

**RULES PERTAINING TO POST-ACUTE HEAD
INJURY RETRAINING AND RESIDENTIAL
ADULT CARE FACILITIES**

Department of Health and Human Services
Division of Economic & Medical Services
Office of Long Term Care

TABLE OF CONTENTS

AUTHORITY

100. RESPONSIBILITIES

100. Definitions

101. Responsibilities of The Office of Long Term Care

102. Responsibilities of The Facility

200. LICENSURE

201. Operation Without A License

202. Application for License

203. Qualification for License

204. Term

205. Renewal

206. Transfer

207. Closure

208. Separate Premises

209. Temporary License

210. Compliance

211. Revocation of License

212. Notice and Procedure on Hearing Prior to Denial, Suspension, or Revocation of a License

213. Appeals to Court

214. Penalties

215. Receivership

216. Fines and Sanctions

300. ADMISSION AND DISCHARGE OF RESIDENTS

301. Admission Criteria

302. Policies

303. Program Development

304. Discharge and Transfer

400. RESIDENTS RIGHTS

401. Specific Residents Rights

402. Residents Informed of Services Available

403. Informed of Medical Condition

404. Transfer and Discharge

405. Legal Rights

406. Financial Affairs

407. Prohibition Against Abuse and Neglect

408. Mechanical Supports

408.4 Prohibition Against Restraints

428. Control and Discipline Of Residents

429. Behavior Modification

430. Grievances

431. Individual Service Plan

432. Mental Health and Other Professional Services

433. Medications

434. Home Health Services

435. Supervision

- 436. Activities and Socialization
- 437. Unauthorized Services
- 438. Transfer
- 439. Personal Funds Account
- 500. ADMINISTRATION, PLANT, AND MAINTENANCE REQUIREMENTS
 - 501. Administration
 - 502. Staff
 - 503. Resident Records
 - 504. Dietary Services
 - 505. Laundry and Linen Services
 - 506. Housekeeping
 - 507. Space, Furnishings, and Equipment
 - 508. Residential Areas
 - 509. Baths and Toilets
 - 510. Bedrooms
 - 511. Other Plant Requirements
 - 512. Safety Standards
 - 513. Maintenance
- 600. MISCELLANEOUS PROVISIONS
 - 601. Severability
 - 602. Interpretation
 - 603. Judicial Power of Enforcement

AUTHORITY

The following rules for Post-Acute Retraining and Residential Adult Care Facilities in Arkansas are duly adopted and promulgated by the Department of Human Services, Division of Economic and Medical Services, Office of Long Term Care, pursuant to the authority expressly conferred by the laws of the State of Arkansas in Act 602 of 1987.

DEFINITIONS

100. Definitions: The following terms are defined for the purpose of these rules.
- 100.1. Behavior Modification: Things or events that are used in a timely manner to discourage undesired behavior.
- 100.2. Board: The Long Term Care Facility Advisory Board.
- 100.3. Department: The Arkansas Department of Human Services.
- 100.4. Division: The Division of Medical Services of the Department of Human Services.
- 100.5. Facility: A Post-Acute Head Injury Retraining and Residential Care Facility.
- 100.6. Facility Services: The residential, retraining, and rehabilitation services provided within each licensed Facility in accordance with its License.
- 100.7. Head Injury: An injury or neurological impairment to the brain caused by illness or accident.
- 100.8. Head Injury Retraining and Rehabilitation: The individualized program of instruction offered in a residential or day program designed to assist an individual suffering from disability as a result of Head Injury to reduce the adverse effects of the disability and improve functioning in daily living, education, and vocational activities.
- 100.9. Immediate Family: Father, Mother, Children, Spouse, Brother, and Sister.
- 100.10. Independently Mobile: Physically and mentally capable of vacating a structure in case of emergency, including the capability to ascend or descend stairs that are in the exit path. Residents who can use canes, wheelchairs, or walkers are considered independently mobile as long as they do not require more than verbal or minimum assistance from other persons to vacate and can do as required by local fire code.
- 100.11. License: A non-transferable permit issued by the Office of Long Term Care to a Licensee authorizing the Licensee to operate a Facility for a specific time period.
- 100.12. Licensee: Any person, firm, corporation, governmental agency, or other legal entity to whom the License is issued and who is responsible for maintaining

approved standards. Facilities owned or regulated by the Veterans Administration or by Division Development Disabilities Services, the Office on Alcohol and Drug Abuse, and Christian Science homes shall be excluded from licensure under these rules.

- 100.13. The Office of Long Term Care: The survey and licensure agency of the Division.
- 100.14. Post-Acute Head Injury Retraining and Residential Care Facility: A building, or group of buildings, if located contiguously and operated jointly, used or maintained to provide, for pay, Retraining and Rehabilitation for three (3) or more individuals who are disabled on account of Head Injury and who are not in present need of in-patient diagnostic care in a hospital or related.
- 100.15. Provisional Licensure is a temporary grant of authority to the purchaser to operate an existing long-term care facility upon application for licensure to the Office of Long Term Care.
- 100.16. Rules : The Rules pertaining to Post-Acute Head Injury Retraining and Residential Care Facilities promulgated by the Office of Long Term Care pursuant to Act 602 of 1987.
- 100.17. Residents: Any individual who receives services from a Facility.
- 100.18. Resident's Sponsor: The person or agency legally responsible for the welfare and support of the Resident.
- 100.19. Residential Area: An area used by Residents for sleeping and for daily living activities. A Residential Area may be less than the entire area of a building and there may be more than one Residential Area within a single building.
- 100.20. Sponsor: See "Resident Sponsor."
- 100.21. Staff. Any officer, employee, or agent of a Facility.
- 100.22. Time-out Techniques: Devices or procedures designed to improve a Resident's behavior by removing positive reinforcements when the Resident's behavior is undesirable.

RESPONSIBILITIES

101. Responsibilities of the Office of Long Term Care: The Office of Long Term Care shall have the following responsibilities:

- 101.1 To review and grant or deny all applications for licenses to operate as a Facility.
- 101.2 To investigate and take appropriate action against any Person providing Head Injury Retraining and Rehabilitation in contravention of these rules.
- 101.3 To inspect Facilities and their operations to determine compliance with these rules and to take appropriate action.
- 101.4 To investigate complaints made against Facilities and to take appropriate action.
- 101.5 To provide technical assistance to Facilities to improve services provided to Residents.
- 101.6 To refer violations of other state or federal laws or Regulations to the appropriate administrative agency or law enforcement office.
- 101.7 To provide directories of Facilities to all interested persons, and
- 101.8 To notify all agencies which place Residents in Facilities whenever a Facility becomes unlicensed or is in substantial violations of the rules.

102. Responsibilities of the Facility: Each Facility shall have the following responsibilities:

- 102.1. To provide to its Residents a comprehensive program of care which:
 - A. Conforms fully with these rules;
 - B. Meets the needs of the Residents;
 - C. Provides MI protection of Residents' rights; and
 - D. Promotes the social, physical, and mental well-being of Residents.

- 102.2. Subject to the Residents' right to privacy, to allow the Office of Long Term Care full access to residents and the Facility's grounds and buildings at any time.
- 102.3. To allow personnel from the Office of Long Term Care full access to the Facility, books and records at all times.
- 102.4. To notify the Office of Long Term Care immediately of any extraordinary event or set of circumstances which has resulted in serious injury to a Resident or constitutes a continuing threat of injury to a Resident.

LICENSURE

201. Operation Without a License: No Facility shall be established, operated, or maintained in the State of Arkansas without first obtaining a License.
202. Application for License: Applicants for licenses shall file applications under oath with the Office of Long Term Care upon forms prescribed by the Division and shall pay an annual fee of \$10.00 to the Division. Such fee shall be refunded if the License is denied. Applications shall be filed by the prospective Licensee. Applications shall set forth the following information:
- 202. 1. The full name and address of the Facility for which the License is requested;
 - 202.2. The name of each person owning, directly or indirectly, 5% or more of equity interest of the Facility;
 - 202.3. The name and address of each officer and director, if applicant is a corporation;
 - 202.4. The name of each partner, whether general or limited, if the applicant is a partnership; and
 - 202.5. Such additional information as the Division may require on the application form.
 - 202.6. The agent name and address of the agent for service of process is the applicant is other than an individual.
203. Qualification for License: A Licensee must satisfy the following minimum qualifications:
- 203. 1. Sufficient financial resources to meet the needs of its Residents;
 - 203.2. Have no prior convictions under Act 28 of 1979; and
 - 203.3. Have sufficient qualified staff to meet the needs of the Residents in the following areas: vocational rehabilitation, occupational therapy, speech therapy, physical therapy, psychology, cognitive training, recreational and educational services.
204. Term: A License is effective from the date of issue through December 31 of the then- current calendar year.

205. Renewal: Applications for renewal shall be made annually, and on forms provided by Office of Long Term Care, applications shall contain the name and address of the applicant and such information which has changed since the filing of the previous application. Applications for renewal shall be postmarked no later than January 2 following expiration. The annual fee of \$10.00 shall be submitted with the renewal. A penalty of (\$1) one dollar per day will be assessed for each day passed January 2.
206. Transfer: Licenses are not transferable. The transfer of 30% or more equity interest in the Licensee shall be considered a change of ownership and shall require a new application for licensure.
207. Closure: Any Facility that closes or that loses or surrenders its License for whatever reason must meet the rules for new construction to be eligible for re-licensure.
208. Separate Premises: Separate Licenses are required for operations maintained at separate, noncontiguous premises, even if they are operated under the same management.
- 209 Provisional Licensure: 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 Office of Long Term Care has received the Application for Licensure to Conduct a Long Term Care Facility. A provisional license shall be effective from the date the Office of Long-Term Care provides notice to the Applicant and new operator, until the date the long-term care license is issued. With the exception of Medicaid or Medicare provider status, a provisional license confers upon the holder all the rights and duties of licensure.

Prior to the issuance of a provisional license:

1. The purchaser and the seller of the long-term care facility shall provide the Office of Long Term Care 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 Office of Long Term Care with the application for licensure, including all applicable fees.
3. The Applicant and new operator of the long-term care facility shall provide the Office of Long Term Care with evidence of transfer of operational control signed by all applicable parties.

A provisional license holder may operate the facility under a new name, whether fictitious or otherwise. For purposes of this section, the term *new name* means a name that is different than the name under which the facility was operated by the prior owner, and the term “operate” means that the provisional license holder may hold the facility out to the public using the new name. Examples include, but are not limited to, signage, letterhead, brochures or advertising (regardless of media) that bears the new name.

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. Such communications include, but are not limited to, incident reports, notices, Plans of Correction, and MDS submissions. Upon the issuance of the license, the facility shall utilize the new name in all communications with the Office of Long Term Care.

210. Compliance: When non-compliance with licensure standards is detected during surveys, the Licensee will be notified of the violations and will be requested to provide a plan of correction which must include a timetable for completion of the corrections. If an item of non-compliance that affects the health and safety of Residents is not promptly corrected, the Office of Long Term Care shall have the option to sanction pursuant to Section 214 or initiate action to suspend or revoke the Facility's license.
211. Revocation of License: The Division may deny, suspend, or revoke a license on any of the following grounds:
 - 211.1. Violation of any of the Provisions of Act 28 of 1979, as amended by Act 602 of 1987 resulting in a notice of violation being issued pursuant to Section 4 of the Act, or these rules;
 - 211.2. Permitting, aiding or abetting the commission of any unlawful act in connection with the operation of a Facility;
 - 211.3. Non-compliance with inspections conducted by state or local inspectors (i.e., fire marshal, city building inspector, county sanitarian);
 - 211.4. Failure to allow admission to Department or Office of Long Term Care Personnel;
 - 211.5. Accepting and retaining Residents for whom the Facility cannot provide services as required in Section 400 of these rules.
212. Notice and Procedure on Hearing Prior to Denial, Suspension, or Revocation of a License: Whenever the Office of Long Term Care denies, suspends, or revokes a License, it shall send to the applicant or Licensee, by certified mail, a notice stating the reasons for the action. The notice shall state the nature of intended action, the rule allegedly violated, and the nature of the evidence supporting the allegation and shall set forth with particularity the asserted violations, discrepancies, and dollar amounts. The applicant or Licensee may appeal such notice to the Long Term Care Facility's Advisory Board as permitted by Ark. Code Ann. § 20-10-303.
 - 212.1. All appeals shall be made in writing, directed to the Chairman of the Board, within 30 days of receipt of notice of intended action. The appeal shall state the basis for the appeal with supporting documentation attached and shall set forth with particularity those asserted violations, discrepancies, and dollar

amounts which the appellant contends are in compliance with these rules.

- 212.2. Appeals must be heard by the Board within sixty (60) days following date of the Chairman's receipt of written appeal unless otherwise agreed by both parties. The Chairman shall notify the party or parties of the date, time and place of hearings at least seven (7) working days prior to the hearing date.
- 212.3. Preliminary motions must be made in writing and submitted to the Chairman of hearing officer, with service to the opposing party, at least three (3) days prior to hearing date, unless otherwise directed by the Chairman or hearing officer.
- 212.4. All pleadings filed in any proceeding shall be typewritten on white paper, size 8 1/2 by 11 inches, using one side of the paper only and double-spaced. They shall bear a caption clearly showing the title of the proceeding in connection with which they are filed.
- All pleadings shall be signed by the party or his authorized representative or attorney and shall contain signer's address and telephone number. All pleadings shall be served upon each of the parties, unless the Board orders otherwise because of numerous parties. Each pleading required to be served upon a party shall contain a statement by the party or his attorney stating that a copy of the pleading has been served, the date and method of service, and, if by mail, the name and address of the persons served. Service on the Office of Long Term Care shall be made to the Office of Chief Counsel of the Department of Human Services. Service on a party represented by an attorney shall be on the attorney.
- 212.5. The Chairman of the Board shall act as Chairman in all appeal hearings. In the absence of the Chairman, the Board may elect one of their members to serve as Chairman. The Chairman shall vote only in case of a tie. The Chairman or Board may request legal Counsel and staff assistance in the conduct of the hearing and in the formal preparation of their decision.
- 212.6. A majority of the members of the Board shall constitute a quorum of all appeals.
- 212.7. If the appellant fails to appear at a hearing, the board may dismiss the appeal or render a decision based on the evidence available.
- 212.8. A dismissal for non-appearance may be set aside by the Board if the appellant makes application to the Chairman in writing within ten (10) calendar days after the mailing of the decision, showing good cause for his failure to appear at the hearing. All parties shall be notified in writing of an order granting or denying any application to vacate the decision.

- 212.9. Any party may appear at the hearing and be heard through an attorney at law or through a designated representative. All persons practiced by attorneys before the courts of the State.
- 212.10. Each party shall have the right to call and examine parties and witnesses; to introduce exhibits; to question opposing witnesses and parties on any matter relevant to the issue; to impeach any witness regardless of which party first called him to testify; and to rebut the evidence against him.
- 212.11. Testimony shall be taken only on oath or affirmation under penalty or perjury.
- 212.12. Irrelevant, immaterial, and unduly repetitious evidence shall be excluded. Any other oral or documentary evidence, not privileged, may be received if it is of a type commonly relied upon by reasonable prudent persons in the conduct of their affairs. Objections to evidentiary offers may be made and shall be noted of record. When a hearing will be expedited, any part of the parties will not be substantially prejudiced; any part of the evidence may be received in written form.
- 212.13. The Chairman or hearing officer shall control the taking of evidence in a manner best suited to ascertain the facts and safeguard the rights of the parties. The Office of Long Term Care shall present its case first.
- 212.14. A party shall arrange for the presence of his witnesses at the hearing.
- 212.15. Any member of the Board may question any party or witness.
- 212.16. A complete record of the proceedings shall be made. A copy of the record may be transcribed and reproduced at the request of a party to the hearing, provided he bears the cost thereof.
- 212.17. Written notice of the time and place of continued or further hearing shall be given, except that when a continuance or further hearing is ordered during a hearing, oral notice of the time and place of the hearing may be given to each party present at the hearing.
- 212.18. In addition to these rules the hearing provisions of the Administrative Procedure Act (Ark. Code Ann. § 25-15-101 *et seq.*) shall apply.
- 212.19. At the conclusion of testimony and deliberations by the Board, the Board shall vote on motions for disposition of the appeal. After reaching a decision by majority vote those members, the Board may direct that findings of fact and conclusions of law be prepared to reflect the Board's recommendations to the Chairman. At his discretion the Chairman shall have the right to

accept, reject, or modify a recommendation, or to return the recommendation to the Board for further consideration for a more conclusive recommendation. All decisions shall be based on findings of fact and law and are subject to and must be in accordance with applicable State and Federal laws and regulations. The final decision by the Chairman shall be rendered in writing to the appellant.

213. Appeals To Court: Any applicant or Licensee who considers himself injured in his person, business, or property by the final decision of the Chairman shall be entitled to judicial review thereof. Proceedings for review shall be initiated 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 30 days after service upon the petitioner of the Chairman's final decision. All petitions for judicial review shall be in accordance with the Administrative Procedure Act.
214. Penalties: Any person establishing, conducting, managing, or operating any Facility without first obtaining a License, or who violates any provisions of Act or rules shall be guilty of a misdemeanor, and upon conviction shall be liable to a fine of not less than \$25.00 (Twenty-Five Dollars) nor more than \$100.00 (One Hundred Dollars) nor more than \$500.00 (Five Hundred Dollars) for each subsequent offense, and each day such Facility shall operate after a first conviction shall be considered a subsequent offense.
215. Receivership: Ark. Code Ann. § 20-10-902 describes the purpose for development of a mechanism for the concept of receivership to protect residents in Long Term Care Facilities. 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 Annotated 20-10-904.
216. Fines and Sanctions: Ark. Code Ann. § 20-10-205 provides for fines and sanctions of Long Term Care Facilities for violations of rules duly adopted and promulgated by the Department of Human Services, Division of Economic and Medical Services, Office of Long Term Care.

ADMISSIONS AND DISCHARGE OF CLIENTS

301. Admission Criteria: A Facility shall admit, retain, and care for only those Residents for whose needs the Facility is capable of providing and is licensed to provide. Each Resident admitted must meet the following criteria:
- 301.1. Be at least 18 years of age. Residents 16 or 17 years of age may be admitted if sufficiently mature to adapt to the Facility and its program of services.
 - 301.2. Suffer from Head Injury or other neurological impairment
 - 301.3. Be able to self-administer any required medication, or needing only medicine which can be administered by licensed Home Health Agency Personnel; and
 - 301.4. Be independently mobile, except that Residents needing assistance with transfer or with vacating a building may be admitted if the Facility has sufficient staff continually available to allow the building or buildings in which such Resident is living or receiving treatment to be evacuated within the time provided by the applicable fire code.
302. Policies: Each Facility shall develop, subject to review and approval by the Office of Long Term Care, written policies and practices concerning the admission, transfer, and discharge of Residents.
303. Program Development:
- 303.1 The Facility, prior to admitting any Resident, shall interview the Resident and the Resident's Sponsor to identify the Resident's needs and determine whether the Facility may meet those needs adequately.
 - 303.2 Upon admission, the Facility shall execute with, and provide a copy to, the Resident and the Resident's Sponsor an admission agreement specifying the following information:
 - A. The services to be rendered to the Resident;
 - B. The method of calculating the charges for the services (whether on a per them rate, a per service charge, or other basis);
 - C. The schedule of rates necessary to calculate the charges for services;

- D. A statement that the method of calculating charges and the schedule of rates will be changed only after 30 days' written notice of changes is given to the Resident and the Resident's Sponsor;
- E. A statement that no charges will be imposed for services or major items of equipment other than those specified in the admission agreement or subsequently agreed to by the Resident or the Resident's Sponsor, unless the supplemental services and supplies are necessitated by a change in the Resident's condition;
- F. A provision that advance payments will be refunded on a pro rata basis in the event of transfer, death, or discharge and an explanation of the calculation of the proration;
- G. A statement that at least 10 days written notice prior to discharge or transfer will be given to the Resident and the Resident's Sponsor, unless the discharge or transfer is at the request of the Resident or Resident's Sponsor, is ordered by a physician, or is caused by a change in the Resident's condition which renders the Resident unsuited for retention and which prevents the giving of prior notice;
- H. A provision that upon discharge or transfer, the Resident or the Resident's Sponsor shall receive within thirty (30) days a final written statement of the Resident's account. All monies, property, or things of value held in the custody of the Facility will be returned to the Resident or the Resident's Sponsor on or before this date;
- I. A listing of all monies, property, or things of value given or to be given to the Facility on admission;
- J. A provision that the Resident and the Resident's Sponsor shall not be required to provide to the Licensee, the Facility, or the Facility's Personnel any remuneration for any service or supplies provided or arranged in accordance with statute, rule, or agreement; and
- K. A provision that the Facility will oversee Resident's personal funds.

304. Discharge and Transfer:

- 304.1. Occupancy of a Facility by any Resident shall not be terminated unless such termination is permitted under the terms of the admission agreement or this section.
- 304.2. Every Resident, if competent, or the Resident's Sponsor if the Resident is not competent, shall have the right to discharge the Resident from the Facility.

- 304.3. If a Resident develops a communicable disease or condition that requires in-patient medical or nursing care or which cannot be adequately or safely treated at the Facility, immediate arrangements shall be made by the Facility to transfer such Resident to an appropriate acute medical, nursing, or psychiatric facility.
- 304.4. In the event that a Resident exhibits symptoms of behavioral or judgmental defects to a degree that constitutes a danger to the Resident or other Residents, the Facility shall arrange for appropriate professional evaluation of the Resident's condition and, if necessary, transfer the Resident to a facility providing the proper level of care.
- 304.5. In the event of any planned Resident discharge or transfer, other than self-discharge, the Facility shall provide at least ten (10) days prior notification to the Resident and the Resident's Sponsor.
- 304.6. Upon transfer of a Resident to a nursing home, or other care facility, a copy of all pertinent Resident records shall accompany Resident, except when emergency situations do not permit such transmittal. In such emergency cases, pertinent information shall be telephoned to the receiving facility and written transfer documents shall be sent within 24 hours.
- 304.7. Each Facility shall assist all Residents proposed to be discharged or transferred to the extent necessary to insure that the Resident is placed in a care setting which is adequate and appropriate to the conditions for which the Resident is discharged or transferred, and where possible, consistent with the wishes of the Resident.

RESIDENTS RIGHTS

401. Specific Residents Rights: Each resident shall have the following specific rights, and each Facility shall safeguard and not abridge these rights:

The facility shall have written policies and procedures defining the rights and responsibilities of residents. 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.

A copy of the synopsis of the resident's bill of rights must be prominently displayed within the facility.

Each resident admitted to the facility is to be fully informed of these rights and of all rules governing resident conduct and responsibilities. The facility is to communicate these expectations/rights during the period of not more than two weeks before or five work days after admission, unless medically contraindicated in writing. The facility shall obtain a signed acknowledgement from the resident, his guardian or other maintained in the resident's medical records.

Appropriate means shall be utilized to inform non-English speaking, deaf, or blind residents of the resident's rights.

Resident Rights shall be deemed appropriately signed by:

- A. Residents capable of understanding: signed by resident before one witness.
- B. Residents incapable because of illness: The attending physician documents the specific impairment that prevents the residents from understanding or signing their rights. Responsible party and two witnesses sign.
- C. Resident mentally retarded: Rights read and if he understands resident signs before staff member and outside disinterested party. If he cannot understand, rights are explained to, and signed by guardian before witness.
- D. Resident capable of understanding but acknowledges with other mark (X); Mark acknowledged by two witnesses.

Staff members must fully understand all resident rights.

Facility staff will be provided a copy of resident rights. Staff shall complete written acknowledgment stating they have received and read the resident rights. A copy of the acknowledgment shall be placed in the employee's personnel file.

The facility's policies and procedures regarding resident's rights and responsibilities will be formally included in ongoing staff development program for all personnel, including new employees.

402. 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 services available in the facility including any charges for services. Residents have the right to choose, at their own expense, a personal physician and pharmacist.

The facility shall make available to all residents, a schedule of the kinds of services and articles provided by the facility. A schedule of charges for services and supplies not included in the facility's basic per them rate shall be provided at the time of admission. The schedule shall be updated should any change be made.

403. Each resident admitted to the facility shall be fully informed by a physician of his medical condition. The resident shall be afforded the opportunity to participate in the planning of his total medical care and may refuse experimental treatment.

Total resident care includes medical care. Nursing care, rehabilitation, restorative therapies, and personal cleanliness in a safe and clean environment. 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.

404. A resident may be transferred or discharged only for: medical reasons; his welfare or the welfare of other residents; the resident presents a danger to safety or health of other residents; because the resident no longer needs the services provided by the facility; non- payment for his stay; or the facility ceases operation. The resident shall be given reasonable written notice to ensure orderly transfer or discharge.

404. 1. The term "transfer" applies to the movement of a resident from facility to another facility.

404.2. "Medical reasons" for transfer or discharge shall be based on the resident's needs and are to be determined and documented by a physician. That documentation shall become a part of the resident's permanent medical record.

- 404.3. "Reasonable notice of transfer or discharge" means the decision to transfer or discharge a resident shall be discussed with the resident and the resident will be told the reason(s) and alternatives available. A minimum of thirty (30) days written notice must be given. Transfer for the welfare of the resident or other residents may be affected immediately if such action is documented in the medical record.
- 404.4. An appeals process for residents objecting to transfer or discharge shall be developed by the facility, in accordance with Ark. Code Ann. § 20-10-1005 as amended. That process shall include:
- A. The written notice of transfer or discharge shall state the reason for the proposed transfer or discharge. The notice shall inform the resident that they have the right to appeal the decision to the Director within seven (7) calendar days. 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.
 - C. A final determination in the matter will be rendered within seven (7) days of the hearing.
- 404.5. The facility shall provide preparation and orientation to residents designed to ensure a safe and orderly transfer or discharge.
- 404.6. The facility must provide reasonable written notice of change in room or roommate.
405. Each resident admitted to the facility will be encouraged and assisted to exercise 0 constitutional and legal rights as a resident and a citizen including the right to vote, and the facility shall make accommodations to ensure free exercise of these rights. Residents may voice grievances or recommend changes in policies or services to facility staff or to outside representatives of their choice, free from restraint, coercion, discrimination, or reprisal.
- 405.1. Residents shall have the right to free exercise of religion including the right to rely on spiritual means for treatment.
- 405.2. Complaints or suggestions made to the facility's staff shall be responded to within ten (10) days. Documentations of such response will be maintained by the facility administrator his designee.
- 405.3. Each resident may retain and use personal clothing and possessions as space and rules permits.

- 405.4. A representative resident council shall be established in each facility. The resident council's duties shall include;
- 1) Review of policies and procedures required for implementation of resident rights.
 - 2) Recommendation of changes or additions in the facility's policies and procedures, including programming.
 - 3) Representation of residents in their complaints to the Office of Long Term Care or any other person or agency.
 - 4) Assist in identification of problems and orderly resolution of same.
- 405.5 The facility administrator shall designate a staff coordinator and provide suitable accommodations within the facility for the resident's council. The staff coordinator shall assist the council in scheduling regular meetings and preparing written reports of meetings for dissemination to residents of the facility. The staff coordinator may be excluded from any meeting of the council.
- 405.6 The facility shall inform resident's families of the right to establish a family council within the facility. The establishment of such council shall be encouraged by the facility. This family council shall have the same duties and responsibilities as the resident council and shall be assisted by the staff coordinator designed to assist the resident council.
406. Each resident admitted to the facility may manage his 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.
407. 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.
- 407.1. Mental abuse includes humiliation, harassment, and threats of punishment or deprivation.
- 407.2. Physical abuse refers to corporal punishment or the use of restraints as a punishment.
- 407.3. Drugs shall not be used to limit, control, or alter resident behavior for convenience of staff.

- 407.4. All physical restraints designed to limit residents mobility and the practice of locking residents behind doors or other barriers is strictly prohibited.
408. Mechanical supports used to achieve body position and balance must be designed and applied under the supervision of a qualified professional and in accordance with principles of good body alignment, concern for circulation, and allowance for change of position.
- 408.1. The facilities written policy and procedures governing the use of mechanical supports shall specify which staff members may authorize the use of supports and must clearly specify the following:
- A. Orders shall indicate the specific reasons for the use of the supports.
 - B. Use of supports must be temporary and the resident will not be supported for an indefinite or unspecified amount of time.
 - C. Application of supports shall not be allowed for longer than 12 hours unless the resident's condition warrants and specified medical authorization is maintained in the resident's medical record.
 - D. A resident placed in supports shall be checked at least every thirty (30) minutes by appropriately trained staff. A written record of this activity shall be maintained in the residents' medical record. 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 supports are employed, except at night.
 - E. Recorder, extensions or reimposition of supports shall occur only upon review of the resident's condition by the physician, and is documented in the physician's progress notes.
 - F. The use of supports shall not be employed as punishment, the convenience of the staff, or a substitute for supervision.
 - G. Mechanical supports must be employed in such manner as to avoid physical injury to the resident and provide a minimum of discomfort.
409. Each resident is assured confidential treatment of his personal and medical records. Residents may approve or refuse the release of such records to any individual except in case of a transfer to another health care institution, or as required by law or third party payment contract.
410. Each resident will be treated with consideration, respect, and full recognition of dignity and individuality, including privacy in treatment and care for personal needs.

- 410.1 Staff shall display respect for residents when speaking with, caring for, or talking about residents, and shall seek to engage in the constant affirmation of resident individuality and dignity as a human being.
- 410.2 Schedules of daily activities shall provide maximum flexibility and allow residents to exercise choice in participation. Resident's individual preferences regarding such things as menus, clothing, religious activities, friendships, activity programs, and entertainment will be elicited and respected by the facility.
- 410.3 Residents shall be examined or treated in a manner that maintains and ensures privacy. A closed door or a drawn curtain shall shield the resident from passersby. People not involved in the care of the residents are not to be present during examination or treatment without the resident's consent.
- 410.4 Privacy will be afforded residents during toileting, bathing, and other activities of personal hygiene.
- 411. 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.
- 412. Policies and procedures shall permit residents to receive visits from anyone they wish; provided a particular visitor may be restricted for the following reasons:
 - A. The resident refuses to see the visitor.
 - B. The resident's physician specifically documents that such a visit would be harmful to the resident's health.
 - C. The visitor's behavior is unreasonably disruptive to the facility. This does not include those individuals who, because they advocate administrative change to protect resident rights, are considered a disruptive influence by the administrator.
- 412.1 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.
- 412.2 Accommodations will be provided for residents to allow them to receive visitors in reasonable comfort and privacy.
- 413. Residents are allowed to manage their own personal financial affairs.
 - 413.1. Should the facility manage the resident's personal financial affairs; this authorization must be in writing and shall be signed appropriately as follows:

- A. If the resident is capable of understanding the authorization shall be signed by the resident and one (1) witness.
 - B. If the resident is mentally retarded the authorization shall be read and if he/she understands, the resident will sign along with a staff member and an outside disinterested party. If he/she cannot understand, the authorization should be explained and signed by the guardian and witness. If the resident is capable of understanding and acknowledges such with a mark (X) then two witnesses are required.
414. The facility shall have written policies and procedures for the management of client trust accounts.
415. An employee shall be designated to be responsible for resident accounts.
416. The facility shall establish and maintain a system that using generally accepted accounting principles.
417. The facility shall not commingle resident funds with any other funds other than resident funds.
418. The facility system of accounting includes written receipts for funds received by or deposited with the facility, and disbursements made to or for the resident.
419. All personal allowance monies received by the facility are placed in a collective checking account.
420. The checking account will be reconciled on a monthly basis.
421. Any cost incurred for this account shall not be charged to the resident.
422. Any interest earned from this account shall not be charged to the resident.
423. When appropriate individual savings accounts shall be opened for residents in accordance with Social Security rules governing savings accounts.
424. A cash fund specifically for petty cash shall be maintained in the facility to accommodate the small cash requirement of the residents.
425. The facility shall, at the resident request, keep on deposit personal funds over which the resident has control. Should the resident request these funds, they are given to him on request with receipts maintained by the facility and a copy to the resident.
426. The financial record must be available to the resident and his/her guardian, and responsible party.

427. 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.

427.1. A copy of the residents quarterly statement shall be maintained in the facility.

428. Control and Discipline of Residents: Each facility shall develop a written policy for the control and discipline of Residents. A copy of the policy shall be posted in each residential area at the facility. A copy of the policy shall be provided to each Resident and Resident's Sponsor at the time of the admission of the Resident.

No Facility may allow the following:

- A. Corporal punishment to a resident;
- B. A Resident to discipline another Resident; and
- C. A Resident to be locked in a room without constant supervision.

429. Behavior Modification: Each Facility shall develop a written policy of the use of behavior modification in accordance with applicable state and federal laws and regulations and shall furnish a copy of such policy to the Office of Long Term Care.

430. Grievances: Each Resident shall have the right to present to the Facility or to the Office of Long Term Care any grievance without fear of reprisal.

431. Individual Service Plan:

431.1. Within 30 days of the admission of a Resident to a Facility, the Facility shall prepare an Individual Service Plan setting forth the needs of the Resident to be treated by the Facility, the services to be provided by the Facility to meet those needs, and timetable for meeting those needs.

431.2. The Individual Service Plan shall be developed as follows:

- A. Upon admission, the Facility shall appoint a member of the Facility's staff who shall serve as program manager in the development and implementation of the Individual Service Plan.
- B. The Facility shall review all information concerning the Resident received upon referral of the Resident to the Facility.
- C. The Facility shall evaluate the Resident's physical, psychological, social, familial, vocational, and educational status.

- D. The Facility, with input from the Resident and the Resident's Sponsor, shall develop the goals to be achieved by the treatment supplied by the Facility.
- E. The Facility shall evaluate the services needed to achieve those goals. Commonly utilized services that should be considered included but are not limited to:
 - 1. Advocacy;
 - 2. Alcoholism and drug abuse treatment services;
 - 3. Audiology;
 - 4. Chaplaincy
 - 5. Dentistry;
 - 6. Dietary/nutrition;
 - 7. Driver training;
 - 8. Education;
 - 9. Independent living skills instruction;
 - 10. Interpretive services for those who are deaf or hearing impaired;
 - 11. Job placement;
 - 12. Manual communication instruction;
 - 13. Medication management;
 - 14. Mobility instruction for those who are blind or visually impaired;
 - 15. Nursing;
 - 16. Occupational skills training;
 - 17. Occupational therapy;
 - 18. Orthotics;

19. Pharmacy;
20. Physical therapy;
21. Physician;
22. Prosthetics;
23. Psychological evaluation and treatment;
24. Recreational;
25. Rehabilitation counseling;
26. Rehabilitation engineering;
27. Residential;
28. Social casework or group work;
29. Specialized services for those who are deaf and blind;
30. Speech-language pathology;
31. Transportation;
32. Vocational evaluation; and
33. Work adjustment

431.3 Based on the review and assessment required by Paragraph

431.4 The facility shall develop an Individual Service Plan containing statements of:

- A. The resident's goals;
- B. The treatment or services to be provided;
- C. The specific goals to be obtained from each service;
- D. The time intervals at which treatment or service outcomes will be reviewed;

- E. The anticipated time frames for the attainment of each of the Resident's specified goals; and
 - F. The measures to be used to assess the effects of treatment or services.
- 431.5. The resident's Individual Service Plan shall be in writing. A copy of the Individual Service Plan shall be provided and explained to the Resident and the Resident's Sponsor. A copy of the Individual Service Plan shall be maintained in the Resident's records at the facility.
- 431.6. The facility shall review and revise the Resident's Individual Service Plan upon a substantial change in the Resident's needs and no less often than quarterly to determine:
- A. The Resident's current physical, psychological, social, familiar, vocational, and educational status;
 - B. The Resident's attainment of the goals previously established;
 - C. Any changes in the goals of the Individual Service Plan; and
 - D. Any changes in the services to be provided to achieve those goals.
- 431.7. A single program manager shall be designated for each Resident and shall:
- A. Be responsible for the Resident during the implementation of the Individual Service Plan;
 - B. Assure that the Resident is adequately oriented to his Individual Service Plan;
 - C. Assure that the Individual Service Plan proceeds in an orderly and goal-directed manner;
 - D. Encourage the Resident's participation in the program;
 - E. Assure that the Resident and the Resident's Sponsor are involved on an ongoing basis in evaluation and revision of the Individual Service Plan;
 - F. Participate in staff conferences concerning the Resident; and
 - G. Assure that the discharge decision and arrangements for follow-up and appropriate support services are made.

431.8. Conferences of the Facility staff shall be held at least monthly to review the progress of the Resident, to develop further plans, and to maintain integrated and coordinated services. The Resident and the Resident's Sponsor shall be allowed to provide input into these conferences.

432. Health, Mental Health and Other Professional Services:

432.1 The facility shall assure that each Resident has access to health, mental health and other professional services necessary to maintain the Resident's physical and mental health.

432.2 The Facility shall assist the Resident, as necessary, in making arrangements to secure all services, examinations, and reports needed to maintain and document the maintenance of the Resident's physical health or mental health.

432.3 The Facility shall document that each Resident has a physician of the Resident's choice who is responsible for the overall management of the Resident's health and mental needs.

432.4 In the event of a Resident's illness or accident, the Facility shall:

- A. Notify the Resident's personal physician, or in the event such physician is not available, a qualified alternate;
- B. Take immediate and appropriate steps to see that the Resident receives necessary medical attention including, if necessary, transfer to an appropriate medical facility;
- C. Make a notation of the illness or accident in the Resident's personal record; and
- D. Upon transfer of a Resident to a health, mental health, or other Residential Care Facility, send a copy of pertinent resident records, except when emergency situation prohibits such transmittal. In such cases pertinent information shall be telephoned into the receiving facility, and written transfer documents shall be sent within 72 hours.

432.5 For Residents who require mental health services which are not to be provided by the Facility, the Facility shall:

- A. Allow, with the written permission of the Resident, appropriate mental health professionals access to the Resident's records having direct bearing on the mental health care of the Resident;
- B. Provide appropriate space to carry out the services provided or prescribed; and

- C. Participate in the development and implementation of programs designed to enhance treatment plans prescribed for the Resident.
- 432.6 The Facility shall assist each Resident to obtain regular and emergency dental services.
- 432.7 The Facility shall assist each Resident in obtaining proper foot care.
- 432.8 The Facility shall assist each Resident in obtaining other routine or special services as his needs may require, including but not limited to:
- A. Eye examinations and eye glasses; or
 - B. Auditory testing and hearing aid.
433. Medications:
- 433.1 Any medication required by a Resident must be self-administered by the Resident or administered by a licensed Home Health Agency. A Facility and its staff shall not administer any medication, other than emergency or first aid measures. Emergency measures are defined as those necessary to prevent death or trauma until the Resident can be transported to an appropriate medical facility. First aid measures are defined as those necessary immediately to relieve trauma or injury.
- 433.2 A Facility may provide training and minimal assistance or guidance to Residents who self-administer medication, including, but not limited to, reminding the Resident of the time to take the medication and reading to the Resident the medication regimen on the medication container.
- 433.3 If a Facility makes provision for administration of medication by a Home health Agency, the Home Health Agency shall be responsible for:
- A. Planning, directing, and supervising the administration of medication to Residents and assisting the Resident in ordering medications;
 - B. Reviewing each Resident's condition and medication regimen at regular intervals and documenting those reviews; and
 - C. Providing appropriate instruction to Residents in self- administration of medication and documenting those instructions.
- 433.4 Written orders, signed by a licensed medical practitioner, for all medications administered to Residents shall be retained in the Resident's records.

- 433.5 All medications shall be stored and safeguarded as follows:
- A. Medication shall be stored in a secure area; provided, however, that medications may be kept in the Resident's room in the sole discretion of the Facility depending on the capabilities of the Resident.
 - B. Prescription medications shall be properly labeled in accordance with current applicable laws and rules.
 - C. Non-prescription or over-the-counter medications must be individually labeled and kept in the original container if stored by Facility.
 - D. Stock supplies of any medication are prohibited.
 - E. Any medication which has been prescribed for but is no longer in use by a Resident shall be destroyed or disposed of in accordance with state law if stored by the Facility.
 - F. Under no circumstances will one Resident's medication be shared with another Resident.

433.6 If the Facility stores and supervises a Resident's medication, a notation shall be made on the individual record for each Resident who refuses or is unable to self-administer his medications. The notation shall include the date, time, and dosage of medication that was not taken, and a notation that the resident's attending physician was notified within a reasonable amount of time.

434. Home Health Service: Home Health Services, including skilled nursing visits and procedures, physical or speech therapy, and home health aide services, maybe provided in a Facility by a licensed Home Health Agency. Any Home Health services must be ordered by the Resident" attending physician. The Home Health Agency must provide the Facility with a complete Home Health Service Plan for a Resident, signed by the Resident's attending physician, within 72 hours of employment.
435. Supervision: A Facility shall provide, as part of services included in the basic program, supervision as is appropriate to maintain and promote the well-being of each Resident. Supervision shall mean guidance of a Resident in caring out activities of daily living and social activities including, but not limited it, reminding a Resident to maintain the medication schedule directed by the attending physician, encouraging the Resident to attend meals, reminding the Resident of important activities to be carried out, assisting the Resident in keeping appointments, and being aware of a Resident's general location even though the Resident may travel independently about the community. In the event a Resident is absent from the Facility and the Resident's location is unknown the Facility shall

immediately notify the Resident's Sponsor, the appropriate law enforcement agency, and the Office of Long Term Care. The Facility shall through supervision assure that Residents are:

- 435.1 Treated with kindness and consideration at all times and are not abused, neglected, or exploited in any manner;
 - 435.2 Dressed appropriately for the activities in which the Resident is engaged and for the weather;
 - 435.3 Encourage to participate, with staff assistance and support as needed, in social, recreational, vocational, and religious activities within the community and Facility.
 - 435.4 Encourage to perform personal hygiene activities including, as a minimum:
 - A. A tub bath or shower as desired or required;
 - B. Daily oral hygiene and, if necessary and requested by the Resident, shaving; and
 - C. Trimming and shaping of fingernails and toenails, unless prohibited by the Resident's attending physician.
 - 435.5 Not routinely confined to room or bed except as necessary for the treatment of a routine short-term illness or in conformity with behavior modification protocols in the Resident's Individual Service Plan; and
 - 435.6 Not locked in the Resident's room or restrained except in accordance with the provisions of Section 404.
436. Activities and Socialization: Each Facility shall provide, as part of the services and accommodations included in the Individual Service Plan, an organized program of individual and group activities appropriate to the Resident's needs, interests, and wishes:
- 436.1 Accommodation and space shall be provided for recreation and socialization services.
 - 436.2 Group recreation and socialization services shall be planned and available to each Resident.
 - 436.3 The Facility shall provide appropriate equipment and supplies.
 - 436.4 A schedule of group activities shall be prepared and posted in advance of its proposed implementation.

437. Unauthorized Services: No Facility shall provide medical or nursing services. No Facility shall accept or retain any Resident who requires a skilled nursing or intermediate level of care or who exhibits the conditions listed below:
- 437.1 Suffering from such a degree of behavioral or judgmental deficiency or recurrent habituation or addiction to alcohol or other drugs that the Resident is a cause of danger to the Resident or others;
 - 437.2 Is in need of a higher level of medical, mental health, or nursing care that can be rendered safely and effectively at the Facility by approved community resources, such as a licensed Home Health Agency or other community service agency;
 - 437.3 In need of a religious, cultural, or dietary regimen that cannot be met by the Facility;
 - 437.4 Suffering from a communicable or other disease of sufficient seriousness requiring in-patient medical treatment or which cannot be treated by use of reasonable means and therefore constitutes a potential danger to other Residents and staff;
 - 437.5 Is not independently mobile, as defined in Section 604.12, provided that the Facility may accept and retain Residents needing assistance with transfers or with vacating a building including if the Facility has sufficient staff available twenty-four hours a day, seven days a week, to provide assistance to all Residents requiring assistance within the time provided by the applicable fire code;
 - 437.6 Is incapable of self-administration of required medications or treatments, unless administration of medications is provided by a licensed Home Health Agency;
 - 437.7 Persons with Levines tubes, gastrostomy tubes, intravenous tubes, tracheotomies, unless management of such devices is provided by either the Resident or by a licensed Home Health Agency; and
 - 414.8. Persons with indwelling catheters, unless self-managed or managed by a licensed Home Health Agency.
438. Transfer: Facilities shall make arrangements with a licensed physician, hospital, or nursing home to transfer Residents who require skilled or intermediate nursing care or more technical nursing or medical services that those permissible within the Facility. When notified by the Office of Long Term Care, the Facility shall provide for transfer within ten (10) days of such notification. Less time may be given by the Office of Long Term Care of a Resident's life or health requires immediate medical attention. The responsibility for ensuring the Resident's care shall rest with the Facility.

439. Personal funds accounts: Each Resident shall have the opportunity to place personal funds in a Facility-maintained account.

439.1 The Facility shall administer the Resident's personal funds account as follows:

- A. All personal funds deposited by Residents in personal funds account shall be held in trust for the benefit of the Residents.
- B. A Resident's personal funds shall not be commingled with the funds of the Facility or Licensee or used by the Facility other than for the benefit of the Resident.
- C. The Facility may commingle personal funds deposited by Residents, but shall maintain individual records for each Resident showing all deposits, withdrawals, and the current balance.
- D. The Facility shall provide Residents access to their personal funds account during regular posted hours Monday through Friday.
- E. The Facility shall document all personal funds transactions and maintain copies of all paid bills, vouchers, and other payment and receipt documentation.
- F. The Facility may deposit Resident's personal funds in individual or collective federally insured accounts, which do not need to be interest bearing. If the funds are deposited in interest-bearing accounts, the Facility shall develop a procedure to prorate equitably interest to each Resident.
- G. Upon request, the Facility shall supply any Resident who has a personal funds account with a statement showing all deposits and withdrawals, and the current balance of the Resident's personal funds.
- H. Within 72 hours of receiving a request from a Resident or the Resident's Sponsor, the Facility shall pay to the Resident the balance of the Resident's personal funds account.
- I. The Facility shall provide the Office of Long Term Care with access during normal business hours to all records of Resident's personal funds account.

439.2 The Resident's personal funds account shall be used as follows:

- A. The personal funds shall, at her discretion of the resident, be used in obtaining clothing, personal hygiene items, and any other supplies, services, entertainment or transportation for personal use not otherwise provided by the Facility pursuant to the admission agreement or required by these rules
- B. The Facility shall not demand, require or contract for payment of all or any part of the personal funds in satisfaction of the Facility rate for supplies or services.
- C. The Facility shall not charge the Resident for supplies or services that the Facility is by law, rule, or the admission agreement required to provide. This also applies to medical supplies or services for which payment is known to be available for the Resident under Medicare, Medicaid, or other third party coverage.
- D. Services or major items of equipment provided by the Facility beyond those required by law, rule, or the admission agreement may be charged to the Resident only with the specific written consent of the Resident or the Resident's Sponsor unless the supplemental services or supplies are necessitated by changes in the Resident's condition. The Resident shall be furnished with an itemized statement setting forth the charges for such services or supplies provided by the Facility. Such statement shall be provided to the Resident in advance except in an emergency.

439.3 At the time of discharge of a Resident from the Facility, the Resident or the Resident's Sponsor shall be provided a final accounting of the Resident's personal funds account and issued a check for the balance. Upon the death of a Resident, a final accounting of the Resident's personal funds account and a check for the balance shall be given to the Resident's estate, subject to state law.

439.4 Upon change of ownership, the existing Licensee shall provide the new owner with a written statement of all Residents' personal funds. This statement shall verify that the balance being transferred in each Resident's personal fund account is true and accurate as of the date of transfer. At change of ownership, the new owner shall assume responsibility for Residents' personal funds account balances turned over at the change of ownership, together with responsibility for all requirements of this Section, including holding of Resident's personal funds in trust.

439.5 The Facility shall provide for inventory records and security of all monies, property or things of value which the Resident has, in writing, voluntarily authorized the Facility to hold in custody or exercise control over at the time of admission or any subsequent time.

ADMIMSTRATION, PLANT,
AND MAINTENANCE REQUIREMENTS

501. Administration: Each Facility shall have on the premises a manager or other individual delegated with supervisory authority. All communications between the Office of Long Term Care and the Facility will be through the manager. The manager or any supervisory employee must:

Be at least 21 years of age;

Be able to read or write;

Be able to understand and comply with these rules;

Be a full-time employee;

Have no prior criminal convictions under Act 28 of 1979, as amended; and

Have no prior history of abuse or neglect of others.

502. Staff. Sufficient staff shall be present at all times to meet the ordinary needs of the Residents.

503. Resident Records: Each Facility shall maintain individual records for each Resident.

The following information shall be contained in each Resident's record:

- A. Resident's name and residential address prior to admission;
- B. Resident's Sponsor's name, residential address, home telephone number, and business telephone.
- C. Name and regular emergency telephone numbers of the Resident's attending physicians;
- D. Reports of referring source;
- E. Reports of outside service referrals;
- F. Resident's Individual Service Plan;

- G. Name and home telephone of the program manager for the Resident;
- H. Evaluation reports from each service;
- L. Reports of staff conferences concerning the Resident;
- J. The Resident's Home Health Care service plan;
- K. A copy of the Resident's Rights Statement signed by the Resident or the Resident's Sponsor;
- L. Written authorization from the Resident's attending physician for any medications being received by the Resident;
- M. Any correspondence pertinent to the Resident;
- N. A list of all insurance policies insuring the life of a Resident of which the Facility is a beneficiary; and
- O. A signed copy of the Facility's admission/discharge and transfer agreement with the Resident.

The Facility shall maintain all Resident records as follows:

- A. All information and documents shall be organized in a systematic fashion and affixed to the record binder.
- B. All Resident records shall be maintained at a central location.
- C. A designated staff member shall be responsible for the control of all Resident records.
- D. An indexing and filing system shall be maintained for all Resident's records
- E. Resident records shall be stored under lock with reasonable protection against fire, water, and other hazards.

The Facility shall protect the confidentiality of Resident records as follows:

- A. Each Resident or the Resident's Sponsor shall have the right to inspect the Resident's records during normal business hours.
- B. Provide access to the agents, representatives and employees of Office of Long Term Care in furtherance of the performance of official duties.

- C. The Facility shall not disclose any Resident's records to any person or agency other than the Resident, the Resident's Sponsor, the personnel of the Facility or personnel of the Office of Long Term Care, except upon express written consent of the Resident, unless the disclosure is required by state or federal law.
- D. Any inspection, investigative reports, or written complaints which are accessible to the public shall not disclose the identity of any Resident.

Upon discharge or death, a copy of the Resident's discharge report or death certificate shall be placed in the Resident's record. The records of discharged or deceased Residents must be retained for three years but may be stored separate from the records of present Residents.

504. Dietary Services: Each Facility shall provide to its Residents food and drink which furnishes sufficient nutrients and calories based on current recommendations of the Food and Nutrition Board of the National Academy of Sciences, National Research Council.

Each Facility shall provide three balanced meals per day and have available between meal snacks. The three meals, together, shall provide the following minimum dietary requirements:

- A. Milk - Two or more cups served as a beverage or used in cooking. Fortified whole, skim, low fat milk, flavored whole or fortified milk, buttermilk, or cheese may be used. Cheese may be used as a milk substitute or as a meat substitute, but not both;
- B. Meat Group - Two or more servings of meat, fish, poultry, eggs, cheese, or equivalent; at least four or five ounces edible portions per day;
- C. Vegetable and Fruit Group - Four or more servings (two cups) which shall include citrus or other fruit, a vegetable for Vitamin C and a dark green or yellow vegetable for Vitamin A at least every other day;
- D. Other vegetables and fruits, including potatoes; and
- E. Bread and Cereal Group - Four or more servings of whole grain or enriched bread.

The Facility in serving the three meals daily shall:

- A. Serve the meals at approximately the same time each day;
- B. Assist and supervise the Residents in consumption of the meals;
- C. Serve food which is chopped, ground or pureed if necessary to meet the individual needs of a Resident.

If a Resident refuses to consume meals for more than two (2) days or shorter period, as the Resident's physician specifies, the Facility shall notify the Resident's attending physician and act on the physician's instructions.

Dining room space and furnishings shall be maintained in good repair. Dining room space and furnishings must be sufficient to serve the Residents in no more than two (2) seatings.

A supply of food must be maintained on the premises at all times. This shall include at least a 24-hour supply of perishable food and three-day supply of non-perishable. The food supply must come from sources approved by the State Department of Health.

Each Facility shall have adequate refrigeration and storage space. Refrigerator temperatures shall not exceed 45°F, and freezer temperatures shall not exceed 0°F. Thermometers shall be placed in each refrigerator and freezer. Left-over food placed in the refrigerator shall be sealed and dated and must be used within 48 hours.

All food shall be prepared, cooked, served, and stored in such manner that protects against contamination and spoilage.

The kitchen and dining area shall be cleaned after each meal.

An all purpose #5 ABC fire extinguisher shall be provided in the kitchen.

Food scraps shall be placed in garbage cans with tight fitting lids and bag liners. The liners must be sealed and the cans emptied after each meal.

All food service personnel shall have health cards and shall wear clean clothes.

505 Laundry and Linen Service:

Each Facility shall provide laundry services to its Residents. Laundry services may be provided by the Facility, by contract with an outside linen service, or by permitting Residents with supervision to do their own personal laundry.

In-house laundries shall be located in areas separate from kitchen, bathroom, and bedroom areas.

Facilities with in-house laundries shall have washers and dryers of adequate size to serve the needs of the Facility.

Laundry dryers shall be properly vented to the outside.

The laundry room shall be cleaned on a daily basis to prevent lint accumulation and to remove clutter.

Portable electric eaters or stove shall not be used in the laundry area.

The laundry room shall be well lighted and vented to the outside by either power vents, gravity vents, or by outside windows.

Resident's clothing and kitchen linens shall be washed separately from bed linens. Bed linens, including washable blankets, shall be washed at a minimum temperature of 150°F or with a disinfecting agent.

The following minimum amounts of linen shall be available in the Facility at all times:

- A. Sheets - Two (2) times the Facility's census.
- B. Pillow Cases - Two (2) times the Facility's census.
- C. Bath Towels - Two (2) times the Facility's census.
- D. Hand Towels - Two (2) times the Facility's census.
- E. Washcloths - Two (2) times the Facility's census.
- F. One blanket and one pillow for each Resident.

Bed linens shall be changed at least once a week and more often as needed. Beds shall be straightened as necessary by the Resident or staff.

506. Housekeeping:

- 506.1 Each Facility shall keep all areas clean and free of insects, rodents, and trash. All equipment and furnishings shall be maintained in good operating condition.
- 506.2 Each Residential Area shall be cleaned before each used by another Resident. Resident should be encouraged to keep their own rooms clean and supervision from Facility staff.
- 506.3 Corridors shall not be used for storage.

- 506.4 Attics, cellars, basements, below stairways, and similar areas shall be kept clean of accumulation of refuse, old newspapers, discarded furniture and other flammable or combustible materials.
- 506.5 Throw or scatter rugs must have non-skid backing.
- 506.6 Polish used on floors shall provide non-slip finish.
- 506.7 Flammable material, such as gasoline, kerosene, paint, and paint thinners, shall not be stored inside any building containing a Residential Area or in the attic of any building.
- 506.8 Metal or UL approved plastic wastepaper baskets shall be provided in Residential Areas and other areas in which Residents smoke.
- 506.9 Outside trash containers shall be equipped with covers.
- 506.10 There shall be an adequate and available supply of soap and toilet tissues for each Resident.
507. Space, Furnishings, and Equipment:
- 507.1 All rooms, including bedrooms, shall have light switches at the entrance to the room.
- 507.2 Windows shall be kept clean and in good repair and supplied with curtains, shades, or drapes. Each window shall have a screen which is clean and in good condition.
- 507.3 Light fixtures shall be equipped with covers to prevent glare and hazards to the Residents.
- 507.4 All fans located within seven (7) feet of the floor shall be protected by screen guards of not more than one-fourth inch mesh.
- 507.5 All Resident bedrooms shall have a hinged door in working order.
- 507.6 All Facilities shall have at least one telephone available for outside calls for every forty (40) Residents.
- 507.7 All Residential Areas shall be decorated, painted, and appropriately furnished.
- 507.8 All furnishings and equipment shall be durable, clean, and appropriate to its functions.
- 507.9 All areas shall be well lighted to insure Residents safety.

508. Residential Areas.

- 508.1 Each Residential Areas shall have living room space meeting the following requirements:
- A. At least 20 square feet of living room space must be provided for each licensed bed in the Residential Area.
 - B. The living room space shall be easily accessible to all Residents residing in the Residential area.
 - C. Living rooms shall not be used as bedrooms
 - D. Living rooms shall be available or use by Residents at appropriate times to provide periods of social diversion and individual or group activities.
- 508.2 Each Residential Area shall have dining room space meeting the following requirements:
- A. Sufficient dining room space shall be provided to allow the serving of all Residents regularly utilizing it in not more than two seatings.
 - B. Each dining room shall be readily accessible to the Residents utilizing it.
 - C. Each dining room shall be furnished with sufficient dining tables and chairs to serve all Residents regularly utilizing it in not more than two seatings.
 - D. Dining room areas may serve more than one Residential Area may serve the entire Facility.
- 508.3 Dogs and cats may be permitted in Residential Areas if a pet therapy plan for the Facility has been approved by the Office of Long Term Care and the pets are maintained as part of a Resident's Individual Service Plan. Guide dogs for the visually impaired are permitted without approval of the Office of Long Term Care. Proper sanitary conditions must be maintained by the Facility.

509. Baths and Toilets:

- 509.1 In Residential Areas, there shall be a minimum of one toilet and one lavatory for each six Residents. A minimum of one tub or shower shall be provided for each ten Residents. In educational and administrative areas, the requirements of the Arkansas State Plumbing Code shall be satisfied.
- 509.2 Each bathroom shall have a door in working order.
- 509.3 If the Facility accepts Residents who must use wheelchairs of other assistive devices, the Facility shall insure that adequate accessible bath and toilet facilities are available to such Residents.

- 509.4 Hot water tanks serving bathroom fixtures shall be maintained on the lowest possible setting to avoid possible burns to Residents. No tank shall be located in a Residential Area. Each tank shall have a pressure release valve. In all Facilities which commence operation after adoption of these rules and in all future construction at all Facilities, an adjustable thermostatically controlled mixing valve shall be installed at the hot water tank on all hot water heaters.
- 509.5 Bathrooms shall provide privacy for each Resident.
- 509.6 Toilet and bathing facilities shall be vented to the outside.
510. Bedrooms:
- 510.1 No bedrooms shall be below ground level. If the floor level of a bedroom is above grade on one exterior wall, the bedroom shall not be considered to be below ground level. For natural ventilation each bedroom shall have an outside window with openings equal to one-eighth of the floor space. The opening of windows may be restricted if necessitated by a Resident's condition or behavior.
- 510.2 A bedroom occupied by a single Resident shall contain at least 80 square feet, exclusive of entrance way and closet space.
- 510.3 A bedroom occupied by more than one Resident shall provide at least 80 square feet for the first Resident and at least 60 square feet for each additional Resident. The beds shall be at least three feet apart.
- 510.4 No more than three Residents shall share a bedroom.
- 510.5 Each Facility shall furnish every bedroom with the following equipment:
- A. A standard or single bed in good repair for each Resident. Rollaway beds, cots, and folding beds shall not be used;
 - B. Each bed shall be equipped with well-constructed springs and mattresses in good repair, and a clean comfortable pillow;
 - C. Suitable furniture and storage facilities for personal articles for each Resident; and
 - D. At least three linear feet of closet or locker space shall be provided for each Resident.

510.6 Male and female Residents shall not have adjoining bedrooms which do not have full floor-to-ceiling partitions and closable solid core doors. Male and female Residents shall not be permitted to co-habitate outside the bounds of matrimony.

511. Other Plant Requirements:

511.1 An adequate supply of potable water, under pressure, shall be provided at all times. When public water systems is available, a connection to it shall be made. If water from a source other than public water supply is used, the supply shall meet the requirements set forth under Rules of the State Board of Health.

511.2 All sewage shall be disposed of by means of either:

- A. A public system, if one is accessible within 300 feet, or
- B. An approved sewage disposal system which is constructed and operated in conformance with the standards established for such systems by the Arkansas State Board of Health.

511.3 All plumbing shall be installed and maintained in accordance with the Arkansas State Plumbing and Gas Code.

511.4 Electrical wiring, fixtures, appliances, motors, and other electrical equipment shall be installed in accordance with the national electrical code NFPA Pamphlet #70 and shall comply with the local regulations and codes where they exist. The use of extension cords is strictly prohibited

511.5 All heating units or systems shall comply with the following requirements:

- A. All liquefied petroleum gas systems must be installed and maintained in accordance with the State Code for liquefied Petroleum Gas Containers and Equipment, State of Arkansas.
- B. All gas heating units shall bear the stamp of approval of the American Gas Association Testing Laboratories, Inc., or other nationally recognized testing agency for enclosed, vented heaters for the type of fuel used.
- C. All gas heating units and water heaters shall be vented adequately to care the by-products of combustion to the outside atmosphere. Vents shall be constructed and maintained to provide a continuous draft to the outside atmosphere in accordance with the American Gas Association Recommended Procedures.

- D. All heating units shall be provided with a sufficient supply of outside air so as to support combustion without depletion of the air in the occupied room.
- E. All heating and cooling units must be installed and maintained in a manner which will provide for the safety and comfort of the occupants.
- F. Wood heaters may be used if UL approved and installed per UL instructions.

511.6 Facilities must be operated in areas permitted by local zoning codes. Each Facility shall provide the Office of Long Term Care with documentation that the Facility is in compliance with zoning Requirements.

511.7 Conditions of soil, groundwater level, drainage and topography shall not create hazards to the property or to the health and safety of the occupants. The site shall not be subject to unpredictable flooding and shall be large enough to provide an exercise area for Residents.

512. Safety Standards:

512.1 Life Safety Code 1985, Chapters I through 7 shall apply to all buildings containing Residential Areas. Chapters 16, 18, 20, and 21, as appropriate, shall apply to buildings containing Residential Areas, depending on the living and structural arrangement of each building.

512.2 Tornado drills shall be conducted annually and documented. Fire drills shall be conducted quarterly and documented. Smoke detectors checked monthly and documented. Fire extinguishers 5 #ABC shall be located in bedroom areas.

512.3 Steam pipes and heating pipes with which Residents may come in contact shall be covered to prevent injury or burns.

512.4 Grab bars shall be provided in Resident bathrooms for toilets, tubs, and showers. Bathtubs shall be equipped with non-slip surfaces.

512.5 Bedrooms must access directly to an exit corridor. Access to toilet and bathing areas shall not be through another Resident's bedroom. Access to bedroom areas shall not be through toilet or bathing areas.

512.6 Any practices which create a fire hazard are prohibited, including but not limited to:

- A. Portable electric space heaters or self-contained, fuel-burning space heaters, unless specifically authorized by the Office of Long Term Care in writing;
- B. Use of electrical cooking appliances or mini-kitchens in Resident's bedrooms;
- C. Combustible containers for smoking material or ashes;
- D. The accumulation of combustible material, such as rags, paper items, and general trash, and
- E. Unsafe storage of oil-based paints, varnishes or other flammables.

512.7 Doors in Resident bedrooms may be secured by the Resident provided such doors can be unlocked from the outside and keys are available to staff at all times.

512.8 Chain locks, clasps, bars, padlocks, and similar devices on doors shall not be used in any area of the Facility intended for use by Residents.

512.9 A diagram of the building shall be posted in each building showing exits and fire extinguishers.

512.10 Emergency telephone numbers shall be posted in large print in each building. The list shall include fire department, police department, physician, ambulance service, poison control center, emergency services, and the Office of Long Term Care.

513. Maintenance:

513.1 Each Facility shall establish and conduct a maintenance program to insure the continued maintenance of the Facility's plant, to promote good housekeeping procedures, and to insure sanitary practices.

513.2 Each Facility shall:

- A. Maintain the building and grounds in a clean, orderly condition in good repair;
- B. Maintain draperies and furniture in good and safe repair;
- C. Promptly replace or repair cracks in plaster, peeling wallpaper or paint, missing or damaged tiles, and tears or splits in floor coverings;

- D. Maintain the electrical systems, including appliances, cords, and switches, in compliance with the state and local codes;
- E. Maintain plumbing and plumbing fixtures in compliance with Arkansas Plumbing and Gas Codes;
- F. Maintain ventilation, heating, air conditioning, and air changing systems. Gas systems shall be inspected at least every 12 months to assure safe operation. Inspection certificates, where applicable, shall be maintained for review;
- G. Maintain the building, grounds and other buildings free of breeding areas for flies, other insects, and rodents;
- H. Maintain entrances, exits, steps, and outside walkways free from ice, snow, and other hazards; and
- L. Repairs or additions must meet then-existing building codes.

MISCELLANEOUS PROVISIONS

601. Severability: If any provision of these rules, or their application to any person or circumstance is held invalid, such invalidity shall not affect other provisions and application of these rules which can be given effect without the invalid provisions or applications, and to this end the provisions of the rules are declared to be severable.
602. Interpretation: Whenever in these rules any word importing the singular or plural number is used in describing any matter, person, or thing, the word shall be deemed to include the plural or singular.
603. Judicial Power of Enforcement:
- 603.1 The Office of Long Term Care may bring an action for a temporary restraining order, preliminary injunction, or permanent injunction against the Licensee of a Facility to enjoin one or more of the following:
- A. Operation of:
 - 1. An unlicensed Facility;
 - 2. A previously licensed Facility which has had its license suspended or revoked; or
 - 3. A licensed Facility for which procedures for non- renewal or revocation of the Facility's License has been initiated and an emergency exists.
 - B. Acts or omissions which constitute a continuing violation of these rules;
 - C. Admission of new Residents into a Facility:
 - 1. Which is operating without a license;
 - 2. Which has had its license suspended or revoked;
 - 3. Which is presently involved in proceedings for non- renewal, suspension, or revocation of the license and an emergency exists; or

4. In which continued admissions into the Facility will place the lives, health, safety, and welfare of the present and future Residents in imminent danger.

603.2 The Office of Long Term Care may relocate Residents from a Facility if any of the following conditions exists:

- A. One or more violations remain uncorrected after efforts seeking compliance have failed, and the violation significantly impairs the Facility's ability to provide an adequate level of services and assistance to its Residents;
- B. An emergency exists in the Facility;
- C. The Licensee voluntarily closes the Facility; or
- D. The Facility requests the aid of the Office of Long Term Care in the removal of Residents and the removal is made:
 1. With consent of the Residents;
 2. For valid medical reasons; or
 3. For the welfare of the Resident or other Residents.

603.3 The Office of Long Term Care may suspend the admission of Residents to a Facility on the following grounds:

- A. One or more deficiencies that directly affect the health and safety of Residents remain uncorrected after efforts seeking compliance have failed and the effect of the violation or violations is to impair significantly the Facility's ability to provide an adequate level of services or assistance to its Residents; or
- B. An emergency exists in the Facility. Before new admissions are suspended, the Licensee shall receive prompt notice of the Office of Long Term Care's decision. The suspension shall terminate upon the Office of Long Term Care's determination that the Facility is in substantial compliance or upon successful appeal of the suspension by the Licensee.