Term Care.

(b)(1) If it is necessary to take physician's or dentist's orders over the telephone or verbally, the order shall be immediately:

(A) Written on the physician's order sheet in the medical record; and

(B) Signed by the nurse who took the order.

(2)(A) Documentation shall include the:

(i) Name of the physician or dentist who gave the telephone or verbal order;

(ii) Date; and

(iii) Time of the order.

(B) The order shall be countersigned by the attending physician or dentist:

(i) On his or her next regular visit; or

(ii) No more than seven (7) days from the time the telephone or verbal order was given.

(C) There shall be indication made by the nurse that the orders were transcribed (signature and time).

(c)(1) When computerized physician order sheets are utilized, the physician must:

(A) Sign each sheet at the bottom of the sheet; and

(B) Date each sheet.

(2) If a physician's signature is affixed to the sheet other than at the bottom, all orders appearing after the signature shall be invalid.

(3) When progress notes or recertification statements are written on the computerized order sheet, the name and date affixed by the physician at the bottom of the sheet will be sufficient.

(4) However, if progress notes or recertification statements appear elsewhere in the medical record, each sheet shall be signed and dated where they are written.

(d) Each patient shall be identified prior to administration of medication.

(e) Each patient shall have an individual medication record.

(f)(1) The dose of a drug administered to a patient shall be properly recorded by the person who administered the drug.

(2) Recordation shall occur only after the medication has been administered.

(g) Medications shall be administered by authorized personnel.

(h) Treatment of a lesion or open wound shall be done only by licensed nursing personnel.

(i)(1) Medication setups will be prepared one (1) pass at a time.

(2) The medication must be administered on the same shift on which they are prepared.

(3) Liquids and injectables shall not be set up more than one (1) hour in advance except where approved unit dose systems are used.

(j) Medications shall be administered by the same person who prepared the doses for administration, except under single unit dose package distribution systems.

(k) The attending physician shall be notified of an automatic stop order prior to the

last dose so that the physician may decide if the administration of the medication is to be continued or altered.

(l)(1) Self-administration of medication is allowed only under the following conditions: if the physician orders, a patient may keep at the bedside the following nonprescription medications:

(A) Topical agents such as Vicks salve, Mentholatum, etc.;

(B) Eye drops such as Murine, Visine, etc.;

(C) Cough drops, such as Ludens, Vicks, etc.;

(D) Sublingual vasodilating agents such as Nitroglycerine tablets, Isordil Sublingual tablets; and

(E) Metered dose aerosols for asthmatics such as primatene or bronkaid.

(2) Personal items such as toilet articles and cosmetic articles may be kept at the bedside.

#### **20 CAR § 400-1308. Rehabilitative nursing.**

(a)(1) Nursing personnel shall be trained in rehabilitative nursing measures.

(2) This shall be documented in the orientation program, and in-service on this subject shall be conducted at least annually.

(b) The facility shall have an active program of rehabilitative nursing care, which is an integral part of nursing service and is directed toward assisting each patient to achieve and maintain an optimal level of self-care and independence.

(c) Rehabilitative nursing services such as proper maintenance of body alignment, bed and chair positioning, use of foodboards, use of handrolls, range of motion exercises, elevation of extremities as indicated, assistance with ambulation, and bowel or bladder training shall be performed daily and recorded routinely for those patients who require such service.

#### **20 CAR § 400-1309. Supervision of patient nutrition.**

Nursing personnel shall:

(1) Be aware of the nutritional needs, food, and fluid in-take of patients; and

(2) Assist promptly where necessary in the feeding of patients.

## **Subpart 14. Patient Care Services — Direct Care Staffing Requirements and Flexibilities for Nursing Facilities**

### **20 CAR § 400-1401. Definitions.**

For purposes of this subpart, the following definitions apply:

(1) "Average direct care hours per resident day" means the total number of hours of direct care services provided by direct care staff in a month, divided by the number of calendar days in that month, and the facility's average daily resident census for that month;

(2) "Certified nursing facility" means a nursing facility licensed by the Department of Human Services that is certified to participate in:

- (A) The federal Medicare program as a skilled nursing facility;
- (B) The Arkansas Medicaid Program as a nursing facility; or
- (C) Both;

(3)(A) "Direct care services" means:

- (i) Nursing and nursing-related services;
- (ii) Clinical, diagnostic, therapeutic, and rehabilitative services;
- (iii) Physical, occupational, respiratory, and speech therapy services;
- (iv) Delegated physician tasks;
- (v) Behavioral health services;
- (vi) Care management, care coordination, and care transition activities;
- (vii) Medication administration;
- (viii) Assistance with activities of daily living;
- (ix) Assessment, evaluation, planning, and implementation of care plans;
- (x) Coordination and consultation with residents' physicians and other healthcare providers; and

(xi) Other services and supports provided for nursing facility residents in response to individual resident needs.

(B) However, the meaning of "direct care services" does not include food preparation, laundry, housekeeping, or other maintenance of a nursing facility's physical environment;

(4) "Direct care staff" means a person who provides any direct care services to a nursing facility resident through interpersonal contact with residents or resident care management, including without limitation a:

(A) Licensed nurse;

(B) Nurse aide;

(C) Medication assistant;

(D) Physician;

(E) Physician assistant;

(F) Licensed physical or occupational therapist or licensed therapy assistant;

(G) Registered respiratory therapist;

(H) Licensed speech-language pathologist;

(I) Infection preventionist; and

(J) Other healthcare professionals licensed or certified in the State of Arkansas;

(5) "Division" means the Division of Provider Services and Quality Assurance;

(6) "Federal direct care data system" means the national online data reporting system operated by the Centers for Medicare and Medicaid Services and used by nursing facilities participating in the federal Medicare program, or the Arkansas Medicaid Program, or both to electronically report detailed and standardized direct care and other staffing information;

(7) "Licensed nurse" means any registered nurse, licensed practical nurse, advanced practice registered nurse, or registered nurse practitioner licensed in the State of Arkansas;

(8) "Medicare and Medicaid requirements of participation" means the federal

requirements established by the Centers for Medicare and Medicaid Services under 42 U.S.C. § 1320a-7j, 42 U.S.C. § 1395i-3, and 42 U.S.C. § 1396r, that a licensed nursing facility is required to follow to be certified as compliant with and participate in the federal Medicare program as a skilled nursing facility, or the Medicaid program as a nursing facility, or both, as existing on January 1, 2021;

(9)(A) "Medication assistant" means a medication assistive person who is qualified and certified under Arkansas Code § 17-87-701 et seq.

(B) Alternatively referred to as medication assistant-certified in rules of the Arkansas State Board of Nursing;

(10) "Private pay-only nursing facility" means a licensed nursing facility that is not certified to participate in the:

(A) Federal Medicare program as a skilled nursing facility; or

(B) Arkansas Medicaid Program as a nursing facility;

(11) "Universal worker" means a certified nurse aide (CNA) who is designated by a skilled nursing facility as a universal worker and who performs both CNA direct care service duties and nondirect care tasks such as food service, laundry, and housekeeping, and other nondirect care services to meet the needs of residents;

(12) "Variance" means granting an alternate requirement or modifying a requirement in place of a requirement established in rule; and

(13) "Waiver" means the grant of an exemption from a requirement established in rule.

**20 CAR § 400-1402. Condition of licensure.**

(a) As a condition of licensure by the Department of Human Services, a nursing facility, except a private pay-only nursing facility, shall be certified to participate in:

(1) The federal Medicare program as a skilled nursing facility;

(2) The Arkansas Medicaid program as a nursing facility; or

(3) Both.

(b) As a condition of licensure by the department, a private pay-only nursing facility shall:

(1) Comply with all state requirements applicable to a private pay-only nursing facility, including rules promulgated by the department; and

(2) Cooperate with department:

(A) Audits;

(B) Inspections; and

(C) Document requests.

**20 CAR § 400-1403. Consistency with federal requirements.**

(a) Under 42 U.S.C. § 1395i-3 and 42 U.S.C. § 1396r, a certified nursing facility:

(1) Is subject to federal requirements of participation; and

(2) Must demonstrate substantial compliance with applicable federal requirements to receive and maintain certification necessary to participate in:

(A) Medicaid;

(B) Medicare; or

(C) Both.

(b) As required under Arkansas Code § 20-10-1402(d)(2), Department of Human Services rules applicable to certified nursing facilities:

(1) Apply to conditions and processes of state licensure; and

(2) May not exceed or duplicate federal requirements of participation, including staffing and data reporting requirements, except average direct care hours per resident day requirements under Arkansas Code § 20-10-1402(a)(2) and (b).

**20 CAR § 400-1404. Average direct care hours per resident — Certified nursing facilities.**

(a) Each certified nursing facility shall:

(1) Provide each month direct care services by direct care staff equivalent to at least three and thirty-six hundredths (3.36) average direct care hours per resident day; and

(2) On or before the fifteenth day of each month, report electronically to the Department of Human Services the facility's actual average direct care hours per

resident day for the prior month.

(b)(1) Certified nursing facilities shall report aggregate direct care hours for the month using the table provided in the electronic reporting form provided by the department.

(2) This table shall consist of:

(A) Rows for each direct care type of position (such as director of nursing, registered nurse, registered nurse with administrative tasks, certified nurse aide, medication assistant, medical director, or nurse practitioner) consistent with the same direct care labor category titles (each with a unique job code number) used in the federal direct care data system; and

(B) Two (2) columns for reporting the aggregate number of direct care hours in the month attributable to each row, as follows:

(i)(a) Column A for reporting all direct care hours reportable quarterly to the federal direct care data system.

(b) Column A must be completed, regardless of the additional direct care hours the facility may report in Column B.

(c) A facility's direct care hours will be primarily reported under Column A;

(ii) Column B for reporting hours that:

(a) Meet the definitions of direct care services and direct care staff in Arkansas Code § 20-10-1401(3) and (4), respectively;

(b) Are not reportable quarterly to the federal direct care data system; and

(c) Are not reported in Column A; and

(iii) Direct care hours reportable under Column B will not, by themselves, be sufficient to meet the minimum average direct care hours standard.

(c) Within fifteen (15) days of the federal direct care data system reporting deadline for the quarter, the facility shall electronically file an amended report for one (1) or more of the three (3) monthly reports attributable to that quarter, if necessary to correct:

(1) Direct care hours reported in Column A, based on the number of hours by type of position (labor category) that the facility reported in its quarterly submission into the federal direct care data system;

(2) Direct care hours reported in Column B; or

(3) The MDS-based average daily resident census shown in the original monthly report.

(d) The monthly reports shall show the following information:

(1) The full name and department-assigned vendor number of the reporting nursing facility;

(2) The month and year for which the report is provided and whether the report is an original or amended report for that month;

(3) The completed table described in subsection (b) of this section;

(4) Grand total of direct care services hours provided in the month, which is the sum of all hours reported in Column A and Column B of the table described in subsection (b) of this section;

(5) The number of calendar days in the monthly reporting period;

(6) Average daily resident census for the month, which shall equal the facility's minimum data set (MDS) average daily resident census for the month;

(7) The average direct care hours per resident day for the month, which is the sum of:

(A) The grand total of direct care hours in the month; divided by

(B) The number of calendar days in the month; and

(C) The MDS-based average daily resident census for the month;

(8) For the month, the difference between the actual average direct care hours per resident day and the three and thirty-six hundredths (3.36) average direct care hours per resident day standard required under Arkansas Code § 20-10-1402(a)(2), with an indication of whether the actual hours provided:

(A) Met the standard;

(B) Exceeded the standard; or

(C) Did not meet the standard; and

(9) If the report is an amended report, a brief description of the reason for filing an amended report.

(e) The monthly reporting under this subpart is not intended to require reporting:

- (1) At the level of detail required by the federal direct care data system; or
- (2) Not otherwise necessary to meet Arkansas Code § 20-10-1402(b).

(f)(1) Consistent with Arkansas Code § 20-10-1402(e), this subpart does not require or advise any specific or minimum number of nursing staff hours, direct care staff hours, or hours of other services for any nursing facility resident.

(2) The services an individual resident receives are:

(A) Based on baseline and comprehensive, person-centered care plans required under 42 C.F.R § 483.21; and

(B) Governed by the services and staffing-related requirements in 42 C.F.R pt. 483, subpt. B.

(g) To ensure compliance with the requirements of this section, the department may:

(1) Audit the monthly reports and request documentation from a certified nursing facility;

(2) Review a facility's quarterly submissions to the federal direct care data system;

(3) Compare a facility's monthly reports under this section with its corresponding quarterly submissions to the federal direct care data system;

(4) Review the results of federal audits of facility submissions to the federal direct care data system; and

(5) Request demonstrations of the vendor payroll and other systems that nursing facilities commonly use to report direct care hours.

(h) To ensure accurate monthly reporting and facilitate efficient auditing by the Division of Provider Services and Quality Assurance, all hours reported in Column A or Column B for a month must be adequately documented in the facility's records:

(1)(A) A facility must avoid any duplication or double counting of hours reported in Column A and Column B or under particular types of direct care positions.

(B)(i) For example, a specific hour reported under Column B should not be counted in Column A or vice versa.

(ii) However, hours provided by a particular direct care staff person, such as the director of nursing, may be shown split between the columns, with some of the hours reportable in Column A and others reportable in Column B.

(C)(i) Similarly, specific hours reported for an initial position type should not be duplicated in any other labor category title.

(ii) For example, specific hours reported under "Registered Nurse Director of Nursing", or "Registered Nurse with Administrative Duties" should not also appear in the "Registered Nurse" row;

(2) A facility's payroll system and associated reporting capabilities are sufficient to document direct care hours by employed staff;

(3) A facility will need to use other methods to adequately document direct care hours reported under Column A or Column B, provided by contracted staff, consultants, and other nonemployed but licensed or certified health professionals that are providing direct care services in the facility; and

(4) Acceptable methods for adequately documenting direct care service hours by nonemployees as reported in Column A or Column B of a monthly report include, without limitation:

(A) A time tracking system the same or similar to that used by employed direct care staff;

(B) Signed time sheets; or

(C) Invoices, in the case of contracted or consultant staff paid by the facility, provided the invoices detail the number of direct care hours provided in the month.

**20 CAR § 400-1405. Average direct care hours per resident — Private pay-only nursing facilities.**

(a) Each private pay-only nursing facility shall:

(1) Provide each month direct care services by direct care staff equivalent to at

least three and thirty-six hundredths (3.36) average direct care hours per resident day; and

(2) On or before the fifteenth day of each month, report electronically to the department the facility's actual average direct care hours per resident day for the prior month.

(b)(1) In determining and reporting direct care hours as required:

(A)(i) A private pay-only facility shall follow the same or substantially comparable process required of certified nursing facilities under 20 CAR § 400-1404.

(ii) The process is the same, except a private pay-only facility would not formally submit data to the federal direct care data system; and

(B) Unless the department approves an alternative, the private pay-only facility shall:

(i) Use the same or substantially comparable payroll and time tracking system capabilities or software that certified nursing facilities use to support reporting to the federal direct care data system and preparation of monthly reports under 20 CAR § 400-1404;

(ii) Produce and provide to the department quarterly direct care staffing reports consistent with the detailed quarterly reports that certified nursing facilities are required to submit to the federal direct care data system; and

(iii) Report direct care staffing hours to the federal direct care data system when the Centers for Medicare and Medicaid Services subsequently permits noncertified licensed nursing facilities to use the system.

(2) A process or system is substantially comparable if it records the same data or information and has the same capabilities or software as the federal reporting system.

(c) The department may audit these monthly reports and request documentation from the private pay-only facility to ensure compliance with the requirements of this section.

**20 CAR § 400-1406. Certified medication assistants.**

(a) Any licensed nursing facility may elect to use certified medication assistants (medication assistants-certified) to perform the delegated nursing function of medication administration and related tasks:

(1) Under the supervision of a licensed nurse on the premises; and

(2) Consistent with the medication assistant rules of the Arkansas State Board of Nursing.

(b) A person who is both a certified medication assistant and certified nurse aide may perform both functions in a nursing facility.

**20 CAR § 400-1407. Modern staffing practices supported.**

(a) A licensed nursing facility may:

(1) Engage the services of direct care staff and other personnel on a full-time or part-time basis and through employment, contracting, and staffing agencies, or any combination thereof;

(2) Use:

(A) Fixed schedules;

(B) Flex-time;

(C) Rotating shifts;

(D) Split shifts;

(E) Compressed workweeks; and

(F) Other alternative staffing schedules; and

(3) Use the universal worker model and assign other tasks to some or all certified nurse aides (such as food service, laundry, and housekeeping) in addition to their direct care responsibilities:

(A) The universal worker option applies to both traditional and home-style type nursing facilities; and

(B) For certified nurse aides serving as universal workers, the facility must ensure that direct care and nondirect care hours are properly differentiated for:

(i) Monthly reports under 20 CAR §§ 400-1404 and 400-1405; and

(ii) Quarterly reporting to the federal direct care data system.

(b) Without limitation under Department of Human Services rules or need of a waiver or permission from the department, a licensed nursing facility may engage in any staffing-related practice permitted under federal requirements of participation.

**20 CAR § 400-1408. Posting of staffing information.**

Each licensed nursing facility shall comply with the information posting requirements of 42 C.F.R. § 483.35.

**20 CAR § 400-1409. Waivers and variances.**

(a) In the event of a public health emergency, natural disaster, other major emergency, or severe labor shortage, the Department of Human Services may temporarily waive the average direct care hours per resident day standard in 20 CAR §§ 400-1404 and 400-1405 for any certified facility in a county or the state.

(b) In the event of a public health emergency, a natural disaster, or other emergency declared by the Governor or the United States Secretary of Health and Human Services, the Department of Human Services may issue a temporary waiver or variance of any rule, including any staffing-related rule, that it determines reasonable and necessary under one (1) or more of the following circumstances:

(1) For licensed nursing facilities and ICFs-IID to:

(A) Provide resident care;

(B) Protect the health and safety of:

(i) Residents;

(ii) Staff; and

(iii) Visitors;

(C) Meet staffing needs;

(D) Meet new federal requirements or guidance;

(E) Coordinate care delivery and emergency response with:

(i) Hospitals;

(ii) Physicians;

(iii) Other providers; and

(iv) Public health or emergency management authorities; or

(F) Adopt alternative:

(i) Staffing;

(ii) Practices;

(iii) Procedures; or

(iv) Technology; or

(2) In response to any federal waiver or requirement modification issued under:

(A) 42 U.S.C. § 1320b–5;

(B) 42 C.F.R. pt. 483; or

(C) Other federal authority.

(c)(1) A request for a waiver or variance must be made in writing by a licensed nursing facility to the Director of the Division of Provider Services and Quality Assurance.

(2) The request must contain:

(A) Details of the reason for the waiver or variance; and

(B) The potential impact to the facility if said waiver or variance is not granted.

(d)(1) The Department of Human Services may approve or deny a waiver or variance request at its discretion.

(2) Approvals and denials must be made in writing.

(e) The Department of Human Services may extend or renew an approved waiver or variance and may impose such conditions it deems necessary to:

(1) Protect the health and safety of facility residents and staff;

(2) Meet federal requirements or guidance; or

(3) Best meet the intended purpose of the waiver or variance.

## **Subpart 15. Patient Care Services — Specialized Rehabilitative Services**

### **20 CAR § 400-1501. Services based on resident needs.**

In addition to rehabilitative nursing, the facility shall, as ordered by a physician, provide, according to the needs of each patient, specialized and supportive services, i.e., physical therapy, speech pathology, audiology, and occupational therapy, either directly, by referral, or through arrangements with qualified personnel.

**20 CAR § 400-1502. Written plan of care.**

If provided, specialized rehabilitative services shall be provided under a written plan of care, initiated by the attending physician, and developed in consultation with appropriate therapist or therapists and nursing services.

**20 CAR § 400-1503. Review of resident progress.**

A report of the patient's progress shall be communicated to the attending physician within two (2) weeks of the initiation of the specialized rehabilitative services and regularly thereafter.

**20 CAR § 400-1504. Re-evaluation of plan.**

The plan of specialized rehabilitative care shall be re-evaluated as necessary, but at least every thirty (30) days by the physician and/or the therapist.

**20 CAR § 400-1505. Documentation of services.**

The physician's orders, the plan of specialized rehabilitative care, services rendered, evaluation of progress, and other pertinent information shall be recorded in the patient's medical record and dated and signed by the physician ordering the service and the person who provided the service.

**Subpart 16. Patient Care Services — Pharmaceutical Services**

**20 CAR § 400-1601. Responsibility for pharmacy compliance.**

(a) The administrator shall be responsible for full compliance with federal and state laws governing procurement, control, and administration of all drugs.

(b) Full compliance is expected with the Comprehensive Drug Abuse Prevention and Control Act of 1970, Pub. L. No. 91-513, and all amendments to this set and all regulations and rulings passed down by the Drug Enforcement Agency, Arkansas Code § 5-64-101 et seq., and all amendments to it and this part.

**20 CAR § 400-1602. Pharmacy consultants permit.**

(a) Each nursing home shall have a formal arrangement with a licensed pharmacist to provide supervision and consultation on methods and procedures for ordering, storing, administering, disposition, and record keeping of drugs and biologicals.

(b) A consultant pharmacist's permit shall be obtained yearly from the Arkansas State Board of Pharmacy and shall be displayed in a conspicuous place in the facility.

(c) The consultant pharmacist shall visit the nursing home at least monthly to perform his or her consultant duties.

(d) Before a nursing home consultant's permit shall be issued, the pharmacist must certify to the board that he or she has:

(1) Attended a seminar or meeting explaining pharmaceutical duties and responsibilities in a nursing home as approved by the board; and

(2) Read and understands the rules governing pharmaceutical services in a nursing home and will abide by them.

(e)(1)(A) The consultant pharmacist shall submit a written report at least monthly to the administrator of the facility.

(B) This monthly report should be a summary of the duties performed by the consultant pharmacist that month, any error or problems found in the facility, delivery of pharmaceutical services, and a detailed listing of any discrepancies and/or irregularities noted by the pharmacist during his or her drug regimen reviews.

(2) The pharmacist, in cooperation with the facility staff, should develop and implement policies and procedures to govern all aspects of the drug distribution system.

(3) The pharmacist may also agree to abide by and function with those policies and procedures already being used by the facility at the time of his or her employment.

**20 CAR § 400-1603. Prescriptions on individual basis.**

- (a) All drugs prescribed for each patient shall be on an individual prescription basis.
- (b) Medications prescribed for a specific patient shall not be administered to another patient.

**20 CAR § 400-1604. Administration of medication.**

- (a) No medication shall be given without a written order by a physician or dentist.
- (b)(1) All medications shall be given by authorized nursing personnel.
  - (2) The administrator or his or her appointed assistant shall be responsible for ensuring that authorized nursing personnel administer all medications ordered by a physician or dentist.
- (c) Caution shall be observed in administering medication so that the exact dosage of the prescribed medication is given as is ordered by the doctor or dentist.
- (d) Each resident must have an individual container, bin, compartment, or drawer for the storage of his or her medications in the medication room except for stock medication and approved unit dose systems.
- (e) The PRN medications on current doctor's orders can be handled in one (1) of four (4) ways in a facility:
  - (1) Use medication from the emergency box;
  - (2) Have it as stock medication if it is a nonlegend drug;
  - (3) Have it on an individual patient basis; or
  - (4) Have pharmacist maintain a policy and procedure for twenty-four-hour emergency service from pharmacy.
- (f)(1) Nursing personnel cannot transfer more than one (1) dose of medication from container to container.
  - (2) Loading narcotic counters, preparing take-home supply of medications, incorporating supplies, etc., by nursing personnel are not permitted.

**20 CAR § 400-1605. Equipment for administering medications.**

- (a) There shall be calibrated medicine containers to correctly measure liquid

medications.

(b) Calibrated medicine containers include calibrated syringes when used to measure odd liquid dosages, such as 4cc, 8cc, etc.

(c) Disposable items shall not be reused.

(d) Disposable syringes and needles must be disposed of by breaking and incineration.

**20 CAR § 400-1606. Medicine cards.**

(a) In administering medications, medication cards current with the physician's orders must be used.

(b) Medicine cards shall be provided to include:

- (1) Name of patient;
- (2) Rooms or bed number;
- (3) Medication and dosage; and
- (4) Hours to be given.

**20 CAR § 400-1607. Stop order policy.**

(a) Medications not specifically limited as to time or number of doses when ordered by the physician shall be controlled by the facility's policy regarding automatic stop orders.

(b) The facility's automatic stop order policy, at a minimum, shall cover the following categories of medications:

- (1) C-II narcotics;
- (2) C-II non-narcotics;
- (3) C-III, C-IV, and C-V medications;
- (4) Anticoagulants; and
- (5) Antibiotics.

**20 CAR § 400-1608. Storage of drugs.**

(a) All drugs on the premises of a nursing home, except for the emergency tray, as

defined by the State Board of Health and the Arkansas State Board of Pharmacy, shall be properly labeled containers dispensed upon prescription by the pharmacy.

(b)(1) All medications shall be kept in a locked cabinet or locked room at all times.

(2) Only the nurse responsible for administering the medication, director of nursing, and the administrator shall have a key.

(c)(1) All controlled drugs shall be stored in a separately locked, permanently affixed substantially constructed cabinet within a locked drug room or cabinet.

(2) When mobile medication carts for unit-dose or multiple day card systems are used, the condition for security will be considered met provided that the:

(A) Mobile cart is in a locked room when unit contains controlled drugs and is not in actual use; and

(B)(i) Controlled substances are in a separately locked compartment within the cart unless:

(a) The quantity stored is minimal; and

(b) A missing dose can readily be detected.

(ii) A minimal quantity shall be considered to be a quantity of a twenty-four-hour supply or less.

(d) All drugs for external use shall be kept in a safe place accessible only to employees and in a special area apart from other medication and prescriptions.

(e)(1) Medicines requiring cold storage shall be refrigerated.

(2) A locked container placed below food level in a home refrigerator is considered satisfactory storage space.

(f)(1) Each patient's prescription medication shall be:

(A) Kept in the original container; and

(B) Clearly and adequately labeled by the pharmacist.

(2) The label shall include the:

(A) Prescription number;

(B) Patient's name;

(C) Name and strength of medicine;

(D) Physician's or dentist's name;

- (E) Date of issue;
- (F) Name of pharmacy;
- (G) Appropriate accessory and cautionary labels;
- (H) Expiration date of drug where applicable;
- (I) Quantity of tablets or capsules dispensed; and
- (J) Directions for administration.

(g)(1) Labels should be affixed to the immediate container.

(2) The immediate container is that which is in direct contact with the drug at all times.

(h)(1) O.T.C. medications (medications not requiring a prescription for purchase) that are the private property of the patient do not have to be labeled by a pharmacist.

(2) However, they must be identified with at least the patient's name.

(i) Drug rooms shall be supplied with adequate lighting so that medications can be safely prepared for administration.

(j) Drug rooms shall be properly ventilated so that the temperature requirements set by the U.S.P. are met: fifty-nine to eighty-six degrees Fahrenheit (59° – 86°F).

### **20 CAR § 400-1609. Emergency drug box.**

(a)(1) A container that contains emergency stimulants and drugs for life saving measures must be maintained.

(2) This box should:

(A) Be located where it can be readily available to nursing personnel but kept in a secure place; and

(B) Have a breakaway lock.

(b) There should be a list on the box of the drugs that are contained in the box.

(c) The drugs in the box should be checked periodically with the list to make sure that these drugs have been replaced after use and are not outdated.

(d) Only drugs that have been approved for this purpose by the pharmaceutical services committee or medical director, as applicable, and/or the physician, can be placed in this box.

(e) All controlled substances assigned to the box must be kept with the other controlled substances and labeled "Emergency Box".

(f) All controlled substances assigned to the "Emergency Box" must be entered into the bound book.

(g) The location of these controlled substances should be noted on the list of drugs.

(h) The drug list should be signed by the physician member of the committee indicating his or her approval.

(i) The list and contents of the box shall be reviewed annually by the appropriate committee and/or physician and so noted on the emergency drug list.

**20 CAR § 400-1610. Record of controlled drugs.**

(a)(1) A record shall be kept in a bound ledger book with consecutively numbered pages of all controlled drugs procured and administered.

(2) This record shall contain on each separate page the:

(A) Name, strength, and quantity of drug received;

(B) Date received;

(C) Patient's name;

(D) Prescribing physician;

(E) Name of pharmacy;

(F) Date and time of dosage given;

(G) Quantity of drug remaining; and

(H) Signature of person administering the drug.

(b)(1) The person responsible for entering the controlled drug into the bound ledger should be the same person who signs for it in the drug ordering and receiving record.

(2) This record shall be retained by the facility as a permanent record and be readily available.

**20 CAR § 400-1611. Controlled drug accountability.**

(a)(1) There shall be a count of all C-II controlled medications at each change of shift.

(2) All C-III, C-IV, and C-V controlled medications should be counted at least once daily unless a true unit dose system is used.

(3)(A) This count shall be made by the off-going charge nurse and the oncoming charge nurse.

(B) If licensed personnel are not available on a shift, a nonlicensed employee can cosign as a witness with the off-going nurse, and cosign as a witness again with the oncoming nurse.

(4)(A) This count shall be documented.

(B) This documentation shall include:

(i) The date and time of the count;

(ii) A statement as to whether or not the count was correct; and

(iii) If it was incorrect, an explanation of the discrepancy.

(C) This record shall be retained by the facility as a permanent record and be readily retrievable.

(b)(1) When loss, suspected theft, or an error in the administration of controlled drugs occurs, it must be reported to the director of nursing services and an incident report filled out.

(2) Also, a copy of the form for reporting theft or lost controlled substances should be mailed to the Division of Drug Control of the Department of Health.

(c) All documentation must be retained in the facility as a permanent record.

(d)(1) When a dose of a controlled drug is dropped or broken, two (2) people should make a statement in the bound ledger as to what occurred, and both must sign their names.

(2) These two (2) people shall be licensed nursing personnel, whenever possible.

**20 CAR § 400-1612. Review of medication by the nurse and/or pharmacist.**

(a) There shall be for each patient a separate medication/drug regimen review sheet.

(b) This sheet is to be used to document the performance of a medication/drug regimen review by the pharmacist and/or registered nurse.

(c) This monthly review must be dated and signed by the person making the review.

(d) Any discrepancy, interaction, etc., should be entered on the review sheet.

**20 CAR § 400-1613. Review of medications by consultant pharmacist.**

(a)(1) In an intermediate care facility, the review of the medication/drug regimen of the skilled care patients must be done at least each month, and at least quarterly on the intermediate and minimum care patients.

(2) In skilled nursing facilities, the review of medication/drug regimen must be done monthly on all patients.

(b)(1) In reviewing the medication/drug regimens of the patients, the pharmacist and registered nurse should, as a minimum, compare the doctor's orders with the:

- (A) Medication administration record;
- (B) Medication cards;
- (C) Cardex;
- (D) Actual medications; and
- (E) Prescription labels.

(2) Any discrepancies, interactions, irregularities, contraindications, errors, and incompatibilities will be noted:

- (A) On the medication/drug regimen review sheet; and
- (B) If medication/drug review is being performed by the pharmacist, on the pharmacist's monthly written report to the administrator.

(3) Irregularities observed by the pharmacist that would warrant immediate action should be brought to the director of nursing services' attention immediately upon their finding.

(c)(1) The person delegated the responsibility of correcting or following through on

the errors, irregularities, and discrepancies listed on the pharmacist's monthly report should document their actions on their report, date it, and sign it.

(2) A photocopy of the report may be used for this purpose, but both must be retained in the facility.

(3)(A) If no irregularities or discrepancies are found during the medication/drug regimen review, the person performing the review must note on the review sheet that he or she has reviewed that drug regimen and found no irregularities.

(B) This notation must be dated and signed.

**20 CAR § 400-1614. Cycle-fill, pharmacy notification, and disposition of unused drugs.**

(a)(1) Schedule II, III, IV, and V drugs dispensed by prescription for a patient and no longer needed by the patient must be delivered in person or by registered mail to the Drug Control Division of the Department of Health, 4815 West Markham Street, Little Rock, Arkansas 72201 along with Department of Health Form (PHA-DC-1) Report of Drugs Surrendered for Disposition According to Law.

(2)(A) When unused portions of controlled drugs go with a patient who leaves the facility, the controlled drug record shall be signed by the:

- (i) Person who assumes responsibility for the patient; and
- (ii) Person in charge of the medication in the nursing home.

(B) This shall be done only on the written order of the physician and at the time the patient:

- (i) Is discharged;
- (ii) Is transferred; or
- (iii) Visits home.

(b)(1)(A) Except as provided in Arkansas Code § 17-92-1101 et seq. and subsection (f) of this section, all medications other than Schedule II, III, IV, and V not taken out of the home by the patient with the physician's consent when he or she is discharged from the home shall be destroyed.

(B) See subsection (e) of this section on handling medication when a

resident enters a hospital or is transferred.

(2) All discontinued medications, except controlled drugs, shall be destroyed on the premises of the facility.

(3) Destruction shall be made by the consultant pharmacist and a nurse with a record made as to the date, quantity, prescription number, patient's name, and strength of medications destroyed.

(4) The destruction should be by means of:

- (A) Incineration;
- (B) Garbage disposal; or
- (C) Flushing down the commode.

(5) This record shall be:

- (A) Kept in a bound ledger with consecutively numbered pages; and
- (B) Retained by the facility as a permanent record and be readily

retrievable.

(c)(1) Only oral solid medications may be cycle-filled.

(2) Provided, however, that if an oral solid medication meets one (1) of the categories below, then that oral solid medication may not be cycle-filled:

- (A) PRN or "as needed" medications;
- (B) Controlled drugs (C-II – C-V);
- (C) Refrigerated medications;
- (D) Antibiotics; and
- (E) Anti-infectives.

(d)(1)(A) A facility shall notify the pharmacy in writing of any change of condition that affects the medication status of a resident.

(B) For purposes of this section, "change of condition" includes death, discharge, or transfer of a resident, as well as medical changes of condition that necessitate a change to the medication prescribed or the dosage given.

(2)(A) The notification shall be made within twenty-four (24) hours of the change of condition.

(B) If the notification would occur after 4:30 p.m. Monday through Friday,

or would occur on a weekend or holiday, the facility shall notify the pharmacy by no later than 11:00 a.m. the next business day.

(3) Documentation for drugs ordered, changed, or discontinued shall be retained by the facility for a period of no less than fifteen (15) months.

(e)(1) When a resident is transferred or enters a hospital, a facility shall hold all medication until the return of the resident, unless otherwise directed by the authorized prescriber.

(2) All continued or reordered medications will be placed in active medication cycles upon the return of the resident.

(3) Except as provided in Arkansas Code § 17-92-1101 et seq. and subsection (f) of this section, if the resident does not return to the facility, any medications held by the facility shall be:

(A) Placed with other medications or drugs for destruction; or

(B) Returned as permitted by Arkansas State Board of Pharmacy rules.

(f)(1) Pursuant to Arkansas Code § 17-92-1101 et seq., facilities may elect to donate designated medications to charitable clinics.

(2) If a facility elects to donate medications, facilities shall:

(A) Obtain the written consent of the resident or the person who assumes responsibility for the resident through the execution of a donor form created by the Arkansas State Board of Pharmacy that states that the donor:

(i) Is authorized to donate the drugs; and

(ii) Intends to voluntarily donate them to a charitable clinic pharmacy;

(B) Retain the donor form along with other acquisition records in accordance with 20 CAR § 400-1904(b);

(C) Obliterate from the packaging before the nursing facility sends the drug to the charitable clinic:

(i) The donor patient's name;

(ii) The prescription number; and

(iii) Any other marks that identify the resident;

(D) Ensure that the drug name, strength, and expiration date remain on

the drug package label;

(E) Enter into a contract, approved by the Arkansas State Board of Pharmacy, with all charitable clinics to which the facility will donate drugs;

(F) Donate drugs only in their original sealed and tamper-evident packaging or, if acceptable to the charitable clinic, drugs packaged in single-unit doses or blister packs with the outside packaging opened if the single-unit dose packaging remains intact;

(G) Ensure that all drugs physically transferred from the nursing facility to a charitable clinic pharmacy is performed by a person authorized by the Arkansas State Board of Pharmacy to pick up the drugs for the charitable clinic;

(H) Provide all drug recall notices and information received by, or known to, the facility to all charitable clinics with which the facility has a contract to donate drugs;

(I) Donate only those medications permitted under Arkansas Code § 17-92-1101 et seq.; and

(J) Comply with all applicable rules concerning donation of unused drugs to charitable clinics promulgated by the Arkansas State Board of Pharmacy.

**20 CAR § 400-1615. Pharmacy-prepared medication container systems designed for administration with the use of medication cards (unit dose system).**

(a) All policies and procedures related to systems of this type must first be approved by the Office of Long-Term Care before that system is put into operation.

(b) The medication shall remain in the pharmacy-prepared container up to the point of administration to the patient.

(c) The medication container must be properly labeled by a licensed pharmacist.

(d) Freedom of choice.

(1) To ensure that each patient admitted to a long-term care facility is allowed freedom of choice in selecting a provider pharmacy, at the time of admission the patient or responsible party must specify in writing the pharmacy that they desire to

use.

(2) The patient or responsible party must also sign the statement, or form, and the signed form should be filed with the signed residents' rights' statement.

(3) The patient must be allowed to change the provider pharmacy if he or she desires.

(4) If true unit dose system is used by the facility the patient will not be afforded the freedom of choice of pharmacy provider.

## **Subpart 17. Patient Care Services — Dietetic Services**

### **20 CAR § 400-1701. Staffing.**

(a)(1) Staff supervisory responsibility for the dietetic services is assigned to a full-time, qualified dietetic service supervisor or certified dietary manager.

(2) A qualified supervisor has:

(A) Completed an approved food service manager's course;

(B) Been certified by the Certifying Board for Dietary Managers; or

(C) For only those facilities having more than fifty (50) beds, is enrolled in a food service supervisor course approved by the Office of Long-Term Care.

(3) For purposes of this part, the term "a food service supervisor course approved by the Office of Long-Term Care" means a course of education and training in food service or food service supervision provided by an licensed and accredited educational institution.

(b)(1) Certified dietary managers and food service supervisors shall complete fifteen (15) hours per year of continuing education courses approved by the Office of Long-Term Care.

(2) For purposes of this part, the term "continuing education courses approved by the Office of Long-Term Care" means continuing education courses:

(A) Offered by the Dietary Managers Association or a comparable body;

and

(B) Approved by the Office of Long-Term Care.

**20 CAR § 400-1702. Hygiene of staff.**

(a) All food service employees shall:

- (1) Wear appropriate, light-colored clothing, including hairnet; and
- (2) Keep themselves and their clothing clean.

(b) All persons working as food handlers in nursing homes shall have in their possession or on file in the home in which they are employed, a current, approved health card.

(c)(1) Persons having symptoms of communicable or infectious diseases or lesions shall not be allowed to work in the dietetic services.

(2) Food service employees shall not be assigned duties outside dietetic services.

**20 CAR § 400-1703. Minimum daily food requirements.**

(a) All patients shall be served an approved, appetizing, adequate diet that conforms to the recommended dietary allowances of the Food and Nutrition Board, National Research Council or with, "Food for Fitness — a Daily Guide" leaflet #424, United States Department of Agriculture.

(b)(1) Facilities are permitted to serve commodity foods provided that the:

(A) Facility is registered as a nonprofit organization; and

(B) Foods were legally obtained directly from United States Department of Agriculture sources.

(2) Commodity foods obtained from an individual may not be used.

(3) Commodity foods shall be utilized pursuant to United States Department of Agriculture regulations.

(4)(A) Facilities utilizing commodity foods shall maintain documentation, or be able to provide evidence, that the foods were obtained through proper channels.

(B) Failure to meet this requirement may result in a deficiency finding and a report to federal authorities.

(c) The daily food allowances for each patient shall include, unless contraindicated

by the patient's physician:

(1)(A) Milk — two (2) or more eight ounce (8 oz.) portions.

(B)(i) Milk and milk products shall be obtained from a source approved by the Department of Health.

(ii) They must be produced and handled in accordance with rules set forth by the Department of Health.

(C) Milk shall be served in the original individual containers or from a dispenser approved by the Department of Health.

(D) Cartoned milk or milk products shall be stored so that the tops are not covered with ice or water.

(E) Milk and cream shall be kept in tightly covered containers and refrigerated until served or used;

(2)(A) Meat — five ounces (5 oz.) of protein, i.e., lean meat, fish, poultry, eggs, or cheese.

(B) Count as a serving: two (2) to three (3) ounces of lean cooked meat, poultry, or fish all without bones; two (2) eggs; two (2) ounces of cheese; one (1) cup cooked dried beans or peas; four (4) tablespoons of peanut butter.

(C)(i) Dried beans, dried peas, or peanut butter may be served once a week in place of lean meat if one-half (1/2) pint of milk is served at the same meal.

(ii) If milk is refused by the resident, one ounce (1 oz.) of meat or meat substitute such as cheese or eggs shall be served in its place.

(D) Meat shall be obtained from an approved source.

(E) No raw eggs shall be served;

(3)(A) Fruits and vegetables — four (4) or more servings.

(B) Count as a serving one-half cup (1/2 c.) or portion as ordinarily served, such as one (1) medium apple, banana, pear, peach, or potato.

(C) Include a citrus fruit or other fruit or vegetable rich in vitamin C every day and a dark green or deep yellow vegetable for vitamin A at least every other day.

(D) No hermetically sealed low acid or nonacid food which has been processed in a place other than a commercial food processing establishment shall be

used;

(4) Breads and cereal four (4) or more servings, whole grain, enriched or restored; and

(5) Other foods to round out meals and snacks and to satisfy individual appetites and provide additional calories.

**20 CAR § 400-1704. Frequency of meals.**

(a) At least three (3) meals are served daily.

(b)(1) There shall be at least a five-hour span between:

(A) Breakfast and the noon meal; and

(B) Noon meal and supper.

(2) The meals shall be served at approximately the same hours each day.

(c)(1) There shall not be more than fourteen (14) hours between a substantial supper and breakfast.

(2) Supper shall include as a minimum:

(A) Two ounces (2 ozs.) of a substantial protein food;

(B) A starch (or substitute) or soup;

(C) A vegetable or fruit; and

(D) Dessert and a beverage, preferably milk.

(d)(1) Bedtime snacks of nourishing quality shall be routinely offered to all patients whose diets do not prohibit the service of this night feeding.

(2) Milk, juices, cookies, or crackers shall be offered.

**20 CAR § 400-1705. Meal service.**

(a) All foods shall be served at the proper temperatures and procedures established and implemented to serve the patient cold foods between forty-five to fifty-five degrees Fahrenheit (45°F to 55°F), and hot foods should register one hundred forty degrees Fahrenheit (140°F) on the steam table and should reach the patient at no less than one hundred fifteen degrees Fahrenheit (115°F).

(b) Table service shall be provided for all who can and will eat at the table,

including wheelchair patients.

(c)(1) An over-bed table shall be provided for bed patients.

(2) Patients who are served meals in their rooms shall be provided with an over-bed table or an over-patient table of sturdy construction.

(d) The public, personnel, or patients shall not be permitted to eat or drink in the:

- (1) Kitchen;
- (2) Dishwashing area; or
- (3) Store room.

(e) Only dietetic services and administrative personnel shall be allowed in the kitchen.

(f) Only dietetic services personnel shall be allowed to portion out food for patients or personnel.

(g)(1) Trays shall not be set up until the meal is ready to be served.

(2) Foods shall not be at the patient's place in the dining room until the patient is at the table.

(h)(1) Nursing home residents will not be permitted to work in the dietetic services.

(2) If a patient is to be allowed to scrape trays, there must be a physician's order.

(i)(1) All food transported to patient rooms or to dining rooms which are not adjacent to the kitchen must be covered.

(2) If hot and cold carts are not used to deliver trays, carts must be completely cleaned before the next use.

## **20 CAR § 400-1706. Menus.**

(a)(1) Menus shall be:

- (A) Planned and written two (2) weeks in advance; and
- (B) Posted at least one (1) week in advance.

(2) Menus for each level shall be written.

(3) Arrows, etc., are not acceptable.

(b)(1) Weekly menus shall not be repeated more often than a three-week cycle.

(2) Identical meals shall not be repeated more often than once every three (3) weeks.

(c) Changes shall be recorded on both the regular and therapeutic diet menus.

(d) Menus that have been posted in the kitchen shall not be redated and reused.

(e) Meals served shall:

(1) Correspond essentially with the posted menus;

(2) Be served in sequential order as planned; and

(3) Be approved by the dietetic services consultant.

(f) Records of menus as served shall be on file and maintained for thirty (30) days.

(g) When substitutions are made they should be of:

(1) The same food groups; and

(2) Equal nutritional value.

#### **20 CAR § 400-1707. Therapeutic diets.**

(a)(1) There shall be a system of written communications between dietetic services and nursing services, i.e., diet order forms.

(2) Nursing services should send a written patient diet list monthly and diet change slips as diets are changed by the physician.

(b) Therapeutic diets shall be served only to those patients for whom there is a physician's or dentist's written order.

(c) Diet orders shall be reviewed by the physician:

(1) Every one hundred twenty (120) days for intermediate and minimum care patients; and

(2) Every sixty (60) days for skilled care patients.

(d) A current manual approved by an affiliate of the American Dietetic Association, such as the Arkansas Diet Manual, shall be used, and a copy of the approved manual shall be available at one (1) nurses' station and in the dietetic services.

(e) In the event that the calorie controlled menu patterns in use in the facility are other than those in the approved manual, the calculations and the patterns shall be:

(1) In the policy and procedure manual on file in the dietary services; and

(2) Posted in the kitchen.

(f)(1) A copy of diets as ordered by the physicians shall:

(A) Be posted in the kitchen;

(B) Correspond to the diet as ordered on the medical chart; and

(C) Be kept current.

(2) Patient diet lists shall:

(A) Include the patient's:

(i) Name;

(ii) Room number; and

(iii) Diet; and

(B) Be signed by licensed personnel.

(g) Therapeutic diets that vary in the time specified for regular meals shall be provided for the patients as ordered by the physician.

(h) There shall be a system of patient identification for each tray served which includes the following information:

(1) Resident's name;

(2) Resident's diet;

(3) Resident's room number;

(4) Resident's beverage preference;

(5) Any allergies the resident may have to certain foods; and

(6) Any major dislikes, for which there should be a substitution provided.

(i) The hour of sleep feedings for the calorie-controlled diets shall be recorded in nurses' notes as served and should include patient acceptance.

**20 CAR § 400-1708. Preparation and storage of food.**

(a)(1) An adequately sized storage room shall be provided with adequate shelving.

(2)(A) Seamless containers with tight-fitting lids, clearly labeled, shall be provided for bulk storage of dry foods.

(B) It is recommended that these containers be placed on dollies for easy moving.

- (3) The storage room shall be of such construction as to prevent:
    - (A) The invasion of rodents and insects;
    - (B) The seepage of dust or water leakage; or
    - (C) Any other contamination.
  - (4) The room shall be:
    - (A) Clean;
    - (B) Orderly;
    - (C) Well ventilated; and
    - (D) Without condensation or moisture on the walls.
  - (5) Food in any form shall not be stored on the floor.
  - (6) If the bottom shelf is open it shall be of sufficient height to clean underneath.
- (b)(1) All food prepared in the nursing home shall be:
- (A) Clean;
  - (B) Wholesome;
  - (C) Free from spoilage; and
  - (D) So prepared as to be safe for human consumption.
- (2) All food stored in the refrigerators shall be stored in covered containers.
  - (3) Leftover foods shall be labeled and dated with the date of preparation.
  - (4) Foods stored in freezers shall be:
    - (A) Wrapped in airtight packages;
    - (B) Labeled; and
    - (C) Dated.
- (c)(1) Fresh fruits and vegetables shall be thoroughly washed in clean, safe water before use.
- (2) Vegetables subject to dehydration during storage shall be wrapped or bagged in plastic.
- (d)(1) All readily perishable foods, including eggs or fluids, shall be stored at or below forty-five degrees Fahrenheit (45°F).
- (2) A reliable and visible thermometer shall be kept in the refrigerator.

(e)(1) All frozen foods shall be stored at zero degrees Fahrenheit (0°F) or lower.

(2) A reliable and visible thermometer shall be kept in the freezer.

(3) Frozen foods which have been thawed shall not be refrozen.

(f) Potentially hazardous frozen foods shall be thawed at refrigerator temperatures of forty-five degrees Fahrenheit (45°F) or below.

(g)(1) Eggs shall be stored below all other foods.

(2) Fresh whole eggs shall not be cracked more than two (2) hours before use.

(h) All toxic compounds shall be:

(1) Used with extreme caution; and

(2) Stored in an area separate from food preparation, storage, and service areas.

(i) Work areas and equipment shall be adequate for the efficient preparation and service of foods.

(j)(1) Supplies of perishable foods for a one-day period and of nonperishable foods for a three-day period shall be on the premises at all times to meet the requirements of the planned menus.

(2) If the facility consistently does not have the required one-day perishable and three-day nonperishable foods, the Office of Long-Term Care will require that the facility alter its food delivery schedule to meet rules.

(k) Food served in any nursing home must have been prepared on the premises or in an establishment approved by, and meeting regulatory standards of the Department of Health.

(l) The use of tobacco in any form is prohibited where:

(1) Food or drink is:

(A) Prepared;

(B) Stored; or

(C) Cooked; or

(2) Dishes or pots and pans are washed or stored.

(m) Foods shall be cut, chopped, ground, or pureed to meet the individual needs of the patient.

(n) If a patient refuses foods served, substitutes of similar nutritive value shall be offered.

**20 CAR § 400-1709. Sanitary conditions.**

(a) Food shall be procured from sources approved or considered satisfactory by federal, state, and local authorities.

(b) Floors shall be cleaned after each meal.

(c)(1) Dishes, silverware, and glasses shall be free of:

- (A) Breaks;
- (B) Tarnish;
- (C) Stain;
- (D) Cracks; and
- (E) Chips.

(2) There shall be an ample supply to serve all patients.

(3) Patients will be furnished knives, forks, and spoons unless there is documentation to indicate the patient is incapable of using these implements.

(d)(1) Vessels used in preparing, serving, or storing food shall be:

(A) Made of seamless metal or a nonabsorbent material which can be easily cleaned; and

(B) Used for no other purpose.

(2) Enamelware shall not be used.

(e) Rags from patient bedding or clothing or bath shall not be used in dietetic services for any purpose.

(f)(1) Dishes, knives, forks, spoons, and other utensils used in the preparation and serving of foods must be stored in such a manner as to be protected from:

- (A) Rodents;
- (B) Flies or other insects;
- (C) Dust;
- (D) Dirt; or
- (E) Other contamination.

(2) Silverware shall be stored in a clean container that can be thoroughly washed and sanitized.

(g)(1) Paper or loose covering shall not be used on:

- (A) Shelves;
- (B) Cabinets;
- (C) Cabinet drawers;
- (D) Refrigerators; or
- (E) Stoves.

(2) Storage cabinets shall be kept clean.

(3) Cardboard boxes shall not be saved and used for the storage of food or articles which were not packed in that original box.

(h) Dishes, trays, silverware, glasses, and food preparation dishes shall be cleaned, washed, and sanitized by only the following methods:

(1)(A) Manual dishwashing.

(B) Facilities may wash and sanitize such items in a three-compartment sink.

(C)(i) Items shall be first thoroughly cleaned and washed in warm water, one hundred to one hundred twenty degrees Fahrenheit (100°F to 120°F), containing an adequate amount of an effective soap or detergent to remove grease and solids.

(ii) The wash water shall be changed often enough to keep it reasonably clean.

(D) Next, they shall be rinsed in clean water, which is heated to a temperature of at least one hundred forty degrees Fahrenheit (140°F).

(E) Next, they shall be completely submerged for at least two (2) minutes in clean hot water at a temperature of at least one hundred eighty degrees Fahrenheit (180°F).

(F) A visible and reliable thermometer shall be conveniently available for testing the water temperature.

(G)(i) Pots or pans that are used for preparing food that will be cooked need not be sanitized.

(ii) All other utensils used in the preparing or serving of food shall be sanitized prior to use.

(H)(i) Dishes, trays, and glasses shall be allowed to air dry before storage.

(ii) Drying cloths shall not be used; or

(2)(A) Mechanical dishwashing machine.

(B) Facilities may wash and sanitize such items in a mechanical spray type dishwashing machine as approved by the Office of Long-Term Care.

(i)(1) All kitchen garbage, cans, trash, and other waste materials shall be stored in water-tight containers provided with close-fitting lids.

(2) The kitchen garbage container shall be:

(A) Emptied and thoroughly washed after each meal; and

(B) Treated with a disinfectant if necessary.

(j) All equipment and utensils shall be:

(1) So constructed as to be cleaned easily; and

(2) Kept clean at all times.

(k) All mops, brushes, dustpans, and other housecleaning equipment shall be stored in a janitor's closet when not in use.

(l) Meat and other foods shall not be placed in direct contact with ice.

(m)(1) Only ice of ensured bacterial safety shall be permitted for:

(A) Use in drinks; or

(B) The cooling of drinks by direct contact.

(2) A scoop shall be used for handling ice.

(3) Ice used to chill bottled drinks or salads, or in any food preparation, shall not be used for drinking purposes.

(4) Portable ice chests that can be sanitized shall be cleaned daily, and the ice machine shall be cleaned at least weekly.

(n)(1) Hand-washing facilities shall be equipped with:

(A) Blade-action controls; and

(B) Hot and cold water.

(2) Soap and towel dispensers and a step-on trash can shall be located

conveniently to the lavatory.

(3) The kitchen lavatory shall be equipped with a goose-necked spout.

(o)(1) If table covers are used in the dining room they shall be of a fabric that can be laundered.

(2) They shall be kept clean and changed at least daily.

**20 CAR § 400-1710. Dietetic services staffing.**

(a)(1) Staffing shall be correlated to the:

(A) Size of the facility; and

(B) Total patient meals served.

(2) Facilities with:

(A) Fifty-nine (59) beds or less shall be staffed at ten (10) minutes for each meal served;

(B) Sixty (60) to eighty (80) beds shall be staffed at eight and one-half (8.5) minutes for each meal served;

(C) Eighty-one (81) to one hundred twenty (120) beds shall be staffed at six (6) minutes for each meal served; and

(D) One hundred twenty-one (121) beds or more shall be staffed at five and one-half (5.5) minutes for each meal served.

(b) Method for determining dietary staffing: number for minutes per meal times (x) three (3) equals (=) number of minutes per day, number of minutes per day times (x) number of patients divided by (/) sixty (60) equals (=) number of hours required per day.

(c)(1) Food service supervisors or certified dietary managers in homes of fifty (50) beds or less may be assigned to duties in the Department of Human Services, such as cooking, for no more than fifty percent (50%) of their total work hours, but must be allowed adequate time for supervisory tasks.

(2) In homes of more than fifty (50) beds, the food service supervisor, certified dietary manager, or an individual enrolled in a food service supervisor course approved by the Office of Long-Term Care may be assigned to duties such as cooking

no more than twenty-five percent (25%) of their total work hours, but must be allowed adequate time from these assignments for supervisory tasks.

(d)(1) The number of employees will be rounded off to the nearest whole number.

(2) If deficiencies are found that directly relate to shortage of personnel, additional personnel will be required.

## **Subpart 18. Patient Care Services — Social Work Services and Activities Programming**

### **20 CAR § 400-1801. Policies and procedures.**

(a) Separate policies must be written for social services and activity programs.

(b) They shall be individualized for the individual long-term care facility.

(c) They shall reflect the actual programs in operation at that facility.

(d) They shall provide:

(1) For the social and emotional needs of the residents; and

(2) Activities that encourage restoration and normal activity.

(e)(1) The policy manual shall include a statement of the range of social services provided.

(2) When all needed services are not provided directly, the manual shall state how needed services shall be arranged.

(f) Procedures shall clearly outline the steps for:

(1) Identification of social and emotional needs; and

(2) The mechanism for meeting these needs.

(g) Procedures shall reflect, concerning resident social service records:

(1) Type of information to be obtained;

(2) Confidentiality of data and protection;

(3) Availability of data: who, when, how, and why; and

(4) Transmittal of data on referral.

### **20 CAR § 400-1802. Job description.**

- (a) Separate for social services designee/worker.
- (b) Include actual functions of position.
- (c) Include other duties that may be assigned to designee/worker.

**20 CAR § 400-1803. Social services records.**

**(a) Social history/assessment.**

- (1) Should give clear picture of individual over life span to date.
- (2) Incomplete information should specify reason for such.
- (3) Reflects current:
  - (A) Functioning level;
  - (B) Limitations;
  - (C) Strengths; and
  - (D) Weaknesses.

**(b) Progress notes.**

- (1) Important happenings shall be entered promptly into social services' progress record.
- (2) At least a quarterly update shall be done.

**(c) Referral form.**

- (1) Pertains to referrals for social/emotional needs rather than medical.
- (2) May be a separate form or reflected in progress notes.

**(d) Resident rights.**

- (1) Appropriately signed by a:
  - (A) Resident capable of understanding: signs with one (1) witness;
  - (B) Resident incompetent:
    - (i) Legal documentation of such; and
    - (ii) Guardian and one (1) witness sign patient's rights;
  - (C) Resident incapable because of illness:
    - (i) Doctor must write statement saying why resident cannot understand; and
    - (ii) Responsible party and two (2) witnesses sign; or

(D)(i) Resident with intellectual disabilities: rights read and if he or she understands, resident signs along with staff member and outside disinterested party.

(ii) If he or she cannot understand, rights explained to and signed by guardian and witness.

(2) Copies posted around the facility.

(3) Staff members who administer rights must understand them fully.

(4) Facility staff must understand patients' rights and respect them.

**20 CAR § 400-1804. Staffing and consultation for social services/activities.**

(a) The social services designee shall comply with the qualification requirements as set forth in federal regulations.

(b) There shall be:

(1) One (1) full-time social services designee/activities director for the first one-hundred five (105) patients; and

(2) One (1) additional worker for every fifty (50) patients thereafter.

(c) The social service designee shall:

(1) Have an office or space and privacy in which he or she can talk with residents and/or family;

(2) Be aware of policies and procedures for social services and the other relevant policies of the long-term care facility;

(3) Be knowledgeable of community and government resources;

(4) Be familiar with the residents and their:

(A) Needs;

(B) Limitations; and

(C) Strengths;

(5) Possess the skills to deal with families and their needs as they relate to the resident and the long-term care facility; and

(6) Be able to identify problems and needs and plan accordingly.

**20 CAR § 400-1805. Program operation.**

(a)(1) There shall be adequate staff to provide activity/recreational programs daily, including Saturdays and Sundays.

(2) There should be at least two (2) group activities scheduled daily.

(b)(1) Activities shall be:

(A) Varied in nature; and

(B) Designed to meet the needs, interests, and limitations of residents.

(2) This is to include all residents:

(A) Bedfast;

(B) Ambulatory; and

(C) With disabilities.

(3) These activities should provide for the mental, physical, social, and spiritual stimulation of the residents.

(c)(1) Residents and patients will be informed of events and given opportunities to participate.

(2) A calendar of events shall be posted in obvious places throughout the facility.

(3) The calendar should reflect the actual activity program.

(d) The utilization of community volunteers is encouraged, but they must work under the direction of the facility's activity director.

(e) The activity director shall be aware of the limitations, strengths, and weaknesses of residents.

(f) Plans for activity involvement both on individual and group basis shall be developed for all residents.

(g) Activity supplies as a minimum:

(1) Television;

(2) Dominoes;

(3) Checkers;

(4) Outside furniture (fifty percent (50%) of ambulatory patients); and

(5) Two (2) daily newspapers (one (1) local and one (1) having state-wide

circulation) for each thirty-five (35) patients and current copies of four (4) popular magazines.

**20 CAR § 400-1806. Pet therapy.**

(a) Animals will be allowed to be brought into the nursing home for a short period of time on a limited basis for therapy sessions.

(b) These therapy sessions must be supervised at all times to see that the patients are not in danger at any time during the session.

(c) Animals brought into the facility for these sessions should be animals that will present no danger to the patients.

(d) These sessions shall be sponsored by organizations, groups, or family members that are familiar with the actions and habits of the animals being used in the therapy session.

(e) Animals used in therapy sessions shall be properly vaccinated, and records of the vaccinations maintained by the facility.

(f) Pets must be maintained outside the building, and the area in which they are kept must be clean and sprayed on a regular basis to prevent rodents and insects.

**Subpart 19. Resident Records**

**20 CAR § 400-1901. Resident record maintenance.**

(a) The facility will maintain an individual record on all residents admitted in accordance with accepted professional standards and practices.

(b) The resident record service must have sufficient staff, facilities, and equipment to provide records that are:

- (1) Completely and accurately documented;
- (2) Readily accessible; and
- (3) Systematically organized.

**20 CAR § 400-1902. Contents of records (to facilitate retrieving and**

**compiling information).**

(a) The resident records will contain sufficient information to identify the resident, his or her diagnosis or diagnoses and treatment, and to document the results accurately.

(b) Admission and discharge record:

- (1) Record number;
- (2) Date and time of admission;
- (3) Name;
- (4) Last known address;
- (5) Age;
- (6) Date of birth;
- (7) Sex;
- (8) Marital status;
- (9) Name, address, and telephone numbers of attending physician and dentist;
- (10) Name, address, and telephone number of next of kin;
- (11) Date and time of discharge or death; and
- (12) Admitting and final diagnosis.

(c) History and physical examination prior to admission:

- (1) Medical history;
- (2) Physical findings which includes a complete review of systems and diagnosis and or diagnoses; and
- (3) Date and signature of physician.

(d) Physician orders:

- (1) Date;
- (2) Orders for:
  - (A) Medication;
  - (B) Treatment;
  - (C) Care;
  - (D) Diet;
  - (E) Restraints;

- (F) Extend of activity;
- (G) Therapeutic home visits;
- (H) Discharge; or
- (I) Transfer; and

(3)(A) Telephone or verbal orders may be taken and written by licensed personnel and countersigned by the physician given the order within seven (7) days.

(B) Telephone or verbal orders for restraints must be signed by the physician giving the order within five (5) days.

(e) Physician progress notes:

- (1) Written at the time of each visit;
- (2) Dated;
- (3) Signature of the physician; and
- (4) Written at least every:
  - (A) Sixty (60) days on skilled care patients; and
  - (B) One hundred twenty (120) days on others.

(f) Nursing notes:

- (1) Each entry will be dated and signed by the person making such entry;
- (2) PRN medications will be documented as to the:
  - (A) Time given;
  - (B) Amount given;
  - (C) Reason given;
  - (D) Results; and
  - (E) Signature of person giving the medication;
- (3) Vital signs shall be taken and recorded on all patients as ordered by the attending physician, not less than weekly;
- (4) Date and time of all treatments and dressings;
- (5) Date and time of physician visits;
- (6) Complete record of all restraints, including:
  - (A) Time of application and release;
  - (B) Type of restraint; and

- (C) Reason for applying;
- (7) Record all incidents and accidents, and follow-up involving the resident;
- (8) The amount and type of bedtime nourishment taken by residents on calorie-controlled diets;
- (9) Condition on discharge or transfer;
- (10) Disposition of personal belongings and medications upon discharge;
- (11) Time of death and the name of person pronouncing the death of the resident and disposition of the body; and
- (12)(A) Heights and weights of the residents will be obtained at the time of admission to the facility.

(B) Weights will then be recorded at least monthly.

(g) Discharge summaries should include:

- (1) Signature of the physician;
- (2) Admitting and final diagnosis;
- (3) Course of resident's treatment and condition while in the nursing home;
- (4) Cause of death, if applicable; and
- (5) Disposition of resident, i.e., transfer to hospital, nursing home, mortuary, or home.

### **20 CAR § 400-1903. Index.**

There will be an index of all residents admitted to the facility including:

- (1) Name of resident;
- (2) Record number;
- (3) Former address;
- (4) Name of physician;
- (5) Date of birth; and
- (6) Date of discharge.

### **20 CAR § 400-1904. Retention and preservation of records.**

(a) **Retention requirements for active clinical records.**

- (1) The maintenance schedule for records on resident charts are as follows:
- (A) Admission and discharge records — Permanent;
  - (B) Miscellaneous admission records — Permanent:
    - (i) Admission nurse's notes;
    - (ii) Admission height and weight;
    - (iii) Advance directives;
    - (iv) Informed restraint consent;
    - (v) Patient rights; and
    - (vi) Authorization for treatment;
  - (C) History and physical — Most recent;
  - (D) Rehabilitation Potential Evaluation — Most recent;
  - (E) Physician's orders — Six (6) months;
  - (F) Physician's progress notes — Six (6) months;
  - (G) Resident body weight — Six (6) months;
  - (H) Transfer forms — Twelve (12) months or most recent if older than twelve (12) months;
  - (I) Laboratory and X-ray reports — Six (6) months or twelve (12) months if ordered less often than monthly;
  - (J) Nurse's notes/nursing flow sheets (ADL, restraints, clinitest: results, intake, and output, etc.) — Three (3) months;
  - (K) Medication and treatment records — Three (3) months;
  - (L) Personal effects inventory — Most recent;
  - (M) Hospital discharge summary (including history and physical) — Current twelve (12) months;
  - (N) TB surveillance record — Permanent;
  - (O) Classification status — Current; and
  - (P) Consultant reports — Initial and most recent:
    - (i) Physicians;
    - (ii) Occupational therapist;
    - (iii) Speech therapist;

- (iv) Physical therapist;
- (v) Social worker;
- (vi) Psychologist; and
- (vii) Others.

(2) The maintenance schedule for active records in the nurse's station (other than those required to be maintained on the chart) are as follows:

- (A) Assessments and reassessments — Most recent twelve (12) months;
- (B) Plan of care, summary of quarterly progress notes, change of condition — Twelve (12) months;
- (C) Pharmacy reviews — Six (6) months;
- (D) PASRR Level I — Permanent; and
- (E) PASRR Level II — Most recent.

(3) Those portions of the active records not kept on the chart or at the nurse's station must be:

- (A) Maintained in the facility; and
- (B) Retrievable within fifteen (15) minutes upon request.

**(b) Requirements for retention and preservation of inactive/closed records.**

(1) Resident records will be retained in the facility for a minimum of five (5) years following discharge or death of the resident.

(2) Resident records for minors will be kept for at least three (3) years after they reach legal age of eighteen (18) years of age.

(3) The resident records will be kept on the premises at all times and will only be removed by subpoena.

(4) In the case of change of ownership, the resident records will remain with the facility.

(5) In case of closure, the records will be stored within the State of Arkansas for the retention period.

(6) After the retention period is met, the records may be destroyed either by burning or shredding.

(7) Records will be protected against loss, destruction or unauthorized use.

**20 CAR § 400-1905. Confidentiality.**

(a) The information contained in the resident records is confidential and is not to be released without legal authorization or subpoena.

(b) The records will be available to state survey agency personnel.

**20 CAR § 400-1906. Staffing.**

(a) An individual will be designated as responsible for the resident record service.

(b) There will be written job descriptions for the resident record service personnel.

**20 CAR § 400-1907. General information.**

(a) All entries in the resident records will be recorded in ink.

(b) There will be no alteration of information in the resident records.

(c) If an error is made, a single line will be drawn through the error, the word "error" written above and initialed.

**Subpart 20. Green House™ Facilities**

**20 CAR § 400-2001. Intent.**

(a) Green House™ facilities are an attempt to enhance residents' quality of life through the use of a noninstitutional facility model resulting in a residential-style physical plant and specific principles of staff interaction.

(b) The Green House™ model utilizes small, free-standing, self-contained homes surrounding or adjacent to a central administration unit, with each housing between ten (10) and twelve (12) private rooms and each with full bathrooms.

(c) The residents' rooms are constructed around a central, communal, family-style open space that includes a:

(1) Hearth;

(2) Dining area; and

- (3) Residential-style kitchen.
- (d) All residents' room entrances are visible from the central communal area.
- (e) Each home is built to blend architecturally with neighboring homes.
- (f) The intent of this subpart is to create a framework that encourages the construction and operation of Green House™ facilities.

**20 CAR § 400-2002. Designation.**

To be designated by the Office of Long-Term Care as a Green House™ facility, the facility shall meet the minimum standards and have approval to use the Green House™ service mark, issued by the Green House™ Project and NCB Capital Impact at the time of designation and at all times thereafter.

**20 CAR § 400-2003. Staffing.**

(a)(1) Facilities designated by the Office of Long-Term Care as Green House™ facilities shall employ the same staffing ratios and otherwise comply with 20 CAR § 400-1401 et seq.

(2) Provided, however, that certified nursing assistants (CNAs) utilized in Green House™ facilities may act as universal workers.

(b) For purposes of this part, "universal worker" means a CNA who, in addition to performing CNA duties, performs dietary, laundry, housekeeping, and other services to meet the needs of residents.

**Subpart 21. HomeStyle Facilities**

**20 CAR § 400-2101. Pilot project.**

(a) The construction and operation of HomeStyle facilities is a pilot project of the State of Arkansas to determine the efficacy of an alternative long-term care model.

(b)(1) Facilities participating in the project will be required to maintain detailed medical and social records of residents.

(2) The records will contain an initial assessment of the medical and social

conditions and needs of residents at the time of admission which will form a baseline measure.

(3) The baseline will be compared by the Office of Long-Term Care or its designees with subsequent records maintained by the facility to determine the level of functioning, social interaction, and medical conditions of residents to determine whether HomeStyle facilities result in improvements in those areas, including but not limited to the type and dosage amounts and frequency of medications.

(4) Further, facilities will be required to maintain detailed financial records.

(c)(1) To ensure accurate and reliable findings, the number of HomeStyle beds shall be limited to no more than one thousand (1,000) in the state at any time.

(2) In the event that applications for the pilot program exceed one thousand (1,000), the Office of Long-Term Care shall have sole discretion in determining projects that shall be designated as HomeStyle facilities.

(3) Factors to be considered shall include, but not be limited to:

(A) The projected opening date of the project;

(B) The location of the project (in an attempt to locate projects in geographically and demographically diverse areas);

(C) Whether the applicant has secured a permit of approval;

(D) Whether the proposed project would meet criteria for approval by a nationally recognized organization that licenses, certifies, or permits the use of service marks for HomeStyle-type facilities; and

(E) Related factors.

(d)(1) To qualify for the project, a facility must return to the Health Services Permit Agency currently unoccupied facility beds in an amount equal to twenty percent (20%) of the total number of beds that will be utilized in the HomeStyle facility.

(2) The unused beds may originate from any location in the State of Arkansas.

(3) An exception will be provided when the owner of the proposed HomeStyle facility has no ownership interest, either directly or indirectly, in more than one (1) other nursing facility.

**20 CAR § 400-2102. Definitions.**

As used in this subpart:

(1)(A) "Clinical support team" means nonuniversal workers of the entire facility that provide services to HomeStyle homes and any traditional nursing facility around which a HomeStyle home is constructed by providing support to self-directed or self-managed work teams through the development of goals and defining of roles, as well as providing services to residents.

(B) The clinical support team includes but is not limited to the:

- (i) Administrator;
- (ii) Director of nursing;
- (iii) Assistant director of nursing; and
- (iv) MDS nurse;

(2) "Food safety" means a method of ensuring safe preparation and delivery of food for and to residents;

(3) "Family-style dining" means residential-style dining in which:

- (A) All food is placed in serving bowls, platters, and similar residential serving dishes on the table;
- (B) Residents and staff dine together; and
- (C) Residents are encouraged to serve themselves or serve themselves with help from staff;

(4) "HomeStyle or HomeStyle facilities" means small, free-standing, self-contained homes that:

(A) Surround or are adjacent to a central administration unit, which may or may not be a traditional nursing facility;

(B)(i) Provide up to twelve (12) private residents' rooms that are shared only at the request of a resident to accommodate a:

- (a) Spouse;
- (b) Partner;
- (c) Family member; or
- (d) Friend.

(ii) Additionally, a spouse that does not meet medical criteria for nursing facility placement may reside in the room assigned to a spouse who:

- (a) Is admitted to the facility; and
- (b) Meets medical criteria for admission.

(iii) The facility may charge the spouse who does not meet medical criteria for room and board, as well as other services so long as the facility meets all requirements for cost reporting;

(C) Has a full, accessible private bathroom for each resident room that contains at a minimum a:

- (i) Toilet;
- (ii) Sink; and
- (iii) Shower;

(D) Has the appearance of a residential dwelling for both the exterior and the interior;

(E)(i) Has residents' rooms constructed around a central, communal, family-style open space that includes a:

- (a) Hearth;
- (b) Dining area; and
- (c) Residential-style kitchen.

(ii) The central communal area shall contain a living area where residents and staff may socialize, dine, and prepare food together that, at a minimum, provides:

- (a) A living room seating area;
- (b) A dining area large enough for a single table serving all residents in the home plus two staff members; and
- (c) An open full kitchen.

(iii) The communal area may include a gas fireplace with a fixed, "stay- cool" glass screen;

(F)(i) Contains residential-style design approach, scale, details, and materials throughout the home that are similar to the typical residential designs and

finishes in the immediate surrounding community and does not contain or utilize commercial and institutional elements and products such as nurse station, medication carts, hospital or office type florescent lighting, acoustical tile ceilings, institutional style railings and corner guards, room numbering, labeling, and signage that would not normally be found in a home setting.

(ii) Where rules require specific institutional elements, every effort shall be made to provide the institutional elements in a manner consistent with what might be found in a new home in the community (e.g., residential wall sconces used for required nurse call lights);

(G) Has outdoor space that:

(i) Allows residents to ambulate, with or without assistive devices such as wheelchairs or walkers;

(ii) Signals staff wirelessly when someone enters the outdoor space from the HomeStyle home;

(iii) Is partially covered to protect from sun and elements under the covered area; and

(iv) Provides for outdoor activities;

(H)(i) Utilizes a wireless alert system or call system meeting the requirements in 20 CAR § 400-818(c).

(ii) The system shall also include, for residents who have been care planned to be at risk for wandering or elopement, location bracelets that permit residents to signal for assistance and permits staff to locate residents.

(iii) Wired call or alert systems and overhead paging are not permitted;

(I)(i) Utilizes a wireless communication and notification system for staff.

(ii) The system shall provide a means for notification of staff both in the home and in other homes or other areas of the facility by other staff;

(J) Contains ample natural light in each habitable space provided through exterior windows and other means, with window areas, exclusive of skylights and clearstories, being a minimum of ten percent (10%) of the area of the room;

(K) Has built-in safety features (e.g., magnetic locks on cabinets with chemicals or knives) to allow all areas of the house, including the kitchen and any staff office, to be accessible to the residents during the majority of the day and night;

(L) Provides self-directed care for residents through the establishment of self-managed or self-directed work teams consisting of certified nursing assistants;

(M)(i) Prepares and cooks at least eighty percent (80%) of resident meals in the HomeStyle home.

(ii) Nothing in this part prohibits the consumption of foods:

(a) Prepared outside the HomeStyle home by family, acquaintances, or social organizations such as churches;

(b) Grown in or on the grounds of the HomeStyle home by residents or staff; or

(c) Prepared by local retail eating establishments that are licensed or inspected by the Department of Health;

(N) Trains all staff involved in the operation of the project in the philosophy, operations, and skills required to implement and maintain:

(i) Self-directed care;

(ii) Self-directed or self-managed work teams;

(iii) A noninstitutional approach to life and care in long-term care;

(iv) Appropriate safety and emergency skills; and

(v) Other elements required for successful operations and outcomes of the project;

(O) Is designed to be fully independent and disabled accessible;

(P) Has overhead lift tracks that run from the bed into the bathroom in each resident room;

(Q) Has at least one (1) lift motor for each HomeStyle home;

(R) Has separate slings for each resident in the facility who requires a lift;

(S) Is not connected to, or shares, any area that would not typically be connected or shared between private homes in the surrounding community (such as a driveway); and

(T) Has all residents' room entrances visible from the central communal area;

(5) "Home or homes" means each discrete HomeStyle unit housing up to twelve (12) private residents' rooms;

(6) "Person-directed care" means a holistic model that takes into consideration each resident's physical, mental, and social needs in the development of a care and treatment plan and the delivery of services that is driven to the greatest extent possible by resident choice, as opposed to an institutional medical model that is schedule and task driven;

(7) "Self-directed or self-managed work team" means the universal workers assigned to a specific HomeStyle home and who determine, plan and manage day-to-day activities in the house with little or no direct supervision; and

(8) "Universal or flexible worker" means a certified nursing assistant who:

(A) Has received additional training in the areas of:

- (i) Dietary;
- (ii) Housekeeping;
- (iii) Activities; and
- (iv) Laundry; and

(B) Is a member of the self-managed or self-directed work team.

### **20 CAR § 400-2103. Designation.**

(a) Facilities meeting the requirements for HomeStyle shall be designated as such on the license issued to the facility, with the designation specifying the number of HomeStyle homes and the total number of beds in the HomeStyle homes.

(b) Facilities designated as Green House® facilities shall be deemed to be HomeStyle facilities, and the one thousand-bed limitation shall include all beds for facilities designated or deemed to be Green House® or HomeStyle.

(c) A facility may combine HomeStyle homes with a traditional nursing facility.

(d) However, the designation as HomeStyle shall apply only to those homes that meet the requirements for HomeStyle set forth herein and not to the facility as a whole.

**20 CAR § 400-2104. Staffing.**

(a)(1)(A) Facilities designated by the Office of Long-Term Care as HomeStyle facilities shall employ the same staffing ratios and otherwise comply with 20 CAR § 400-1401 et seq.

(B) Provided, however, that certified nurse assistants (CNAs) utilized in HomeStyle facilities may act as universal workers.

(2) For purposes of this subpart, universal or flexible worker means a CNA who, in addition to performing CNA duties, performs dietary, laundry, housekeeping, activities, and other services to meet the needs of residents.

(b)(1) Staffing ratios for HomeStyle homes shall be computed based on the midnight census.

(2) Except for licensed staff, staffing ratios shall be computed for each home individually and not the facility or all HomeStyle homes as a whole.

(3) Each home shall have at least:

(A) Two (2) CNAs present at all times during the day and evening shifts;  
and

(B) One (1) CNA present at all times during the night shift.

**20 CAR § 400-2105. Staff training.**

(a) In addition to any state or federal training requirements pertaining to long-term care facilities, each CNA working in a HomeStyle home shall complete the following eighty (80) hours of training to include but not limited to:

**TRAINING**

**HOURS**

HomeStyle Model v. Traditional Model

4.0

Activities development of, and appreciation for, activities designed to meet the individual’s personal preferences and needs.

Replacing the medical model role of employees

Disregarding the medical model role of residents	
Organizational Culture Change	
Universal/Flexible Worker	4.0
Concept	
Responsibilities of the Worker	
Person-directed Care	4.0
Concepts and Relationship Building	
Execution	
Documentation	
Self-Managed or Self-Directed Work Team	8.0
Concept	
Responsibilities	
Conflict Resolution and Learning Circles	
Staffing	
Food Safety	30.0
Introduction	
Safety	
Contamination	
Allergies	
Therapeutic Diets	
Thickening Agents	
Food Preparation	
Family style dining	4.0
Concept	
Measuring intake	
Management	
Safety	
Documentation	
Emergency Situations and Evacuation	8.0

Fire Drills	
Tornado Drills	
Disaster Drills	
Evacuation	
Emergency Equipment (fire extinguishers, generators, water and gas shut-offs, etc.)	
Behavioral Issues	
Choking	
Emergency calls	
Environmental policy	
Cottage Equipment Use	8.0
Appliance Usage (microwave, vent-a-hood, stove, fryer, lifts, whirlpools, washer and dryers, air-conditioners, etc.)	
Appliance Safety (changing grease, cleaning vent-a-hood, etc.)	
Cottage Orientation	2.0
Phone system	
Call system	
Cleaning Supply Storage	
Cleaning Supply Usage	
Workplace Organization	
Communication	4.0
Communication Skills	
Coaching Skills	
Accountability	
Support	
Observation skills	4.0
How to obtain a history from family	
How to initiate a resident observation	

- How a care plan is developed
- How to read a care plan
- How to modify a care plan
- How to identify a resident's change in condition

(b) Upon opening and for the first ninety (90) days of continuous operation of a HomeStyle unit, all CNAs working in that unit shall complete all of the required training listed in (a) above prior to providing services in the HomeStyle home.

(c) After a HomeStyle home has been in continuous operation servicing residents for at least ninety (90) days, each CNA assigned to the HomeStyle home for the first time, and who has not been trained in accordance with subsections (a) and (b), above, shall complete the following sixteen-hour training schedule before working with residents:

<b><u>TRAINING</u></b>	<b><u>HOURS</u></b>
HomeStyle Model v. Traditional Model	1.5
Universal/Flexible Worker	1.5
Person-Directed Care	3.0
Self-Managed or Self-Directed Work Team	3.0
Food Safety	3.0
Family-style dining	1.0
Emergency Situations and Evacuations	1.0
Cottage Equipment Use	1.0
Cottage Orientation	1.0

Following the sixteen- hour training the CNA shall complete the remaining sixty-four (64) hours of training listed in (a) above within sixty (60) days.

(d) All shared common staff shall undergo the following within thirty (30) days of the opening of the first HomeStyle home:

<b><u>TRAINING</u></b>	<b><u>HOURS</u></b>
HomeStyle Model v. Traditional Model	1.5
Clinical Support Team	1.0
Universal Worker Concepts	1.0
Self-Managed or Self Directed Work Team	3.0
Person-Directed Care	3.0
Team Communication	1.0
Learning Circles	1.0
Understanding Aging in the Elderly	1.0
Medication Storage and Administration	1.5
Emergency Situations and Evacuation	2.0
Cottage Orientation	1.0

**20 CAR § 400-2106. Training approval.**

(a) Each facility seeking designation as a HomeStyle facility shall provide to the Office of Long-Term Care a syllabus, a list of required reference and study materials, and a proposed curriculum of training as required in 20 CAR § 400-2105.

(b) For purposes of this section, the term "curriculum" means a detailed study guide that states the learning objectives and provides information or materials designed to impart to the student or trainee the necessary skills, knowledge, or ability required under the learning objectives.

(c) The Office of Long-Term Care shall evaluate the submission and either:

(1) Approve the submission in writing; or

(2) Inform the facility in writing as to any deficiencies in the training submission.

(d) All training required under 20 CAR § 400-2105 must be approved in writing by the Office of Long-Term Care or shall be deemed to be in violation of the requirements of 20 CAR § 400-2105.

## **Subpart 22. Alzheimer's Special Care Units**

### **20 CAR § 400-2201. Definitions.**

For the purposes of this subpart, the following terms are defined as follows:

(1)(A) "Activities of daily living (ADLs)" means the tasks for self-care that are performed either:

- (i) Independently;
- (ii) With supervision;
- (iii) With assistance; or
- (iv) By others.

(B) "Activities of daily living" include, but are not limited to:

- (i) Ambulating;
- (ii) Transferring;
- (iii) Grooming;
- (iv) Bathing;
- (v) Dressing;
- (vi) Eating; and
- (vii) Toileting;

(2)(A) "Advertise" means to make publicly and generally known.

(B) For purposes of this definition, "advertise" includes, but is not limited to:

- (i) Signs, billboards, or lettering;
- (ii) Electronic publishing or broadcasting, including the use of the Internet or email; and
- (iii) Printed material;

(3) "Alzheimer's special care unit" means a separate and distinct unit within a long-term care facility that:

(A) Segregates and provides a special program for residents with a diagnosis of probable Alzheimer's disease or related dementia; and

(B) Advertises or otherwise holds itself out as having one (1) or more

special units for residents with a diagnosis of probable Alzheimer's disease or related dementia;

(4) "Alzheimer's disease" means an organic, neurological disease of the brain that causes progressive degenerative changes;

(5)(A) "Common areas" means portions of the Alzheimer's special care unit exclusive of residents' rooms and bathrooms.

(B) Common areas include any facility grounds accessible to residents of the Alzheimer's special care unit (ASCU);

(6) "Continuous" means available at all times without:

(A) Cessation;

(B) Break; or

(C) Interruption;

(7)(A) "Dementia" means a loss or decrease in intellectual ability that is of sufficient severity to interfere with social or occupational functioning.

(B) It describes a set of symptoms such as:

(i) Memory loss;

(ii) Personality change;

(iii) Poor reasoning or judgment; and

(iv) Language difficulties;

(8) "Department" means the Department of Human Services, Division of Medical Services or Office of Long-Term Care;

(9) "Direct care staff" means an individual who:

(A) Is an employee of the facility or an employee of a temporary agency assigned to work in the facility;

(B) Has received, or will receive, in accordance with this subpart, specialized training regarding Alzheimer's or related dementia; and

(C) Is responsible for providing direct, hands-on care or services to residents in the ASCU;

(10) "Disclosure statement" means a written statement prepared by the facility and provided to individuals or their responsible parties, and to individuals' families, prior

to admission to the unit, disclosing form of care, treatment, and related services especially applicable or suitable for the ASCU;

(11) "Facility" means a long-term care facility that houses an ASCU;

(12) "Individual assessment team" means a group of individuals possessing the knowledge and skills to:

(A) Identify the medical, behavioral, and social needs of a resident; and

(B) Develop services designed to meet those needs;

(13) "Individual support plan" means a written plan developed by an individual assessment team that identifies services to a resident;

(14) "Nursing personnel" means registered or licensed practical nurses who have specialized training, or will undergo specialized training by the Alzheimer's special care unit, in accordance with this subpart; and

(15)(A) "Responsible party" means an individual who, at the request of the applicant or resident, or by appointment by a court of competent jurisdiction, agrees to act on behalf of a resident or applicant for the purposes of making decisions regarding the needs and welfare of the resident or applicant.

(B) This subpart, and this definition, does not grant or permit, nor should be construed as granting or permitting, any individual authority or permission to act for, or on behalf of, a resident or applicant in excess of the authority or permission granted by law.

(C) A competent resident may:

(i) Select a responsible party; or

(ii) Choose not to select a responsible party.

(D) In no event may an individual act for, or on behalf of, a resident or applicant when the resident or applicant has:

(i) A legal guardian;

(ii) An attorney-in-fact; or

(iii) Other legal representative.

(E) For purposes of this part only, "responsible party" will also refer to the terms:

- (i) "Legal representative";
- (ii) "Legal guardian";
- (iii) "Power of attorney"; or
- (iv) Similar phrase.

**20 CAR § 400-2202. General administration.**

**(a) General program requirements.**

(1) Each long-term care facility that advertises or otherwise holds itself out as having one (1) or more special units for residents with a diagnosis of probable Alzheimer's disease or a related dementia shall provide an organized, continuous twenty-four-hour-per-day program of supervision, care and services that shall:

- (A) Meet all state, federal, and ASCU regulations;
- (B) Require the full protection of residents' rights;
- (C) Promote the social, physical, and mental well-being of residents;
- (D) Is a separate unit specifically designed to meet the needs of residents with a physician's diagnosis of Alzheimer's disease or other related dementia;
- (E) Provide twenty-four-hour-per-day care for those residents with a dementia diagnosis and meets all admission criteria applicable for that particular long-term care facility; and
- (F) Receive approval of its disclosure statement from the Office of Long-Term Care prior to advertising its ASCU.

(2)(A) Documentation shall be maintained by the facility and shall include, but not be limited to, a signed copy of all training received by the employee.

(B) Documentation shall be signed by the trainer and employee at the time of training.

(3) Provide for relief of direct care personnel to ensure minimum staffing requirements are maintained at all times.

(4) Upon request, make available to the Department of Human Services payroll records of all staff employed during those pay periods for which the unit or facility is being surveyed or inspected.

(5) Nursing, direct-care, or personal care staff shall not perform the duties of cooks, housekeepers, or laundry personnel during the same shift they perform nursing, direct-care, or personal care duties.

(6) Regardless of other policies or procedures developed by the facility, the ASCU will have specific policies and procedures regarding:

- (A) Facility philosophy related to the care of ASCU residents;
- (B) Use of ancillary therapies and services;
- (C) Basic services provided;
- (D) Admission, discharge, transfer; and
- (E) Activity programming.

**(b) Disclosure statement and notice to the office.**

(1)(A) Each facility, prior to advertising that it has an Alzheimer's special care unit, shall:

- (i) Develop a disclosure statement; and
- (ii) Submit it to the office.

(B) The office shall:

- (i) Examine the disclosure statement to ensure compliance with this subpart; and
- (ii) Notify the facility of its determination.

(C) Thereafter, the office will, when surveying the facility and unit, determine continued compliance with the disclosure statement.

(D) The disclosure statement, once approved by the office, shall be made available to any person or the person's guardian or responsible party seeking placement within the ASCU prior to admission.

(E) Specifics as to the minimum requirements of the disclosure statement are listed in 20 CAR § 400-2203 – 400-2208.

(2)(A) Upon any changes to the services offered by the ASCU, the disclosure statement shall be:

- (i) Amended; and
- (ii) Submitted to the office within thirty (30) days of the amendment.

(B) The office will examine the amended disclosure statement to ensure compliance with this subpart and shall notify the facility of its determination.

(C) Thereafter, the office will, when surveying the facility and unit, determine continued compliance with the amended disclosure statement.

(D) The amended disclosure statement, once approved by the office, shall be made available to any person or the person's guardian or responsible party seeking placement within the ASCU prior to admission.

(3)(A) The facility shall submit to the office in writing the number of beds allocated by the facility for the ASCU.

(B) The notification shall state the number of beds allocated to the ASCU as of the date of the notice, and shall be submitted:

- (i) With the initial disclosure statement;
- (ii) With any amendment to the disclosure statement; and
- (iii) No less than July 1 of each year.

(4)(A) The facility shall notify the office in writing when the facility no longer provides a special program for residents with a diagnosis of probable Alzheimer's disease or related dementia.

(B) The notice shall be provided to the office at least thirty (30) days prior to the cessation of services.

(5)(A) Prior to admission into the Alzheimer's special care unit, the facility shall provide a copy of the disclosure statement and resident's rights policy to the applicant or the applicant's responsible party.

(B) The mission statement and treatment philosophy shall be documented in the disclosure statement.

(C) A copy of the disclosure statement signed by the resident or the resident's responsible party shall be kept in the resident's file.

(D) The disclosure statement shall include, but not be limited to, the following information about the facility's ASCU:

(i) The philosophy of how care and services are provided to the residents;

- (ii) The preadmission screening process;
- (iii) The admission, discharge, and transfer criteria and procedures;
- (iv) Training topics, amount of training time spent on each topic, and the name and qualifications of the individuals used to train the direct care staff utilized in the ASCU;
- (v) The minimum number of direct care staff assigned to the ASCU each shift;
- (vi) A copy of the resident's rights;
- (vii)(a) Assessment, individual support plan, and implementation.  
(b) The process used for assessment and establishment of the plan of care and its implementation, including the method by which the plan of care evolves and is responsive to changes in condition of the residents;
- (viii) Planning and implementation of therapeutic activities and the methods used for monitoring;
- (ix) Identification of what stages of Alzheimer's or related dementia for which the ASCU will provide care;
- (x) Each facility shall document in their disclosure statement the assessments and dates assessments shall be completed and revised;
- (xi) Admission, discharge, and transfer requirements shall be documented in the facility's disclosure statement;
- (xii) Staffing ratios and staff training requirements shall be documented in the facility's disclosure statement;
- (xiii) The facility shall, in their disclosure statement, state the physical requirements and safety standards for the ASCU; and
- (xiv) Types and frequency of therapeutic activities shall be listed in the facility's disclosure statement.

(c) **Residents' Rights.** The ASCU shall meet and comply with the same requirements for resident's rights applicable to the facility housing the ASCU.

(d) **Resident record maintenance.** The ASCU shall develop and maintain a record-keeping system that includes a separate record for each resident and that

documents each resident's:

- (1) Health care;
- (2) Individual support plan;
- (3) Assessments;
- (4) Social information; and
- (5) Protection of each resident's rights.

(e) **Resident records.** The ASCU must follow the facility's policies and procedures and applicable state and federal laws and regulations governing:

(1) The release of any resident information, including consent necessary from the:

- (A) Client;
- (B) Parents; or
- (C) Legal guardian;
- (2) Record retention;
- (3) Record maintenance; and
- (4) Record content.

(f) **Miscellaneous.**

(1)(A) Visitors shall be permitted in the ASCU at all times.

(B) However, facilities may deny visitation in the ASCU when visitation:

(i) Results, or substantial probability exists that visitation will result, in disruption of service to any resident; or

(ii) Threatens the health, safety, or welfare of any resident.

(2)(A) Birds, cats, dogs, and other animals may be permitted in the Alzheimer's special care unit.

(B) All animals that enter the facility shall have appropriate vaccinations and licenses.

(C) A veterinary record shall be kept on all animals to verify vaccinations and be made readily available for review.

(D) Pets may not be allowed in food preparation, food storage, or dining or serving areas.

(3) Unmarried male and female residents shall not be housed in the same room unless both residents, or their respective responsible parties, have given consent.

**20 CAR § 400-2203. Treatment philosophy.**

Each Alzheimer's special care unit shall develop a mission statement that reflects the ASCU's treatment philosophy for those residents diagnosed with Alzheimer's or related dementia.

**20 CAR § 400-2204. Assessments.**

**(a) Psychosocial and physical assessments.**

(1) Each resident shall receive a psychosocial and physical assessment which:

(A) Includes the resident's:

- (i) Degree or level of family support;
- (ii) Level of activities of daily living functioning;
- (iii) Cognitive level; and
- (iv) Behavioral impairment; and

(B) Identifies the resident's strengths and weaknesses.

(2) Prior to admission to the ASCU, the applicant must be evaluated by, and have received from a physician, a diagnosis of Alzheimer's or related dementia.

**(b) Individual assessment team (IAT).**

(1)(A) Within thirty (30) days after admission, the IAT shall prepare for each resident an individual support plan (ISP).

(B) The ISP shall address specific needs of, and services required by, the resident resulting from the resident's Alzheimer's disease or related dementia.

(C) The plan shall include and identify professions, disciplines, and services that:

- (i) Identify and state the resident's medical needs, social needs, disabilities, and their causes;
- (ii) Identify the resident's specific strengths;
- (iii) Identify the resident's specific behavioral management needs;

(iv) Identify the resident's need for services without regard to the actual availability of services;

(v) Identify and quantify the resident's speech, language, and auditory functioning;

(vi) Identify and quantify the resident's cognitive and social development; and

(vii) Identify and specify the independent living skills and other services provided by the ASCU to meet the needs of the resident.

(2) The IAT shall perform accurate assessments or reassessments annually, and upon a change to a resident's physical, mental, emotional, functional, or behavioral condition or status in which the resident:

(A) Is regressing in, or losing, skills already gained;

(B) Is failing to progress toward or maintain identified objectives in the ISP; or

(C) Is being considered for changes in the resident's ISP.

**(c) Individual support plan (ISP).**

(1)(A) The ISP shall include a family and social history.

(B) If the family and social history cannot be obtained, the ASCU personnel shall document attempts to obtain the information, including but not limited to, the:

(i) Names and telephone numbers of individuals contacted, or whom the facility attempted to contact; and

(ii) Date and time of the contact or attempted contact.

(2)(A) The ISP shall be reviewed, evaluated for its effectiveness, and updated at least quarterly, and shall be updated when indicated by changing needs of the resident, or upon any reassessments by the IAT.

(B) In the event that the reassessment by the IAT documents a change of condition for which no change in services to meet resident needs are required, the ISP shall document the:

(i) Change of condition; and

- (ii) Reason or reasons why no change in services are required.
- (3) The ISP shall include:
  - (A) Expected behavioral outcomes;
  - (B) Barriers to expected outcomes;
  - (C) Services, including frequency of delivery, designed to achieve expected behavioral outcomes;
  - (D)(i) Methods of assessment and monitoring.
    - (ii) Monitoring shall occur no less than quarterly to determine progress toward the outcome;
  - (E) Documentation of results from services provided, achievement towards expected outcomes or regression, and reasons for the regression; and
  - (F) The resident's likes, dislikes, and if appropriate, his or her choices.
- (4) A copy of the ISP shall be made available to:
  - (A) All staff that work with the resident; and
  - (B) The resident or his or her responsible party.
- (5) The ISP shall be implemented only with the documented, written consent of the resident or his or her responsible party.

**20 CAR § 400-2205. Admissions, discharges, transfers.**

**(a) Criteria for services.**

- (1) Each Alzheimer's special care unit shall have written policies setting forth preadmission screening, admission, and discharge procedures.
- (2) Admission criteria shall require:
  - (A) A physician's diagnosis of Alzheimer's disease or related dementia;
  - (B) The facility's assessment of the resident's level of needs; and
  - (C) A list of the services that the ASCU can provide to address the needs identified in subdivision (a)(2)(B) of this section.
- (3)(A) Any individual admitted to the ASCU must also meet admission criteria for the facility.
  - (B) The ASCU shall not maintain a resident:

(i) Who requires a level of care greater than for which the facility is licensed to provide; or

(ii) For whom the ASCU is unable to provide the level or types of services to address the needs of the resident.

(C) Discharge from the ASCU shall occur when:

(i) The resident's medical condition exceeds the level of care for which the facility is licensed or is able to provide;

(ii) The resident's medical condition requires specialized nursing procedures that constitute more than limited nursing services, or nursing services the facility is unable to provide;

(iii) The resident has a loss of functional abilities (e.g. ambulation) that results in the resident's level of care requirements being greater than the level of care for which the facility is licensed or able to provide;

(iv) Behavioral symptoms that result in the resident's level of care requirements being greater than the level of care for which the facility is licensed or able to provide; or

(v) The resident requires a level of involvement in therapeutic programming that is greater than the level of care for which the facility is licensed or able to provide.

(4)(A) If the resident, or the resident's responsible party, does not comply with, or refuses to accept, the requirements of the ISP, the resident shall be discharged from the ASCU.

(B) The facility shall document the refusal or noncompliance with the ISP.

(C) The documentation shall include, but not be limited to:

(i) The identity of the person who is not willing or able to comply with the requirements of the ISP; i.e., the resident or the resident's responsible party;

(ii) The date and time of the refusal; and

(iii) The consequences of the unwillingness or inability to comply with the requirements of the ISP, and the name of the person providing this information to the resident or the resident's responsible party.

**(b) Resident movement, transfer, or discharge.**

(1) When a resident is moved from or within the ASCU, or is transferred or discharged from the ASCU, measures shall be taken by the facility to minimize confusion and stress to the resident.

(2) Further, the discharge shall comply with the rules applicable to the facility housing the ASCU and Arkansas law.

**20 CAR § 400-2206. Staffing.**

(a)(1) Alzheimer's special care units shall staff according to this part.

(2) Furthermore, the following staffing requirements are established for Alzheimer's special care units.

**(b) Professional program services.** A social worker or other professional staff, e.g., physician, registered nurse, or psychologist currently licensed by the State of Arkansas, shall be utilized to perform the following functions:

(1) Complete an initial social history evaluation on each resident on admission;

(2) Develop, coordinate, and use state or national resources and networks to meet the needs of the residents or their families;

(3) Offer or encourage participation in monthly family support group meetings with documentation of meetings offered; and

(4) Assist in development of the ISP, including but not limited to:

(A) Ensuring that verbal stimulation, socialization, and reminiscing is identified in the ISP as a need;

(B) Defining the services to be provided to address those needs identified above; and

(C) Identifying the resident's preferences, likes, and dislikes.

**(c) Staff and training.**

(1)(A) All ASCU staff members and consultants shall have the training specified in this part in the care of residents with Alzheimer's disease and other related dementia.

(B) The facility shall maintain records documenting:

(i) What training each staff member and consultant has received;

(ii) The date it was received; and

(iii) The subject of the training, and the source of the training.

(2) Within six (6) months of the date that the long-term care facility first advertises or otherwise holds itself out as having one (1) or more special units for residents with a diagnosis of probable Alzheimer's disease or a related dementia, the facility shall have trained all staff who are scheduled or employed to work in the ASCU.

(3) Subsequent to the requirements set forth in subdivision (c)(2) of this section, fifty percent (50%) of the staff working any shift shall have completed requirements as set forth in subdivision (c)(5) of this section.

(4) After meeting the requirements of subdivision (c)(2) of this section, all new employees who will be assigned to or will work in the ASCU shall be trained within five (5) months of hiring, with no less than eight (8) hours of training per month during the five (5) month period.

(5) In addition to any training requirements for any certification or licensure of the employee, training shall consist of, at a minimum:

(A) Thirty (30) hours on the following subjects:

(i) One (1) hour of the ASCU's policies;

(ii) Three (3) hours of etiology, philosophy, and treatment of dementia;

(iii) Two (2) hours on the stages of Alzheimer's disease;

(iv) Four (4) hours on behavior management;

(v) Two (2) hours on use of physical restraints, wandering, and egress control;

(vi) Two (2) hours on medication management;

(vii) Four (4) hours on communication skills;

(viii) Two (2) hours of prevention of staff burnout;

(ix) Four (4) hours on activity programming;

(x) Three (3) hours on ADLs and individual-centered care; and

(xi) Three (3) hours on assessments and creation of ISPs;

(B)(i) Ongoing, in-service training consisting of at least two (2) hours

every quarter.

(ii) The topics to be addressed in the in-service training shall include the following, and each topic shall be addressed at least once per year:

(a) The nature of Alzheimer's disease and other dementia, including:

(1) The definition of dementia;

(2) The harm to individuals without a correct diagnosis; and

(3) The stages of Alzheimer's disease;

(b) Common behavior problems resulting from Alzheimer's or related dementia, and recommended behavior management for the problems;

(c) Communication skills to facilitate improved staff relations with residents;

(d) Positive therapeutic interventions and activities, such as:

(1) Exercise;

(2) Sensory stimulation; and

(3) Activities of daily living;

(e) The benefits of family interaction with the resident, and the need for family interaction;

(f) Developments and new trends in the fields of Alzheimer's or related dementia, and treatments for same;

(g) Environmental modifications to minimize the effects and problems associated with Alzheimer's or related dementia; and

(h) Development of ISPs, including but not limited to instruction on the method of updating and implementing ISPs across shifts; and

(C) If the facility identifies or documents that a specific employee requires training in areas other than those set forth in subsection (c) of this section, the facility may provide training in the identified or documented areas, and may be substituted for those subjects listed in subdivisions (c)(5)(A) and (B).

(d) **Trainer requirements.** The individual providing the training shall have:

(1) A minimum of one (1) year uninterrupted employment in the care of

Alzheimer's residents;

(2) Training in the care of individuals with Alzheimer's disease and other dementia; or

(3) Been designated by the Alzheimer's Arkansas Program and Services or the Alzheimer's Association or its local chapter as being qualified to meet training requirements.

**(e) Training manual.**

(1) The ASCU shall create and maintain a training manual consisting of the topics listed in subsection (c) of this section.

(2) Further, the trainer shall provide training consistent with the training manual.

**20 CAR § 400-2207. Physical environment, design, and safety.**

(a) **Physical design.** In addition to the physical design standards required for the facility's license, an Alzheimer's special care unit shall include the following:

(1) A floor plan design that does not require visitors or staff to pass through the ASCU to reach other areas of the facility;

(2) A multipurpose room or rooms for dining, group and individual activities, and family visits, which complies with the LTC licensure requirements for common space;

(3)(A) Secured outdoor space and walkways that allow residents to ambulate, with or without assistive devices such as wheelchairs or walkers, but prevents undetected egress.

(B) Such walkways shall meet the accessibility requirements of the most current LTC and Americans with Disabilities Act, 42 U.S.C. § 12101 et seq. structural building codes or regulations at the time of licensure.

(C) Unrestricted access to secured outdoor space and walkways shall be provided, and such areas shall have fencing or barriers that prevent injury and elopement.

(D) Fencing shall be no less than seventy-two inches (72") high;

(4) Prohibit the use of plants that are poisonous or toxic for human contact or consumption;

(5)(A) Visual contrasts between floors and walls, and doorways and walls, in resident use areas.

(B) Except for fire exits, exit doors and access ways shall be designed to minimize contrast and to obscure or conceal areas the residents should not enter;

(6) Nonreflective floors, walls, and ceilings to minimize glare;

(7) Evenly distributed lighting to minimize glare and shadows; and

(8) A monitoring or nurses' station with:

(A) A call system to alert staff to any emergency needs of the residents;

and

(B) A space for charting and for storage of residents' records.

(b) **Physical environment and safety.** The Alzheimer's special care unit shall:

(1)(A) Provide freedom of movement for the residents to common areas and to their personal spaces.

(B) The facility shall not lock residents out of, or inside, their rooms;

(2) Provide plates and eating utensils that:

(A) Have visual contrast between the:

(i) Plates;

(ii) Utensils; and

(iii) Table; and

(B) Maximizes the independence of the residents;

(3)(A) In common areas, provide comfortable seating sufficient to seat all residents at the same time.

(B) The seating shall consist of a ratio of one (1) gliding or rocking chair for every five (5) residents;

(4) Encourage and assist residents to decorate and furnish their rooms with personal items and furnishings based on the resident's needs and preferences as documented by the ISP in the social history;

(5) Individually identify each resident's room based on the resident's cognitive

level to:

- (A) Assist residents in locating their rooms; and
- (B) Permit them to differentiate their room from the rooms of other

residents;

(6) Keep corridors and passageways through common-use areas free of objects that may:

- (A) Cause falls; or
- (B) Obstruct passage by physically impaired individuals; and

(7) Only use public address systems in the unit for emergencies.

**(c) Egress policies.**

(1) The Alzheimer's Special Care Unit shall develop policies and procedures to deal with residents who wander or may wander.

(2) The procedures shall include actions to be taken by the facility to:

- (A) Identify missing residents;
- (B) Notify all individuals or institutions that require notification under law

or rule when a resident is missing; and

(C) Attempt to locate the missing resident.

**(d) Locking devices.**

(1) All locking devices used on exit doors shall:

(A) Be approved by the Office of Long-Term Care, building code agencies, and the fire marshal having jurisdiction over the facility;

(B) Be electronic; and

(C) Release upon activation of the fire alarm or sprinkler system.

(2) If the unit uses keypads to lock and unlock exits, directions for the keypad's operations to allow entrance shall be posted on the outside of the door.

(3) The keypads and locks shall meet the NFPA 101, Life Safety Code.

(4) Staff shall be trained in all methods of releasing, or unlocking the locking device.

**20 CAR § 400-2208. Therapeutic activities.**

**(a) Intent and general requirements.**

(1) Therapeutic activities can:

- (A) Improve a resident's eating or sleeping patterns;
- (B) Lessen wandering, restlessness, or anxiety;
- (C) Improve socialization or cooperation;
- (D) Delay deterioration of skills; and
- (E) Improve behavior management.

(2) Therapeutic activities shall be designed to meet the resident's current needs.

(3) The ASCU shall:

(A)(i) Provide activities appropriate to the needs of individual residents.

(ii) The activities shall be provided and directed by direct care staff under the coordination of a program director;

(B) Ensure that each resident's daily routine is structured or scheduled so that activities are provided seven (7) days a week; and

(C) Utilize or contract with a professional with specialized training in the care of Alzheimer's to:

(i) Develop required daily activities, as set forth in subsection (b) of this section;

(ii) Train direct care staff in those programs; and

(iii) Provide ongoing consultation.

**(b) Required daily activities.** The following activities shall be offered daily:

- (1) Gross motor activities (e.g., exercise, dancing, gardening, cooking, etc.);
- (2) Self-care activities (e.g., dressing, personal hygiene, or grooming);
- (3) Social activities (e.g., games, music, socialization); and
- (4) Sensory enhancement activities (e.g., reminiscing, scent and tactile stimulation).

**20 CAR § 400-2209. Penalties.**

(a) If a facility having an Alzheimer's special care unit does not meet the specific

standards established herein, the Office of Long-Term Care shall instruct the facility to immediately cease advertising or holding itself out as having one (1) or more special programs for residents with a diagnosis of probable Alzheimer's disease or related dementia.

(b) If the facility fails or refuses to comply with instructions from the office, the office may sue in the name of the state the facility and any owner, manager, or director of the facility to enjoin the facility from advertising or holding itself out as having one (1) or more special programs for residents with a diagnosis of probable Alzheimer's disease or related dementia.

### **Subpart 23. Receivership**

#### **20 CAR § 400-2301. Definitions.**

As used in this subpart:

(1) "Administrator" means a long-term facility administrator as defined in Arkansas Code § 20-10-101;

(2) "Department" means the Department of Human Services;

(3) "Director of the Office of Long-Term Care" means the Assistant Deputy Director of the Office of Long-Term Care;

(4) "Emergency" means a situation, physical condition, or one (1) or more practices, methods, or operations that threatens the health, security, safety, or welfare of residents;

(5) "Facility" means a long-term care facility that is required to be licensed under Arkansas Code § 20-10-224;

(6) "Habitual violation" means a violation of state or federal laws which, due to its repetition, presents a reasonable likelihood of serious physical or mental harm to residents;

(7) "Licensee" means any person or other legal entity who is licensed to operate a facility;

(8) "Office" means the Office of Long-Term Care;

(9) "Owner" means the holder of the title to the real estate in which the facility is maintained;

(10) "Resident" means any person who lives in and receives services or care in a long-term care facility;

(11) "Secretary" means the Secretary of the Department of Human Services; and

(12) "Substantial violation" means a violation of a state or federal law which presents a reasonable likelihood of serious physical or mental harm to residents;

**20 CAR § 400-2302. Purpose.**

(a)(1) Arkansas Code § 20-10-902 describes the purpose for development of a mechanism for the concept of receivership to protect resident in long-term care facilities.

(2) Utilization of the receivership mechanism shall be a remedy of last resort and shall be implemented consistent with the criteria set forth in Arkansas Code § 20-10-904, to wit:

(A) An emergency exists in a facility which threatens the health, security, or welfare of residents;

(B) A facility is in substantial or habitual violation of the standards of health, safety, or resident care established under state rules or federal regulations to the detriment of the welfare of the residents;

(C) A facility intends to close but has not arranged at least thirty (30) days prior to closure for the orderly transfer of its residents;

(D) The facility is insolvent; and

(E) The Department of Human Services has suspended, revoked, or refused to renew the existing license of the facility.

(b) The objective of any receivership is to:

(1) Restore a nursing home's capability to meet resident needs; or

(2) If that is not feasible, to arrange for a transfer of ownership or closing of the home.

**20 CAR § 400-2303. Appointment and supervision of a monitor or monitors.**

(a) The Secretary of the Department of Human Services, pursuant to Arkansas Code § 20-10-915, may in his or her discretion place a designated employee in the facility in lieu of a receiver.

(b) The monitor or monitors shall meet the following minimum requirements:

(1) Be in good physical health;

(2) Experience in working with the elderly in programs such as:

(A) Patient care;

(B) Social work; or

(C) Advocacy.

(3) Have an understanding of this part, which is the subject of the monitors' duties as evidenced in a personal interview of the candidate;

(4) Not be related to the owners of the involved facility either through blood, marriage, or common ownership of real or personal property; and

(5) Successfully completed:

(A) A baccalaureate degree; or

(B) Two (2) years full-time work experience in the long-term care industry.

(c) The monitor or monitors shall be under the supervision of the Department of Human Services, and shall perform the duties of a monitor delineated and accomplish the following actions:

(1) A monitor shall visit the facility at least five (5) days per week or more frequently as assigned by the secretary;

(2) Review all records pertinent to the condition for such monitor's placement under subdivision (b)(1) of this section;

(3) Provide to the secretary a weekly written report and a daily oral report detailing the observed conditions of the facility; and

(4) Shall be available as a witness for hearings.

(d)(1) All communications, including, but not limited to, data, memorandum, correspondence, records and reports shall be transmitted to and become the property of the department.

(2) Findings and results of the monitor's work done under this part shall be strictly confidential, subject to disclosure only in accordance with the provisions of the Freedom of Information Act of 1967, Arkansas Code § 25-19-101 et seq.

(e) The assignment as a monitor may be terminated at any time by the secretary.

(f) The monitor or monitors shall submit a written report setting forth findings and recommendations concerning the operation of the facility.

#### **20 CAR § 400-2304. Determination of need for receivership.**

**Prepetition activities.** Prior to the filing of a petition of receivership (Arkansas Code § 20-10-905), the Department of Human Services shall be notified and:

(1) Coordinate the preparation and collection of documentation to support a decision to recommend a receivership action;

(2) In an emergency situation, present the supporting documentation and recommendations to the Secretary of the Department of Human Services;

(3) Receive information from any source, which indicates a need for receivership action;

(4) Request information concerning the following:

(A) Chronology of facility survey history for the two (2) years immediately prior to the determination of the need;

(B) Summary of physical plant/NFPA 101, Life Safety Code compliance and actions necessary to correct violations/deficiencies; and

(C) Summary of number of residents, care levels, special needs, and an assessment of major problems occurring in the facility, i.e., staffing, supply shortages (may warrant an immediate on-site visit);

(5) Review the need for receivership considering the following options:

(A) Would relocation of residents be an alternative?; and

(B) Would appointment of a monitor be sufficient?; and

(6) Identify the total number and type of violations or deficiencies cited by department staff.

**20 CAR § 400-2305. Petition for notice of receivership.**

(a) The Department of Human Services, Attorney General, or prosecuting attorney or duly appointed deputy prosecuting attorney of the district in which the facility is located may file in circuit court of the county in which the facility is located a complaint requesting the appointment of a receiver.

(b)(1) The summons, complaint, and notice of hearing shall be served on the owner and administrator or licensee of the facility.

(2) The summons, complaint, and notice may be served by any means set forth in the Arkansas Rules of Civil Procedure, Rule 4, giving actual notice to the owner and administrator or licensee.

**(c) Emergency appointment.**

(1) If the complaint filed under Arkansas Code § 20-10-905 is filed by the department and alleges that grounds set out in Arkansas Code § 20-10-904(a) exist within the facility, and is accompanied by a verified affidavit setting forth facts which would constitute such a ground, a temporary receiver shall be appointed with or without notice to the owner or licensee.

(2)(A) The temporary appointment of a receiver without notice to the owner, licensee, or administrator may be made only if the court is satisfied that the department has made a diligent attempt to provide reasonable notice under the circumstances.

(B) The delivery of a copy of the complaint to the facility upon filing shall constitute reasonable notice for issuance of a temporary receivership order by the court.

(3) Upon appointment of a temporary receiver, the department shall proceed forthwith to obtain the service as provided in Arkansas Code § 20-10-905(d).

(4) If the department does not proceed with the complaint, the court shall dissolve the temporary receivership after ten (10) days.

**20 CAR § 400-2306. Postpetition activities.**

Immediately upon appointment of a receiver the Department of Human Services shall assist the receiver and ensure the following functions and responsibilities are accomplished:

(1) Identify the need for additional staff as necessary to evaluate problems identified on-site;

(2)(A) Identify and work closely with key nursing home personnel to:

(i) Assess the adequacy of services to the patients in the home; and

(ii) Establish whether or not adequate and appropriate inventories of supplies and equipment are available to meet the needs of the patients.

(B) Determine the extent, condition, and availability of physical inventory and records;

(3) Identify and interview a person or persons responsible for maintaining the home's financial records, and identify the bank or other financial institution with which the home is involved for mortgage financing, short term loans, daily banking activities (checking, savings), etc.;

(4) Work closely with the director of nursing and other nursing personnel and evaluate the quality and effectiveness of resident care, including progress made on cited code violations;

(5) Assesses:

(A) The ability of licensed and attendant staff to meet the needs of the resident population;

(B) The degree to which the health needs of the residents are met through:

(i) Direct observation of residents;

(ii) Interviews with residents and staff; and

(iii) Examination of clinical records;

(C)(i) The quality and quantity of medical care being rendered, and that physician's orders are being carried out appropriately.

(ii) May request the services of a consulting physician to evaluate this

aspect;

(D) The nutritional status of the residents and examines the adequacy and appropriateness of diets;

(E) Other resident needs, including:

(i) Grooming and hygiene;

(ii) Recreation; and

(iii) Restorative nursing; and

(F) The availability and adequacy of appropriate nursing supplies and equipment;

(6) May recommend the removal of residents requiring a level of care greater than the available nursing services;

(7) Work closely with the director of nursing in evaluating the status of residents;

(8) Communicate with residents' families and other interested parties to address concerns for the health, safety, or welfare of the residents; and

(9) Evaluate the social services activity of the home.

**20 CAR § 400-2307. Assistance with duties of the receiver to staff.**

Immediately upon completion of the assessment in 20 CAR § 400-2307, but in no event more than seventy-two (72) hours after appointment, the Department of Human Services shall assist the receiver to:

(1)(A) Conduct an orientation meeting with staff to discuss identified problems, present status of the operation, apparent priorities, establish a plan of operation, and receivership goals.

(B) Contract personnel will attend if appropriate;

(2) Coordinate assignment of staff to receivership activities;

(3) Distribute reports and other information regarding receivership action to facility supervisory personnel;

(4) Interview persons who maintain inventories (food, medical supplies, etc.) to ensure adequacy of supplies on hand;

(5) Interview medical director, director of nursing, heads of housekeeping, maintenance, food service, laundry, etc., to address adequacy of services and environmental conditions of the facility; and

(6) Meet all department heads to:

(A) Explain the need and purpose of the receivership;

(B) Discuss identified problems;

(C) Assess the strengths of the group and the facility;

(D) Present a plan of operation, including apparent priorities and tentative goals;

(E) Explain style of leadership and expectations;

(F) Encourage and elicit free and open expression, noting their feelings, concerns; and

(G) Announce weekly department head group meetings.

**20 CAR § 400-2308. Assistance with responsibilities of receiver to residents, guardians, and families.**

Immediately upon completion of assessment in 20 CAR § 400-2306, but in no event more than seventy-two (72) hours after appointment, the Department of Human Services shall assist the receiver to:

(1) Meet with the residents/guardians, their families and/or interested parties to:

(A) Explain purpose and necessity of receivership;

(B) Identify persons who will operate the facility, and present plans of operation;

(C) Describe expected goals and end results;

(D) Assure residents and their families of care and continuing concern for their needs, health, and welfare and identify the person to be contacted if they have questions; and

(E) Ask for their support and patience during the course of the receivership action; and

(2) Prepare notice to families, responsible parties, and guardians of residents explaining:

- (A) Purpose and necessity of receivership action;
- (B) Expected goals of receivership and end results;
- (C) The assurance of continuing care and concern for the residents;
- (D) The need for continued support and concern for the residents; and
- (E) Identify a person to contact for information.

**20 CAR § 400-2309. Long range responsibilities of receiver.**

(a) Upon appointment, the Department of Human Services shall assist in taking appropriate action with regard to the on-going operation of the facility.

(b) That action shall include:

(1) Meeting regularly with other staff;

(2) Conveying copies of reports to the Secretary of the Department of Human Services as scheduled;

(3)(A) Meeting with facility department heads to plan for achieving goals to:

- (i) Remedy identified code violation;
- (ii) Mutually review causes and ways to overcome past and present problems; and

(iii) Promise open communication and support between them.

(B) Agreeing to other meetings as necessary;

(4) Receiving required reports from department heads as scheduled;

(5) Keeping daily log of activities and observations for incorporation into written weekly reports to the Secretary of the Department of Human Services;

(6) Holding regular department head meetings weekly to start, with an agenda that includes:

- (A) Information from receivership team administrator;
  - (B) Information from department heads; and
  - (C) Free exchange of comments;
- (7)(A) Monitoring closely the ongoing operation of the facility.

(B) By daily presence on floors and in departments, keeping up the morale and confidence of employees and residents.

(C) Evaluating and monitoring performance of staff.

(D) Reviewing security of the facility and changing locks as necessary.

(E) Consistently working toward the correction of any code violations.

(F) Monitoring and controlling admission policies.

(G) Recommending to the secretary any immediate changes in staff and/or staffing patterns necessary to the safety, health, and welfare of the residents;

(8)(A) Reviewing the current resident care program in light of available skills and ability of the staff to meet the needs of residents.

(B) Considering the need to:

(i) Close the home to additional admissions; and

(ii) Transfer residents from the facility.

(C) Make the appropriate recommendations to the secretary;

(9) Continuously monitoring staffing in relocation to the quantity and types of skills;

(10) If the facility is permitted to continue to accept admissions, reviewing applications for admission, considering skills required for proper care in relation to skills available at the home;

(11) Evaluating the operation of the nursing department, beginning with problems identified as existing code violations and observations made by the prereceivership team;

(12)(A) Assisting the director of nursing in the preparation, promotion, and implementation of remedial actions.

(B) Evaluating the effectiveness of selected remedial programs on a continuing basis.

(C) Reporting progress toward correction of violations and other problems to receivership team administrator on a regular basis; and

(13) Monitoring all phases of the nursing department and all services pertaining to the care of the residents including:

(A) Medical care:

- (i) Frequency of physician's visits;
- (ii) Physician's responsiveness to emergencies or changes in residents' condition;
- (iii) Effectiveness of nurse/physician relationships;
- (iv) Appropriate and timely reporting by nursing staff of emergencies and/or significant physical changes to attending physicians; and
- (v) Evaluation of the role served by the facility's medical director;

(B) Care delivery system:

(i) Medication system:

- (a) Proper and effective methods of order transcription;
- (b) Effective pharmacy service;
- (c) Accuracy in administration;
- (d) Accurate recordkeeping;
- (e) Proper methods of disposal of outdated or discontinued medication; and
- (f) Prompt renewal of medication orders;

(ii) Treatment system:

- (a) Adequacy and appropriateness of treatment supplies;
- (b) Provision of treatments as ordered by the physician;
- (c) Proper recording;
- (d) Utilization of proper techniques; and
- (e) Charting of effectiveness of prescribed treatment;

(iii) Restorative therapies:

- (a) Comprehensive orders;
- (b) Proper follow-through; and
- (c) Appropriate and accurate records; and

(iv) Restorative nursing:

- (a) Activities of daily living retraining being provided;
- (b) Staff promotion of self-care to extent possible;

(c) Nursing staff follow-through on therapeutic restorative programs; and

(d) All residents up and dressed as possible;

(C) Accident/incident management:

- (i) Proper care and follow-up provided by nursing staff;
- (ii) Physicians notified appropriately;
- (iii) Medical director reviewing all reports; and
- (iv) Comprehensive charting and accident reports available;

(D) Record management:

- (i) Medical records complete and in good order;
- (ii) Charting by nursing staff meaningful;
- (iii) All reports available in record; and
- (iv) Closed records complete and in good order;

(E) Laboratory and other contract services:

- (i) Responsive on a timely basis;
- (ii) Reports available promptly;
- (iii) Current orders available for tests and treatment rendered; and
- (iv) Physicians promptly notified of test results.

(F) Dignity of resident:

- (i) Residents treated by nursing staff with courtesy and respect; and
- (ii) Resident rights known to all nursing staff and maintained

consistently;

(G) Inservice programming:

- (i) Appropriate to the needs of the staff;
- (ii) Appropriate planning and scheduling; and
- (iii) Adequate orientation and training of new staff members being

provided; and

(H) Supply and equipment procurement:

(i) Supplies and equipment available and adequate to meet the needs of the patient census; and

(ii) Supplies and equipment maintained in sanitary condition and good working order.

**20 CAR § 400-2310. Reporting of progress of receiver.**

(a)(1) The receiver shall report to the court, the Department of Human Services, the owner, and administrator licensee on the progress of the receivership action:

- (A) Before the receivership can be concluded;
- (B) At such times as directed by the court; and
- (C) Prior to engaging in any function, duty, or activity for which a

statutorily mandated report is required.

(2) The preparation of the final report on all aspects of a receivership action is coordinated by the Secretary of the Department of Human Services.

(b)(1) The report details all activities and their expenditures during the receivership.

(2) It clearly identifies whether the objectives of the receivership have been achieved, i.e., to restore the home's capabilities to meet patient needs, or to close the home.

(3) If the objective has not been achieved, it clearly identifies:

- (A) What additional actions are necessary; and
- (B) An estimate of how much time is required to complete them.

(c) The receiver shall forward a report to the secretary for:

- (1) Review;
- (2) Advice; and
- (3) Assistance.

(d) If the court determines and orders the facility is to continue operation, the receiver shall:

(1)(A) Prepare department heads for change in administration.

(B) Provide information and instructions as needed, together with a timetable for activities and required final reports.

(C) Such reports are to include a brief summary statement to the

receivership team administrator, including:

- (i) Statistics and numbers where appropriate;
- (ii) An assessment of strengths and weaknesses; and
- (iii) Recommendations of the department head;

(2)(A) Meet all employees, each shift, to prepare them for the change in administration, giving dates of action and names.

(B) Thank them for cooperation and personal efforts;

(3)(A) Meet with, or arranges for meetings, as needed, with residents and their families to prepare them for upcoming changes, giving dates of action and names.

(B) Thanks them for their patience and cooperation;

(4) Notify families and responsible parties to inform them of the approaching changes;

(5) Request and receive concluding reports from all members of the receivership team, and compile final report and forward to the secretary.

(6)(A) On day of transition of control, collect all keys, records, books, etc., from each member of the receivership team.

(B) Turn these items over to the incoming administration;

(7) Remain available to new administration to ease turnover process;

(8)(A) Take and record a complete inventory.

(B) Provides report to receivership team administrator;

(9)(A) Bring all records up to date.

(B) Make final reconciliation of books; and

(10) Be available to new financial officer, if any, to assist in an orderly transition.

(e) If the court determines and orders the facility to be closed, upon receipt of the decision for closure, along with instructions regarding needed information and procedures, the receiver shall:

(1) Inform other members of the receivership team of the decision for closure and the responsibilities they will assume during the closure process;

(2)(A) Prepare department heads for closing, giving information and

instruction as needed, together with timetable for actions.

(B) Instruct on final report as required, including brief summary statements;

(3)(A) Meet with all employees, each shift, giving general outline of concluding activities.

(B) Ask their cooperation to the end;

(4) Hold concluding meetings with each department head, collecting all final reports, etc.;

(5) Receive and act upon instructions regarding storage of files and records, disposition of capital goods, equipment, building, etc.;

(6) Take final inventory;

(7) Bring all records up to date and close books;

(8) Conclude all accounts, pay all bills, and collect all accounts receivable;

(9) Under the direction of the secretary, close all bank accounts and oversee the transfer of residents' funds to the receiving facilities;

(10) Work with the facility staff in preparing residents and the families of residents for the impending closure of the facility;

(11) Seek additional nursing staff to assist in the transfer, if necessary;

(12) Work with social service staff and the families of residents in securing appropriate placement in other facilities;

(13) Participate in the actual transfer process, assuring the proper transfer of records, etc.; and

(14) Oversee the closure of the nursing department and nursing areas, seeing to the proper closure and storage of records.

**20 CAR § 400-2311. Qualifications and maintenance of list for receiver.**

(a)(1) Through consultation with the long-term care industry associations, professional organizations, consumer groups, and health-care management corporations, the Department of Human Services shall maintain a list of receivers.

(2) This list shall be updated semiannually.

(b) To be placed on the list, individuals must:

(1) Be in good physical health;

(2) Demonstrate an understanding or working knowledge of applicable laws and rules; and

(3) In addition to subdivisions (b)(1) and (2) of this section, individuals placed on the list shall:

(A) Possess a current, valid Arkansas nursing home administrator's license;

(B)(i) Possess a degree in business finance, management, health care or, a related field and one (1) year work experience in the degreed field provided.

(ii) An individual not possessing a college degree but having five (5) years of experience in the above fields may substitute such experience for the requisite degree; or

(C) Possess one (1) year of experience in working with the elderly in programs or fields such as patient care, social work, or advocacy and having successfully completed a baccalaureate degree in a management program or field, or possess a license in that program or field, or have two (2) years full-time working experience in the Arkansas long-term care industry in a management capacity.

**20 CAR § 400-2312. Department to furnish receiver with copy of legal proceedings.**

(a) Upon appointment of a receiver for a facility by a court, the Department of Human Services shall inform the individual of all legal proceedings to date which concern the facility.

(b) The receiver may request that the Secretary of the Department of Human Services authorize expenditures from moneys appropriated, pursuant to Arkansas Code § 20-10-916 of the act, if incoming payments from the operation of the facility are less than the costs incurred by the receiver.

**20 CAR § 400-2313. Mandated patient transfer.**

In the case of Department of Human Services-ordered patient transfers, the receiver may:

(1) Assist in providing for the orderly transfer of all residents in the facility to other suitable facilities, or make other provisions for their continued health;

(2) Assist in providing for transportation of the resident, his medical records, and his or her belongings if he or she is transferred or discharged, assist in locating alternative placement, assist in preparing the resident for transfer, and permit the resident's legal guardian to participate in the selection of the resident's new location; and

(3) Unless emergency transfer is necessary:

(A) Explain alternative placements to the resident; and

(B) Provide orientation to the place chosen by the resident or resident's guardian.

## **Subpart 24. Informal Dispute Resolution**

### **20 CAR § 400-2401. Generally.**

(a)(1) When a long-term care facility does not agree with deficiencies cited on a statement of deficiencies, the facility may request an informal dispute resolution (IDR) meeting of the deficiencies in lieu of, or in addition to, a formal appeal.

(2) The IDR process is governed by Acts 2003, No. 1108, codified at Arkansas Code § 20-10-1901 et seq.

(b) The request for an informal dispute resolution of deficiencies does not:

(1) Stay the requirement for submission of an acceptable plan of correction and allegation of compliance within the required time frame or the implementation of any remedy; and

(2) Substitute for an appeal.

### **20 CAR § 400-2402. Requesting an informal dispute resolution.**

(a) A written request for an informal dispute resolution must be made to the

Department of Health, Health Facility Services, 5800 West 10th, Suite 400, Little Rock, AR 72204 within ten (10) calendar days of the receipt of the statement of deficiencies from the Office of Long-Term Care.

(b) The request must:

(1) List all deficiencies the facility wishes to challenge; and

(2) Contain a statement whether the facility wishes the IDR meeting to be conducted by:

(A) Telephone conference;

(B) Record review; or

(C) A meeting in which the parties appear before the impartial decision maker.

**20 CAR § 400-2403. Matters which may be heard at IDR.**

(a) The IDR is limited to deficiencies cited on a statements of deficiencies.

(b) Issues that may not be heard at an IDR include, but are not limited to:

(1) The scope and severity assigned the deficiency by the Office of Long-Term Care, unless the scope and severity allege substandard quality of care or immediate jeopardy;

(2) Any remedies imposed;

(3) Any alleged failure of the survey team to comply with a requirement of the survey process;

(4) Any alleged inconsistency of the survey team in citing deficiencies among facilities; and

(5) Any alleged inadequacy or inaccuracy of the IDR process.

**20 CAR § 400-2404. Appeal of IDR results.**

(a)(1) If a Medicaid-certified facility is not satisfied with the results of the informal dispute resolution, it may request a hearing before the Long-Term Care Facility Advisory Board [abolished] within the sixty-day time frame for appeal.

(2) If the facility chooses, it may bypass the informal dispute resolution

process and appeal directly to the board within the sixty-day appeal period.

(3) Requests must be submitted in writing to:

Chair  
Long-Term Care Facility Advisory Board  
P.O. Box 8059, Slot S409  
Little Rock, AR 72203-8059

(b) Medicare and Medicare/Medicaid-certified facilities may request a hearing by either the Associate Regional Administrator in the Dallas office of the Health Care Financing Administration or the Departmental Appeals Board at the addresses below at any point within the sixty-day time frame for appeals.

HCF-2  
Associate Regional Administrator  
Division of Health Standards and Quality  
Centers for Medicare and Medicaid Services  
1200 Main Tower Building  
Dallas, TX 75202

Department of Health and Human Services  
Departmental Appeals Board, MS 6127 Civil Remedies Division  
330 Independence Avenue, S.W. Cohen Building - Room G-644  
Washington, D.C. 20201

(c) If the facility chooses to appeal to either of these agencies, a copy of the appeal should also be forwarded to the office.

## **Subpart 25. Residents' Rights**

**20 CAR § 400-2501. Written policies.**

(a)(1) The facility shall have written policies and procedures defining the rights and responsibilities of residents.

(2) The policies shall present a clear statement defining how residents are to be treated by the facility, its personnel, volunteers, and others involved in providing care.

(b) A copy of the synopsis of the residents' bill of rights [Appendix B] must be prominently displayed within the facility.

(c)(1) Each resident admitted to the facility is to be fully informed of these rights and of all rules governing resident conduct and responsibilities.

(2) The facility is to communicate these expectations/rights during the period of not more than two (2) weeks before or five (5) working days after admission, unless medically contraindicated in writing.

(3) The facility shall obtain a signed acknowledgement from the resident, his or her guardian, or other person responsible for the resident.

(4) The acknowledgement is maintained in the resident's medical record.

(d) Appropriate means shall be utilized to inform non-English speaking, deaf, or blind residents of the residents' rights.

(e) Residents' rights shall be deemed appropriately signed if:

(1) **Residents capable of understanding.** Signed by resident before one (1) witness;

(2) **Residents incapable because of illness.**

(A) The attending physician documents the specific impairment that prevents the residents from understanding or signing their rights.

(B) The responsible party and two (2) witnesses sign;

(3) **Residents who are individuals with intellectual disabilities.**

(A) Rights read, and if he or she understands, resident signs before staff member and outside disinterested party.

(B) If he or she cannot understand, rights are explained to, and signed by, the guardian before a witness; or

(4) **Residents capable of understanding but acknowledges with other mark (X).** Mark must be acknowledged by two (2) witnesses.

**6 CAR § 400-2502. Staff.**

(a) Staff members must fully understand all residents' rights.

(b)(1) Facility staff will be provided a copy of residents' rights.

(2) Staff shall complete a written acknowledgement stating they have received and read the residents' rights.

(3) A copy of the acknowledgement shall be placed in each employee's personnel file.

(c) The facility's policies and procedures regarding residents' rights and responsibilities will be formally included in ongoing staff development program for all personnel, including new employees.

**6 CAR § 400-2503. Services.**

(a)(1) Each resident admitted to the facility will be fully informed, prior to or at the time of admission, and as need arises during residency, of:

(A) Services available in the facility; and

(B) any charges for services.

(2) Residents have the right to choose, at their own expense, a personal physician and pharmacist.

(b)(1) The facility shall make available to all residents a schedule of the kinds of services and articles provided by the facility.

(2) A schedule of charges for services and supplies not included in the facility's basic per diem rate shall be provided at the time of admission.

(3) This schedule shall be updated should any change be made.

**6 CAR § 400-2504. Resident care.**

(a)(1) Each resident admitted to the facility shall be fully informed by a physician of his or her medical condition.

(2) The resident shall be afforded the opportunity to participate in the planning of his or her total medical care and may refuse experimental treatment.

(b)(1) Total resident care includes medical care, nursing care, rehabilitation, restorative therapies, and personal cleanliness in a safe and clean environment.

(2) Residents shall be advised by appropriate professional providers of alternative courses of care and treatments and the consequences of such alternatives when such alternatives are available.

**6 CAR § 400-2505. Transfer or discharge.**

(a)(1) A resident may be transferred or discharged only for:

(A) Medical reasons;

(B) His or her welfare or the welfare of other residents;

(C) The resident presents a danger to the safety or health of other residents;

(D) Because the resident no longer needs the services provided by the facility;

(E) Nonpayment for his or her stay; or

(F) The facility ceases operation.

(2) The resident shall be given reasonable written notice to ensure orderly transfer or discharge.

(3)(A) The term "transfer" applies to the movement of the resident from facility to another facility.

(B) "Medical reasons" for transfer or discharge:

(i) Shall be based on the resident's needs; and

(ii)(a) Are to be determined and documented by a physician.

(b) That documentation shall become a part of the resident's permanent medical record.

(C) "Reasonable notice of transfer or discharge" means the decision to transfer or discharge a resident:

(i) Shall be discussed with the resident; and

(ii) The resident will be told the reason or reasons and alternatives available.

(b) A minimum of thirty (30) days written notice must be given.

(c) Transfer for the welfare of the resident or other residents may be affected immediately if such action is documented in the medical record.

(d)(1) An appeals process for residents objecting to transfer or discharge shall be developed by the facility, in accordance with Arkansas Code § 20-10-1005, as amended.

(2) The process shall include:

(A)(i) The written notice of transfer or discharge shall state the reason for the proposed transfer or discharge.

(ii) The notice shall inform the resident that they have the right to appeal the decision to the Secretary of the Department of Human Services within seven (7) calendar days.

(iii) The resident must be assisted by the facility in filing the written objection to transfer or discharge;

(B) Within fourteen (14) days of the filing of the written objections a hearing will be scheduled; and

(C) A final determination in the matter will be rendered within seven (7) days of the hearing.

(e) The facility shall provide preparation and orientation to residents designed to ensure a safe and orderly transfer or discharge.

**20 CAR § 400-2506. Change in room or roommate.**

The facility must provide reasonable written notice of change in room or roommate.

**20 CAR § 400-2507. Exercise of rights.**

(a)(1) Each resident admitted to the facility will be encouraged and assisted to exercise all constitutional and legal rights as a resident and as a citizen including the right to vote, and the facility shall make reasonable accommodations to ensure free

exercise of these rights.

(2) Residents may voice grievances or recommend changes in policies or services to facility staff or to outside representatives of their choice, free from:

- (A) Restraint;
- (B) Coercion;
- (C) Discrimination; or
- (D) Reprisal.

(b) Residents shall have the right to free exercise of religion including the right to rely on spiritual means for treatment.

**20 CAR § 400-2508. Complaints and suggestions.**

(a) Complaints or suggestions made to the facility's staff shall be responded to within ten (10) days.

(b) Documentation of such response will be maintained by the facility administrator or his or her designee.

**20 CAR § 400-2509. Personal belongings.**

Each resident may retain and use personal clothing and possessions as space and rules permit.

**20 CAR § 400-2510. Resident council.**

(a)(1) A representative resident council shall be established in each facility.

(2) The resident council's duties shall include:

(A) Review of policies and procedures required for implementation of resident rights;

(B) Recommendation of changes or additions in the facility's policies and procedures, including programming;

(C) Representation of residents in their complaints to the Office of Long-Term Care or any other person or agency; and

(D) Assist in identification of problems and orderly resolution of same.

(b)(1) The facility administrator shall:

(A) Designate a staff coordinator; and

(B) Provide suitable accommodations within the facility for the residents' council.

(2) The staff coordinator shall assist the council in scheduling regular meetings and preparing written reports of meetings for dissemination to residents of the facility.

(3) The staff coordinator may be excluded from any meeting of the council.

**20 CAR § 400-2511. Family council.**

(a) The facility shall inform residents' families of the right to establish a family council within the facility.

(b) The establishment of such council shall be encouraged by the facility.

(c) This family council shall:

(1) Have the same duties and responsibilities as the resident council; and

(2) Be assisted by the staff coordinator designated to assist the resident council.

**20 CAR § 400-2512. Management of personal financial affairs.**

Each resident admitted to the facility may manage his or her personal financial affairs, or if the resident requests such affairs be managed by the facility, an accounting shall be maintained in accordance with applicable rules.

**20 CAR § 400-2513. Free from abuse.**

(a) Residents shall be free from mental and physical abuse, chemical and physical restraints (except in emergencies) unless authorized, in writing, by a physician, and only for such specified purposes and limited time as is reasonably necessary to protect the resident from injury to himself or others.

(b) "Mental abuse" includes:

(1) Humiliation;

(2) Harassment; and

(3) Threats of punishment or deprivation.

(c) "Physical abuse" refers to:

(1) Corporal punishment; or

(2) The use of restraints as a punishment.

(d) Drugs shall not be used to limit, control, or alter resident behavior for convenience of staff.

**20 CAR § 400-2514. Restraint.**

(a) "Physical restraint" includes the use of devices designed or intended to limit residents' total mobility.

(b) Physical restraints are not to be used to limit resident mobility:

(1) For the convenience of staff;

(2) As a means of punishment; or

(3) When not medically required to treat the resident's medical symptoms.

(c) If a resident's behavior is such that it will result in injury to himself or herself or others, any form of physical restraint utilized shall be in conjunction with a treatment procedure designed to modify the behavioral problems for which the resident is restrained and only after failure of therapy designed or intended to modify the threatening behavior.

(d) The facility's written policy and procedures governing the use of restraint shall specify which staff members may authorize the use of restraints and must clearly specify the following:

(1) Orders shall indicate the specific reasons for the use of restraints;

(2) Use of restraints must be temporary and the resident will not be restrained for an indefinite or unspecified amount of time;

(3) Application of restraints shall not be allowed for longer than twelve (12) hours unless:

(A) The resident's condition warrants; and

(B) Specified medical authorization is maintained in the resident's medical record;

(4)(A) A resident placed in restraints shall be checked at least every thirty (30) minutes by appropriately trained staff.

(B) A written record of this activity shall be maintained in the resident's medical record.

(C) The opportunity for motion and exercise shall be provided for a period of not less than ten (10) minutes during each two (2) hours in which restraints are employed, except at night;

(5) Reorder, extensions, or reimposition of restraints shall:

(A) Occur only upon review of the resident's condition by the physician;

and

(B) Be documented in the physician's progress notes;

(6) The use of restraints shall not be employed:

(A) As punishment;

(B) For the convenience of staff; or

(C) As a substitute for supervision;

(7) Mechanical restraints must be employed in such manner as to:

(A) Avoid physical injury to the resident; and

(B) Provide a minimum of discomfort; and

(8) The practice of locking residents behind doors or other barriers:

(A) Also constitutes physical restraint; and

(B) Must conform to the policies and procedures for the use of restraints.

**20 CAR § 400-2515. Confidentiality of records.**

(a) Each resident is assured confidential treatment of his or her personal and medical records.

(b) Residents may approve or refuse the release of such records to any individual except:

(1) In case of a transfer to another health care institution; or

(2) As required by law or third-party payment contract.

**20 CAR § 400-2516. Treatment of residents.**

(a) Each resident will be treated with consideration, respect, and full recognition of dignity and individuality, including privacy in treatment and care for personal needs.

(b) Staff shall:

(1) Display respect for residents when speaking with, caring for, or talking about residents; and

(2) Seek to engage in the constant affirmation of resident individuality and dignity as a human being.

**20 CAR § 400-2517. Residents' choices.**

(a) Schedules of daily activities shall provide maximum flexibility and allow residents to exercise choice in participation.

(b) Residents' individual preferences regarding such things as menus, clothing, religious activities, friendships, activity programs, and entertainment will be elicited and respected by the facility.

**20 CAR § 400-2518. Privacy.**

(a)(1) Residents shall be examined or treated in a manner that maintains and ensures privacy.

(2) A closed door or a drawn curtain shall shield the resident from passers-by.

(3) People not involved in the care of the residents are not to be present during examination or treatment without the residents' consents.

(b) Privacy will be afforded residents during:

(1) Toileting;

(2) Bathing; and

(3) Other activities of personal hygiene.

(c) Residents may associate or communicate privately with persons of their choice, and may send or receive personal mail unopened, unless medically contraindicated and documented by the physician in the medical record.

**20 CAR § 400-2519. Visitors.**

(a) Policies and procedures shall permit residents to receive visits from anyone they wish, provided a particular visitor may be restricted for the following reasons:

(1) The resident refuses to see the visitor;

(2) The resident's physician specifically documents that such a visit would be harmful to the resident's health; and

(3)(A) The visitor's behavior is unreasonably disruptive to the facility.

(B) This does not include those individuals who, because they advocate administrative change to protect resident rights, are considered a disruptive influence by the administrator.

(b) Decisions to restrict a visitor shall be reviewed and evaluated each time the resident's plan of care or medical orders are reviewed by the physician or nursing staff, or at the resident's request.

(c) Accommodations will be provided for residents to allow them to receive visitors in reasonable comfort and privacy.

**20 CAR § 400-2520. Financial affairs.**

(a) Residents are allowed to manage their own personal financial affairs.

(b) Should the facility manage the resident's personal financial affairs, this authorization must be in writing and shall be signed appropriately as follows:

(1) If the resident is capable of understanding, the authorization shall be signed by the resident and one (1) witness; or

(2)(A) If the resident has an intellectual disability, the authorization shall be read and if he or she understands, the resident will sign along with a staff member and an outside disinterested party.

(B) If he or she cannot understand, the authorization should be explained and signed by the guardian and witness.

(C) If the resident is capable of understanding and acknowledges with a mark (X), then two (2) witnesses are required.

(c) The facility shall have written policies and procedures for the management of

client trust accounts.

(d) An employee shall be designated to be responsible for resident accounts.

(e) The facility shall establish and maintain a system that ensures full and complete accounting of residents' personal funds using generally accepted accounting principles.

(f) The facility shall not commingle resident funds with any other funds other than resident funds.

(g) The facility system of accounting includes written receipts for:

(1) Funds received by or deposited with the facility; and

(2) Disbursements made to or for the resident.

(h)(1) All personal allowance moneys received by the facility are placed in a collective checking account.

(2) The checking account will be reconciled on a monthly basis.

(3) Any cost incurred for this account shall not be charged to the resident.

(4) Any interest earned from this account shall not be charged to the resident.

(i) When appropriate, individual savings accounts shall be opened for residents in accordance with Social Security rules governing savings accounts.

(j) A cash fund specifically for petty cash shall be maintained in the facility to accommodate the small cash requirement of residents.

(k)(1) The facility shall, at the resident's request, keep on deposit personal funds over which the resident has control.

(2) Should the resident request these funds, they are given to him or her on request with receipts maintained by the facility and a copy to the resident.

(l) The financial record must be available to the resident and his or her guardian, and responsible party.

(m)(1) If the facility makes financial transactions on a resident's behalf, the resident, guardian, or responsible party shall receive an itemized accounting of disbursements and current balances at least quarterly.

(2) A copy of the resident's quarterly statement shall be maintained in the facility.

## Subpart 26. Fines and Sanctions

### 20 CAR § 400-2601. Definitions.

As used in this part, the following definitions will apply, unless the context requires otherwise:

- (1) "Agency" means the Division of Medical Services;
- (2)(A) "Act" means a bodily movement and includes speech and the conscious possession or control of property.
  - (B) The verb "act" means either to perform an act or to omit to perform an act;
- (3) "Actor" includes, where appropriate, a person who possesses something or who omits to act;
- (4) "Civil penalties" are an assessment of financial fines against licensee for violations of rules;
- (5) "Conduct" means an act or omission and its accompanying mental state;
- (6) "Department" is the Department of Human Services;
- (7) "Director" is the Director of the Office of Long-Term Care;
- (8) "Element of the offense" means the conduct, the attendant circumstances, and the result of that conduct that:
  - (A) Is specified in the definition of the offense;
  - (B) Establishes the kind of culpable mental state required for commission of the offense; or
  - (C) Negates an excuse or justification for the conduct;
- (9) "Facility/licensee" is a long-term care facility which is required to be licensed under Arkansas Code § 20-10-224;
- (10)(A) "Knowingly" means a person acts knowingly with respect to his or her conduct or the attendant circumstances when he or she is aware that his or her conduct is of that nature or that such circumstances exist.
  - (B) A person acts knowingly with respect to a result of his or her conduct when he or she is aware that it is practically certain that his or her conduct will cause

such a result;

(11) "Law" includes statutes and court decisions;

(12)(A) "Negligently" means a person acts negligently with respect to attendant circumstances or a result of his or her conduct when he or she should be aware of a substantial and unjustifiable risk that the circumstances exist or the result will occur.

(B) The risk must be of such a nature and degree that the actor's failure to perceive it, considering the nature and purpose of his or her conduct and the circumstances known to him or her, involves a gross deviation from the standard of care that a reasonable person would observe in the actor's situation;

(13) "Omission" means a failure to perform an act, the performance of which is required by law;

(14) "Person", "actor", "defendant", "he", or "him" includes any natural person and, where appropriate, an organization as that term is defined in Arkansas Code § 5-2-501(1);

(15) "Physical harm" or "physical injury" means the impairment of physical condition or the infliction of substantial pain;

(16) "Possess" means to exercise actual dominion, control, or management over a tangible object;

(17) "Purposely" means a person acts purposely with respect to his or her conduct or a result thereof when it is his or her conscious object to engage in conduct of that nature or to cause such a result;

(18) "Reasonably believes" or "reasonable belief" means the belief that an ordinary, prudent man or woman would form under the circumstances in question and a belief not recklessly or negligently formed;

(19)(A) "Recklessly" means a person acts recklessly with respect to attendant circumstances or a result of his or her conduct when he or she consciously disregards a substantial and unjustifiable risk that the circumstances exist or the result will occur.

(B) The risk must be of a nature and degree that disregard thereof constitutes a gross deviation from the standard of care that a reasonable person would

observe in the actor's situation;

(20) "Regulation" means:

(A) Any state rule or federal regulation pertaining to licensure of a long-term care facility; or

(B) Any state rule or federal regulation relating to Title XIX Medicaid certification;

(21) "Secretary" is the Secretary of the Department of Human Services;

(22) "Serious physical harm" means physical injury that:

(A) Creates a substantial risk of death;

(B) Causes protracted disfigurement;

(C) Causes protracted impairment of health; or

(D) Causes loss or protracted impairment of the function of any bodily member or organ;

(23) "Statute" includes:

(A) The constitution;

(B) Any statute of this state;

(C) Any ordinance of a political subdivision of this state; and

(D) Any rule lawfully adopted by an agency of this state; and

(24) "Violation" means:

(A) Class A violations create a:

(i) Condition or occurrence relating to the operation and maintenance of a long-term care facility resulting in death or serious physical harm to a resident; or

(ii) Substantial probability that death or serious physical harm to a resident will result therefrom;

(B) Class B violations create a condition or occurrence relating to the operation and maintenance of a long-term care facility which directly threatens the health, safety, or welfare of a resident;

(C) Class C violations shall relate to administrative and reporting requirements that do not directly threaten the health, safety, or welfare of a resident; and

(D)(i) Class D violations shall relate to the timely submittal of statistical and financial reports to the Office of Long-Term Care.

(ii) The failure to timely submit a statistical or financial report shall be considered a separate Class D classified violation during any month or part thereof of noncompliance.

(iii) In addition to any civil money penalty which may be imposed, the Director of the Office of Long-Term Care is authorized after the first month of a Class D violation to withhold any further reimbursement to the long-term care facility until the statistical and financial report is received by the Office of Long-Term Care.

**20 CAR § 400-2602. Civil penalties.**

(a)(1) The following listed civil penalties pertaining to classified violations may be assessed by the Director of the Office of Long-Term Care against long-term care facilities.

(2) In the case of Class A violations, the following civil penalties shall be assessed at the amount outlined in this part.

(3) In the case of Class B, C, or D violations, the director, in his or her discretion, may:

(A) Elect to assess the following civil penalties; or

(B) Allow a specified period of time for correction of said violation.

(b)(1) Class A violations are subject to a civil penalty not to exceed two thousand five hundred dollars (\$2,500) for the first violation.

(2) A second Class A violation occurring within a six-month period from the first violation shall result in a civil penalty of five thousand dollars (\$5,000).

(3) The third Class A violation occurring within a six-month period from the first violation:

(A) Shall result in proceedings being commenced for termination of the facility's Medicaid agreement; and

(B) May result in proceedings being commenced for revocation of the licensure of the facility.

(c)(1) Class B violations are subject to a civil penalty not to exceed one thousand dollars (\$1,000).

(2) A second Class B violation occurring within a six-month period shall be subject to a civil penalty of two thousand dollars (\$2,000).

(3) A third Class B violation occurring within a six-month period from the first violation:

(A) Shall result in proceedings being commenced for termination of the facility's Medicaid agreement; and

(B) May result in proceedings being commenced for revocation of the licensure of the facility.

(4) All Class B violations shall be based on a point system as contained in this part.

(d)(1) Class C violations are subject to a civil penalty not to exceed five hundred dollars (\$500) for each violation.

(2) Each subsequent Class C violation within a six-month period from the first violation shall subject the facility to a civil money penalty double that of the preceding violation until a maximum of one thousand dollars (\$1,000) per violation is reached.

(3) All Class C violations shall be based on a point system as contained in this part.

(e)(1) Class D violations are subject to a civil penalty not to exceed two hundred fifty dollars (\$250) for each violation.

(2) Each subsequent Class D violation occurring within a six-month period from the first violation shall subject the facility to a civil penalty double that of the preceding violation until a maximum of five hundred dollars (\$500) is reached.

(3) All Class D violations shall be based on a point system as contained in this part.

(f) In no event may the aggregate civil penalties assessed for violations in any one (1) month exceed five thousand dollars (\$5,000).

**20 CAR § 400-2603. Factors in assessment of civil penalties.**

(a) In determining whether a civil penalty is to be assessed and in affixing the amount of the penalty to be imposed, the Director of the Office of Long-Term Care shall consider:

(1) The gravity of the violation, including the probability that death or serious physical harm to a resident will result or has resulted;

(2) The severity and scope of the actual or potential harm;

(3) The extent to which the provisions of the applicable statutes or rules were violated;

(4)(A) The "good faith" exercised by the licensee.

(B) Indications of good faith include, but are not limited to:

(i) Awareness of the applicable statutes and rules and reasonable diligence in securing compliance;

(ii) Prior accomplishments manifesting the licensee's desire to comply with the requirements;

(iii) Efforts to correct; and

(iv) Any other mitigating factors in favor of the licensee;

(5) Any relevant previous violations committed by the licensee; and

(6) The financial benefit to the licensee of committing or continuing the violation.

(b)(1) The director shall assign value points to conditions or occurrences and said value points shall represent a base to which the above considerations shall be applied by the director prior to assessment of monetary civil penalty.

(2) Each value point shall represent a base assessment of one dollar (\$1.00).

**20 CAR § 400-2604. Right to assess civil penalties not merged in other remedies.**

Assessment of a civil penalty provided in this subpart shall not affect the right of the Office of Long-Term Care to take other such action as may be authorized by law or rule.

**20 CAR § 400-2605. Class A violations.**

(a) Class A violations are:

(1) Violations that create a condition or occurrence relating to the operation and maintenance of a long-term care facility which results in death or serious harm to a resident; or

(2) Violations that create a condition or occurrence relating to the operation and maintenance of a long-term care facility which creates a substantial probability that death or serious physical harm to a resident will result from the violation.

(b) The following Class A violations and the points assigned to each are provided and are subject to the conditions set out in 20 CAR § 400-2603:

(1)(A) Death of a resident, two thousand five hundred (2,500).

(B) Any condition or occurrence relating to the operation of a long-term care facility in which the conduct, act, or omission of a person or actor purposely, knowingly, recklessly, or negligently results in the death of a resident shall be a Class A violation;

(2)(A) Serious physical harm to a resident, two thousand five hundred (2,500).

(B) Any condition or occurrence relating to the operation of a long-term care facility in which the conduct, act, or omission of a person or actor purposely, knowingly, recklessly, or negligently results in serious physical harm to a resident shall be a Class A violation;

(3)(A) Probability of death or serious physical harm.

(B) The following conduct, acts, or omissions, when not resulting in death or serious physical harm but which create a substantial probability that death or serious physical harm to a resident will result therefrom, are conditions or occurrences relating to the operation of a long-term care facility which are Class A violations:

(i)(a) Poisonous substances.

(b) Two thousand five hundred (2,500) points shall be assigned when a facility fails to provide proper storage of poisonous substances;

(ii)(a) Falls by residents.

(b) One thousand five hundred (1,500) points shall be assigned

when a facility fails to maintain required direct care staffing or a safe environment and this failure directly causes a fall by a resident.

**Examples:**

Equipment not properly maintained; or

A fall due to personnel not responding to patient requests for assistance;

(iii)(a) Assaults.

(b) Two thousand five hundred (2,500) points shall be assessed when a facility fails to maintain required direct care staffing or measures are not taken when it is known that a resident is combative and assaultive with other residents, and this failure causes an assault upon a resident of the facility by another resident.

(c) A Class A violation shall also exist when a facility fails to perform adequate screening of personnel and this failure causes an assault upon a resident by an employee of the facility;

(iv)(a) Permanent injury to an extremity.

(b) Two thousand two hundred fifty (2,250) points shall be assigned when a facility personnel improperly apply physical restraints contrary to published rules or fail to check and release restraints as directed by physician's orders or rules;

(v)(a) Nosocomial infection.

(b) Two thousand five hundred (2,500) points shall be assigned when a facility does not follow or meet nosocomial infection control standards as outlined by rules or as ordered by the physician;

(vi)(a) Medical services.

(b) Two thousand five hundred (2,500) points shall be assigned when a facility fails to secure proper medical assistance or orders from a physician;

(vii)(a) Decubitus ulcers.

(b) Two thousand five hundred (2,500) points shall be assigned

when a facility does not take decubitus ulcer measures as ordered by the physician and such failure results in death or serious injury to a resident, or facility personnel fail to notify the physician of such ulcers;

(viii)(a) Treatments.

(b) Two thousand five hundred (2,500) points when facility personnel perform treatment or treatments contrary to a physician's order and such treatment results in death or serious injury to the resident;

(ix)(a) Medications.

(b) Two thousand five hundred (2,500) points shall be assigned when facility personnel knowingly withhold medication from a resident as ordered by a physician and such withholding of medication or medications results in death or serious injury to a resident, or the facility personnel fail to order and/or stock medication or medications prescribed by the physician and the failure to order and/or stock medication or medications results in death or serious injury to the resident;

(x)(a) Elopement.

(b) One thousand eight hundred and fifty (1,850) points shall be assigned when a facility does not provide necessary supervision of residents to prevent a resident from wandering away from the facility and such failure results in death or serious injury to a resident, or a facility does not provide adequate measures to ensure that residents with an elopement history do not wander away from the facility.

(c) Examples of preventative measures include but are not limited to documentation that:

(1) An elopement history has been discussed with the family of the resident;

(2) Alarms have been placed on exit doors;

(3) Personnel have been trained to make additional efforts to watch the resident with such history; and

(4) The physician of such a resident has been made aware of such history;

(xi)(a) Failure to provide heating or air conditioning.

(b) Two thousand five hundred (2,500) points shall be assigned when a facility fails to reasonably maintain its heating and air conditioning system as required by rule.

(c) Isolated incidents of breakdown or power failure shall not be considered a Class A violation under this section;

(xii)(a) Natural disaster/fire.

(b) Two thousand (2,000) points shall be assigned when a facility does not train staff in fire/disaster procedures as required by rules or when staffing requirements are not met; and

(xiii)(a) Life safety code system.

(b) Two thousand five hundred (2,500) points shall be assigned when a facility fails to maintain the required life safety code systems.

(c) Isolated incidents of breakdown shall not be considered a Class A violation under this section if the facility has immediately notified the Office of Long-Term Care upon discovery of the problem and has taken all necessary measures to correct the problem.

#### **20 CAR § 400-2606. Class B violations.**

The following conduct, acts, or omissions, when not resulting in death or serious physical harm to a resident, or the substantial probability thereof, but creates a condition or occurrence relating to the operation and maintenance of a long-term care facility which directly threatens the health, safety, or welfare of a resident:

(1)(A) Nursing techniques.

(B) One thousand (1,000) points shall be assigned when:

(i) Medications or treatments are improperly administered or withheld by nursing personnel;

(ii) There is a failure to feed residents who are unable to feed themselves;

(iii) There is a failure to change or irrigate catheters as ordered by a physician or use irrigation sets and solutions which are outdated or not protected from

contamination;

(iv) There is a failure to obtain physician orders for the use, type, and duration of restraints, or the improper application of a physical restraint, or failure of facility personnel to check and release the restraint as specified in rules;

(v) Staff knowingly fails to answer call lights;

(vi) There is a failure to turn or reposition residents as ordered by a physician or as specified in rule; and

(vii) There is a failure to provide rehabilitative nursing as ordered by a physician or as specified in rule;

(2)(A) Poisonous substances.

(B) Seven hundred and fifty (750) points shall be assigned when:

(i) a facility fails to provide proper storage of poisonous substances;

and

(ii) This failure threatens the health, safety, or welfare of a resident;

(3)(A) Falls by residents.

(B) Seven hundred and fifty (750) points shall be assigned when:

(i) A facility fails to maintain required direct care staffing or a safe environment; and

(ii) This failure directly threatens the health, safety, or welfare of a resident;

(4)(A) Assaults.

(B) One thousand (1,000) points shall be assigned when a facility fails to maintain required direct care staffing or measures are not taken when it is known that a resident is combative and assaultive with other residents and these measures threaten the health, safety, or welfare of a resident;

(5)(A) Improper use of restraints.

(B) One thousand (1,000) points shall be assigned when facility personnel apply physical restraints contrary to published rules or fail to check and release restraints as directed by physician's order or rules and such failure threatens the health, safety, or welfare of a resident;

(6)(A) Medical services.

(B) One thousand (1,000) points shall be assigned when:

(i) A facility fails to secure proper medical assistance or orders from a physician; and

(ii) This failure threatens the health, safety, or welfare of a resident;

(7)(A) Decubitus ulcers.

(B) One thousand (1,000) points shall be assigned when:

(i) A facility does not take decubitus ulcer measures as ordered by the physician and such failure threatens the health, safety, or welfare of a resident; or

(ii) Facility personnel fail to notify the physician of such ulcers and this failure threatens the health, safety, or welfare of a resident;

(8)(A) Treatments.

(B) One thousand (1,000) points shall be assigned when:

(i) Facility personnel perform treatments contrary to a physician's order; and

(ii) Such treatment threatens the health, safety, or welfare of a resident;

(9)(A) Medications.

(B) One thousand (1,000) points shall be assigned when facility personnel:

(i) Withhold physician-ordered medication or medications from a resident and such withholding threatens the health, safety, or welfare of a resident; or

(ii) Fail to order or stock medication or medications prescribed by the physician and this failure threatens the health, safety, or welfare of a resident;

(10)(A) Elopement.

(B) One thousand (1,000) points shall be assigned when a facility does not provide:

(i) Necessary supervision of residents to prevent a resident from wandering away from the facility and such failure threatens the health, safety, or welfare of a resident; or

(ii) Adequate measures to ensure that residents with a history of elopement do not wander away from the facility and such failure threatens the health, safety, or welfare of a resident;

(11)(A) Food on hand.

(B) One thousand (1,000) points shall be assigned when:

(i) There is an insufficient amount of food on hand in the facility to meet the menus for the next twenty-four-hour period; and

(ii) This failure threatens the health, safety, or welfare of a resident;

(12)(A) Nursing equipment/supplies.

(B) One thousand (1,000) points shall be assigned if:

(i) Equipment and supplies to care for a resident as ordered by a physician are not provided or if the facility does not have sufficient equipment and supplies for residents as specified by rule; and

(ii) These conditions threaten the health, safety, or welfare of a resident or residents;

(13)(A) Falls.

(B) Seven hundred and fifty (750) points shall be assigned when:

(i) It is determined that falls occurred in a facility as a result of the facility's failure to maintain required direct care staffing or a safe environment as set forth in rule; and

(ii) This failure threatens the health, safety, or welfare of a resident;

(14)(A) Call system.

(B) One thousand (1,000) points shall be assigned when:

(i) A facility fails to maintain a resident call system; or

(ii) The call system is not functioning for a period of twenty-four (24) hours.

(C) If call system cords are not kept within reach of residents:

(i) Then it will be determined that the facility has failed to maintain a resident call system; and

(ii) This failure threatens the health, safety, or welfare of a resident;

(15)(A) Heating and air conditioning.

(B) One thousand (1,000) points shall be assigned when:

(i) A facility fails to maintain its heating and air conditioning system as required by rule; and

(ii) Such failure threatens the health, safety, or welfare of a resident.

(C) Isolated incidents of breakdown or power failure shall not be considered a Class B violation under this section;

(16)(A) Dietary allowance.

(B) Seven hundred and fifty (750) points shall be assigned when it is determined that the minimum dietary needs of a resident are not being met as ordered by the physician;

(17)(A) Resident rights.

(B) Seven hundred fifty (750) points shall be assigned when facility personnel fail to:

(i) Inform a resident of his or her resident rights as outlined in rule;

or

(ii) Allow a resident to honor or exercise any of his or her rights as outlined in rule or statute;

(18)(A) Sanitation.

(B) Seven hundred and fifty (750) points shall be assigned when it is determined that rules relating to sanitation are not met;

(19)(A) Administrator.

(B) Seven hundred fifty (750) points shall be assigned when it is determined that a facility does not have a licensed administrator as required by rule; and

(20)(A) Director of nurses.

(B) Seven hundred and fifty (750) points shall be assigned when it is determined that a facility does not have a director of nursing as required by rule for five (5) or more consecutive days.

**20 CAR § 400-2607. Class C violations.**

(a) Class C violations are related to administrative and reporting requirements that do not directly threaten the health, safety, or welfare of a resident.

(b) The following examples of Class C violations and the points assigned to each are provided for illustrative purposes and are subject to the conditions set out in 20 CAR § 400-2603:

(1)(A) Quarterly staffing reports.

(B) Three hundred and fifty (350) points shall be assigned when a facility does not submit quarterly staffing reports within ten (10) days following the deadline given for submission of these reports;

(2)(A) Overbedding.

(B) Five hundred (500) points shall be assigned when a facility is found to exceed their licensed bed capacity;

(3)(A) False reporting.

(B) Five hundred (500) points shall be assigned when it has been determined that a report, physician orders, nurses notes, or other documents or records which the facility is required to maintain has been intentionally falsified;

(4)(A) Resident trust funds.

(B) Five hundred (500) points shall be assigned:

(i) When it is determined that the facility's records reflect that resident trust funds have been misappropriated by facility personnel; or

(ii) If the resident has been charged for items for which the facility must provide at no cost to the resident;

(5)(A) Denied access to facility.

(B) Five hundred (500) points shall be assigned when it is determined that personnel from the Department of Human Services, the United States Department of Health and Human Services, or any other agency personnel authorized to have access to any long-term care facility have been denied access to the facility or any facility document or record;

(6)(A) Reporting of unusual occurrences and or accidents.

(B) Five hundred (500) points shall be assigned when it has been determined that any facility did not report any unusual occurrences or accidents in a timely manner as mandated by rule;

(7)(A) Posting of survey results.

(B) Five hundred (500) points shall be assigned when it has been determined that a facility failed to post, in the appropriate manner, the results of any survey, sanction, or survey/sanction cover letter issued by the department; and

(8)(A) Residents' council.

(B) Five hundred (500) points shall be assigned when a facility fails to comply with the establishment and operation of a residents' council as defined by rule or statute.

**20 CAR § 400-2608. Class D violations.**

(a) Class D violations are defined as the failure of any long-term care facility to submit in a timely manner a statistical or financial report as required by rule.

(b) All Class D violations shall be assigned two hundred and fifty (250) points.

**20 CAR § 400-2609. Notification of violations.**

(a) If upon inspection or investigation the Office of Long-Term Care determines that a licensed long-term care facility is in violation of any sanction rule herein described, any federal or state law or regulation, then it shall promptly serve by certified mail or other means that gives actual notice, a notice of violation upon the licensee when the violation is a classified violation as described in Arkansas Code § 20-10-205.

(b) Each notice of violation shall:

(1) Be prepared in writing; and

(2) Specify the:

(A) Exact nature of the classified violation;

(B) Statutory provision or specific rule alleged to have been violated;

(C) Facts and grounds constituting the elements of the classification; and

(D) Amount of the civil penalty assessed by the Director of the Office of Long-Term Care, if any.

(c) The notice of violation issued to a long-term care facility by the director shall:

(1) Be classified according to the nature of the violation; and

(2) Indicate the classification on the face thereof as follows.

(d)(1) The notice shall also inform the licensee of the right to a hearing:

(A) Under Arkansas Code § 20-10-208 when civil penalties are imposed;

and

(B) Under Arkansas Code § 20-10-303 with regards to licensure and certification.

(2) The request for a hearing under Arkansas Code § 20-10-208 must be received by the Secretary of the Department of Human Services within ten (10) working days after receipt by the facility of the notice of violation.

(3) The request for a hearing under Arkansas Code § 20-10-303 must be:

(A) In writing; and

(B) Submitted to the Chair of the Long-Term Care Facility Advisory Board [abolished].

(e) The Department of Human Services shall provide a fair and impartial hearing officer for appeals.

### **20 CAR § 400-2610. Hearings on the imposition of civil money.**

(a) A licensee may contest the imposition of civil penalty by sending a written request for hearing to the Secretary of the Department of Human Services who shall designate a hearing officer to preside over the case and make findings of fact and conclusions of law in the form of a recommendation to the secretary.

(b) The secretary shall review the case and make the final determination or remand the case to the hearing officer for further findings of law or facts.

(c) The request for hearings must be received by the secretary within ten (10) working days after receipt by the facility of the notice of violation.

(d) The hearing officer shall commence the hearing within forty-five (45) days of

receipt of the request for hearing.

(e) The secretary shall issue a final decision within ten (10) working days after the close of the hearing.

(f)(1) Assessments shall be delivered to the Office of Long-Term Care within ten (10) working days of the receipt of the:

(A) Notice of violation; or

(B) Final determination by the secretary in contested cases.

(2) Checks should be made payable to the State of Arkansas.

(g) Facilities failing to pay duly assessed civil penalties shall be subject to a corresponding reduction in succeeding Medicaid vendor payment, initiation of proceedings to revoke the facility's license, or both.

(h) All moneys collected by the licensing agency pursuant to these rules shall be deposited into the Long-Term Care trust fund as specified in Arkansas Code § 20-10-205.

**20 CAR § 400-2611. Denial of admissions.**

(a) The Director of the Office of Long-Term Care may deny Medicaid payment for new admissions to a long-term care facility issued a Class A or B violation until such time the director determines that such facility:

(1) Has corrected the violation; and

(2) Is in substantial compliance with all applicable rules.

(b) If a denial of payment is placed into effect, the director shall notify the administrator of the facility in writing by certified mail or other means which gives actual notice that denial of payment for new admissions shall continue until the director makes a determination that the facility:

(1) Has corrected the violation; and

(2) Is in substantial compliance with all applicable rules.

(c)(1) The facility may request an immediate hearing by sending a written request to the Secretary of the Department of Human Services.

(2) The Department of Human Services shall provide a fair and impartial

hearing officer within ten (10) days of receipt of such request.

**Appendix A. Rules of Order for All Appeals Before the Long Term Care Facility Advisory Board**

**Link:**

<https://CodeOfARRules.arkansas.gov/docs/CARCodeAppendices/Appendices/330/20CARpt.400AppendixA.pdf>

**Appendix B. Synopsis of Residents' Bill of Rights**

**Link:**

<https://CodeOfARRules.arkansas.gov/docs/CARCodeAppendices/Appendices/331/20CARpt.400AppendixB.pdf>