DEPARTMENT OF HEALTH AND SOCIAL SERVICES

DIVISION OF LONG TERM CARE RESIDENTS PROTECTION

Statutory Authority: 16 Delaware Code, Section 1101 (16 **Del.C.** §1101)
16 **DE Admin. Code** 3201

FINAL

ORDER

3201 Skilled And Intermediate Care Nursing Facilities

Nature of the Proceedings

The Department of Health and Social Services, Division of Long Term Care Residents Protection (DLTCRP) initiated proceedings in accordance with 29 **Del.C.**, Ch. 101 to adopt Regulations for Skilled and Intermediate Care Nursing Facilities. On November 1, 2008, DLTCRP published proposed regulations in the *Register of Regulations* and received written and verbal comments at public hearings on December 2 and December 4, 2008.

Upon review of the comments received, the Division of Long Term Care Residents Protection has made non-substantive changes to five sections; 6.6.4, 6.9.6, 6.11.2.1, 6.11.2.2 and 7.6.5.

The evaluation of the comments received is in the accompanying Summary of Evidence.

Findings of Fact

The Department of Health and Social Services finds that the proposed regulations, as set forth in the attached copy, should be adopted as final regulations. Therefore, it is ordered that the proposed Regulations for Skilled and Intermediate Care Nursing Facilities are adopted effective January 11, 2009.

Summary of Evidence

Comments on the proposed regulations have been received and evaluated as follows:

The regulations are intended to clarify but not repeat state laws. Therefore, except for purposes of explanation in limited circumstances, the Division has not incorporated repetitions of law in the regulations. Commenters proposing such inclusions are referred to the title page of the regulations which specifies that the regulations should be read in conjunction with applicable statutes.

Similarly, these regulations cannot and do not override any statute, which always takes precedence over regulations. Therefore, for example, employees exempt from criminal background checks under the law remain exempt under these regulations.

A commenter suggested that the Division delete the phrase “should the individual become incapacitated” from the definition of “advance directive.” The definition as written accords with statutory language.

A comment called attention to the regulation requiring facilities to comply with the applicable residents rights sections of 42 CFR “and/or” 16 **Delaware Code**. The comment described the use of “and/or” as “disjunctive.” The use of “and/or” is deliberate and reflects the fact that most but not all nursing facilities are subject to federal regulations while all are subject to state law.

With regard to the requirement to document an employee’s refusal to be vaccinated against influenza, one comment speculated that an employee may not be forced to sign such a refusal. The regulation does not specify that documentation of such a refusal be accompanied by an employee’s signature.

Another similar comment described documentation of influenza vaccination or refusal to be vaccinated as worthless unless accompanied by a requirement for vaccination. To the contrary, since influenza outbreaks occur

periodically in nursing facilities, a record of when and whether employees have been vaccinated is useful information.

A comment objected to the requirement that the director of nursing or a nurse designee participate in the selection of prospective residents. The comment indicated that directors of admission could make decisions regarding admission. This regulation is not newly proposed, but rather exists in current regulations. Its purpose is to ensure that admissions to a facility take into consideration the nursing needs of each prospective resident and the nursing competencies required to care for each resident.

Comments expressed concern regarding the regulation permitting residents to receive prescription medications from the pharmacy of the resident's choice. The comments raised concerns about similar dispensing systems, stat medications or new orders during holidays or weekends and also questioned the reliability of possibly depending on others such as family members to provide the required medications. The purpose of this regulation is to prohibit the practice of some facilities from denying residents access to routine medication when residents are entitled to receive medication from the Veterans Administration. To the extent that certain medications are unavailable in specific circumstances, the regulation does not envision a resident being denied medication from an alternative source.

Comments described the proposed regulation regarding the division of medication doses by individual and by administration time as unworkable. That proposed regulation has been deleted from the final regulations.

Several comments urged the Division to adopt regulations which would establish definitions or regulations in conflict with the federal regulations which apply to the overwhelming number of nursing facilities. For example, a commenter suggested a more comprehensive definition of "restraint" than that contained in the proposed regulation.

Similarly, in the definition of "social worker," a comment suggested deleting a degree in sociology as an acceptable educational requirement while the federal regulations accept such a degree. Another comment urged the reduction of the number of medications triggering a pharmacy review to eight, in contrast to the federal regulation which specifies nine medications. In each instance, the Division declines to establish a conflicting definition.

A comment proposed a minor grammatical change. The Division finds the proposal to be inconsequential to the meaning of the regulation.

Several comments questioned as inadvertent duplication the requirements for physician and pharmacist reviews of medications within ten days for residents admitted or readmitted from the hospital with orders for nine or more medications. The physician and pharmacist reviews are both requirements which are intended to address the problem of polypharmacy which the Division observes as often associated with initial admission or readmission from a hospital to a nursing home. In this instance, the Division is intentionally imposing a stricter requirement than the federal regulation which requires a pharmacy review within 30 days.

A comment objected to the medication reviews as requiring the facility to practice medicine and as intended to enable the Division to cite facilities. Under federal regulations, a facility is responsible for the use of unnecessary or excessive drugs. This regulation reduces the nursing facility's potential for a citation by requiring physician and pharmacist reviews in a more timely manner than the federal requirement.

The proposed regulations require an accounting of each resident's personal funds quarterly or upon request. A comment proposed monthly statements. Since the information is to be available upon request, such a change is unnecessary.

One comment proposed the addition of a definition of "advanced practice nurse." Terms such as "registered nurse," "licensed practical nurse," and "advanced practice nurse" all reflect specific categories of licensure in commonplace usage in the field of health care and do not require definition in these regulations.

Several comments pertained to the appropriate roles of registered nurses and licensed practical nurses. The Nurse Practice Act differentiates those roles.

Regulations pertaining to nursing staffing and staffing by a certified nursing assistant qualified to assist with self-administration of medication apply only to facilities offering intermediate care. These regulations upgrade current requirements. The nursing staffing for all skilled facilities is as specified in statute.

One comment called for the resident's comprehensive assessment to include assistive technology. That topic is adequately addressed in the responsibilities for the facility's social services.

A comment called attention to differing language in the assisted living and neighborhood home regulations regarding food service from that which appears in these regulations. An assumption that each set of regulations should contain identical wording would fail to take into account the differing circumstances of residents in various types of facilities.

A comment erroneously states that the regulations disallow self-administration of medications. Further, the comment refers to lotion and lip balm as medications, neither of which would fall under a description of medication were a resident deemed to be inappropriate for self-administration of medication.

These regulations specify that new construction, extensive remodeling or conversions to a nursing facility comply with current Guidelines for Design and Construction of Health Care Facilities. Implicit in that requirement is a recognition that the current Guidelines may not have existed when some facilities were built and may not exist in their current form when new facilities are built in the future. The Division is not requiring facilities to remodel except under the circumstances specified in the regulation, and is requiring the remodeling, not the entire facility, to meet the current requirements. Consequently, the Division declines to prohibit facilities from using four-bed rooms and declines to impose new requirements on cottages at the Stockley Center.

A commenter called attention to a conflict with DNREC regulations regarding the inclusion of “fecal matter and biological liquid waste” under “Infectious Waste.” That proposed regulation has been deleted from the final regulations.

A comment proposed that the Division regulate off-site laundries. The Division has no authority over commercial laundries. In any event, safe laundering practices, such as those suggested in the comment, are in routine use by both in-house laundries and off-site laundries.

While a comment indicated that the requirement that each resident be provided with a “chair suitable for resident relaxation” was subject to some confusion, the Division finds that regulation to be clear in its intent.

A proposal recommends changing the record retention requirements in these regulations. The Division considers those requirements to be adequate and declines to increase them.

Another commenter criticized both the use of “absolute” terms and indefinable terms. Where terms such as “shall” and “every” are used, they convey that compliance with the regulation is mandatory. The examples of indefinable terms cited in the comment track the federal regulations, and those terms are currently in effect for skilled nursing facilities.

Similarly, a comment objects to the inclusion in these regulations of federal requirements for plans of correction. This regulation standardizes for all nursing facilities the requirements which presently apply to all skilled nursing facilities.

A comment objects to the requirement that all resident records be transferred with the resident when a facility closes. Access to such records by the resident, or the resident’s new facility is a reasonable requirement.

A comment misstates the requirement to notify the Division when the administrator will be absent for longer than two weeks. The regulation simply clarifies the statutory requirement that a nursing home operate under the direction of a nursing home administrator.

The requirement that each resident be provided with an over-bed table was described in a comment as “an antiquated concept.” Facilities routinely provide such tables for residents.

Another comment stated that physician assistants are barred by federal regulation from alternating visits with a physician. There is no such federal prohibition.

A commenter suggested there was confusion between the terms “initial” visit and “full H&P” with regard to the conduct of such visits by the physician or an advanced practice nurse. The regulations require both the initial visit and the history and physical to be performed by the physician. These regulations require that the initial visit occur within 14 days, not 30 days, of admission.

In reference to several proposed regulations, comments urged the Division to establish precise timeframes for various actions. The Division declines to impose such restrictions.

A comment urged that all medications be verified at the time of a resident’s admission. Current practice includes such a review either at the time of admission or prior to admission.

A comment proposed that each resident’s weight be obtained and documented monthly. The regulations include such a requirement.

Another comment related to the availability of therapy services on weekends. Therapy services are provided in accordance with a physician order.

One comment stated a belief that facilities are frequently short-staffed. Individuals who have reason to believe that a facility is staffed below the legal requirement should contact the Division with that complaint.

A comment suggested that facility inspections should be frequent short spot checks rather than systematic inspections. Inspections are conducted in accordance with federal requirements.

A commenter objected to facilities admitting Medicare-eligible residents for rehabilitation in preference to other residents. Facility admission decisions related to payer source are beyond the authority of these regulations as long as the facility is able to provide the required services.

Comments were received pertaining to hospice services and certified nursing assistant training. Both those issues are the subject of separate regulations.

~~3201 Nursing Home Regulations For Skilled Care (Formerly Regulation No. 57)~~

~~1.0 Definitions~~

~~**"Nursing Home"** is an institution that provides permanent facilities that include in-patient beds and medical services, including continuous nursing services, to provide treatment for patients who do not currently require continuous hospital services. Nursing homes may have various levels of care; however, in no case will a patient be cared for in an area designated at a lower level of care than his needs, as determined by a physician. Nursing homes shall be subject to all applicable code requirements of the State Fire Prevention Commission.~~

~~**"Skilled Care"** - Nursing Home provides care given in accordance with a physician's orders, updated at least every thirty (30) days, and requiring the competence of a registered professional nurse. Twenty four (24) hour nursing service, which is sufficient to meet the nursing needs of all patients must be provided under the direction of a full-time registered professional nurse. There shall be a registered professional nurse in charge of nursing activities during each tour of duty.~~

~~2.0 Glossary of Terms~~

~~**"Activities of Daily Living"** - getting out of bed, bathing, dressing, eating and ambulation.~~

~~**"Continuous"** - available at all times without cessation, break or interruption.~~

~~**"Direction"** - authoritative policy or procedural guidance for the accomplishment of a function or activity.~~

~~**"Facilities"** - the site, physical structure and equipment necessary to provide the required service.~~

~~**"Inpatient Beds"** - accommodations with supportive services (such as: food, laundry, housekeeping) for patients who generally stay in excess of twenty-four (24) hours.~~

~~**"Institution"** - the term "institution" as it appears in these regulations is used to refer to all facilities covered by **16 Del.C. §1101.**~~

~~**"Licensed Health Practitioner"** - dentist, podiatrist, occupational or physical therapist or any health practitioner licensed to practice in the State of Delaware.~~

~~**"Licensed Practical Nurse"** - a nurse who is licensed to practiceas a practical nurse in the State of Delaware.~~

~~**"Medical Services"** - the services pertaining to medical care and performed at the direction of a physician in behalf of patients; by physicians, dentists, nurses or any other professional or technical personnel.~~

~~**"Nurse Aide/Nurse Assistant"** - an individual under the supervision of a licensed nurse, who provides care that does not require the judgement and skills of a licensed nurse. The care may include but is not limited to the following: bathing, dressing, grooming, toileting, ambulating, transferring and feeding, observing and reporting the general well being for the person(s) to whom they are providing care.~~

~~**"Nursing Service Personnel"** - those licensed or unlicensed persons giving direct services to the patients, pertaining to the curative, restorative or preventive aspects of nursing care, supervised by a registered professional nurse or a licensed practical nurse.~~

"Nursing Services" - those medical services pertaining to the curative, restorative or preventive, aspects of nursing care that are performed and/or supervised by a registered professional nurse or a licensed practical nurse, at the direction of a physician.

"Patient" - a person admitted to the nursing home because of illness and for whom there is planned continuing medical care, including nursing care, directed toward improvement in health, or for whom palliative medical measures are required though improvement in health or recovery cannot be expected.

"Personal Care Services" - those health related services that include general supervision of, and direct assistance to, individuals in their activities of daily living.

"Physician" - a physician licensed to practice in the State of Delaware.

"Registered Professional Nurse" - a nurse who is a graduate of an approved school of professional nursing and who is licensed to practice in the State of Delaware.

"Rehabilitation" - the restoration of an ill or injured person to self-sufficiency at his highest attainable level.

"Restraint" - insofar as these regulations are concerned, restraint shall mean giving comfortable support and protection by limiting activity hazardous to the patient and/or others.

"Supervision" - direct overseeing and inspection of the act of accomplishing a function or activity.

3.0 Licensing Requirements and Procedures

3.1 When an institution is classified under this Law and/or Regulations and plans to construct, extensively remodel or convert any buildings, two (2) copies of properly prepared plans and specifications for the entire institution is to be submitted to the Division of Public Health. An approval, in writing, is to be obtained before such work is begun. After the work is completed, in accordance with the plans and specifications, a new license to operate will be issued.

3.2 Separate licenses are required for institutions maintained in separate locations, even though operated under the same management. A separate license is not required for separate buildings maintained by the same management on the same grounds. A license is not transferrable from person to person nor from one location to another.

In the event of the sale of a nursing home, the prospective buyer may be informed of the waivers which were officially granted the previous owner. The Division of Public Health may grant the new owner of the nursing home the same waivers which had been granted to the former owner, with the condition that a plan for correcting all deficiencies within a reasonable time may be required to be submitted to and be acceptable to the Office of Health Facilities Licensing and Certification prior to the issuance of a license.

3.3 The license shall be conspicuously posted.

3.4 All applications for renewal of licenses shall be filed with the Division of Public Health at least thirty (30) days prior to expiration. Licenses will be issued for a period of not to exceed one (1) year, twelve (12) months.

3.5 Licenses are issued with reference to levels of care. The number of patients and the type of patients shall be in accordance with the license.

4.0 General Requirements

4.1 All required records maintained by the institution shall be open to inspection by the authorized representatives of the Division of Public Health.

4.2 The term "nursing home" shall not be used as a part of the name of any institution in this State, unless it has been so classified by the Division of Public Health.

4.3 Each institution shall submit a quarterly report to the State Board of Health by the 15th of January, April, July and October, for the quarter or any part of a quarter ending the last day of December, March, June and September, on forms provided by the Division of Public Health.

4.4 No rules shall be adopted by the licensee or administrator of any institution which are in conflict with these regulations.

4.5 The Division of Public Health shall be notified, in writing, of any changes in the administrator, assistant administrator or director of nurses.

4.6 The nursing home must establish written policies regarding the rights and responsibilities of patients, and these policies and procedures are to be made available to patients, guardians, next of kin, or sponsoring agency(ies). (See Appendix A - Patient's Bill of Rights)

4.7 Each facility shall exhibit with the admission agreement to all patients or their sponsors a complete statement enumerating all charges for services, materials and equipment which shall, or may be, furnished to the patient during the period of residency.

4.8 Each facility shall make known, in writing, the refund and prepayment policy at the time of admission, and in the case of third party payment, an exact statement of responsibility in the event of retroactive denial.

5.0 Plant, Equipment and Physical Environment

5.1 Site Provisions:

Each institution shall be located on a site which is considered suitable by the Division of Public Health. Site must be easily drained, must be suitable for disposal of sewage and furnishing a potable water supply.

5.2 Water Supply and Sewage Disposal:

5.2.1 The water supply and the sewage disposal system shall be approved by the Division of Public Health and the Department of Natural Resources and Environmental Control respectively.

5.2.2 The water system shall be designed to supply adequate hot and cold water, under pressure, at all times.

5.2.3 Hot water at shower, bathing and handwashing facilities shall not exceed 110°F (43°C).

5.3 Building:

5.3.1 All new construction, extensive remodeling or conversions shall comply with the standards set forth under the "Long Term Care" section of the current or subsequent editions of "General Standards of Construction and Equipment for Hospitals and Medical Facilities", a publication of U.S. Department of Health and Human Services.

5.3.2 Window space shall not be less than one tenth (1/10) of the floor space. Up to a 25% reduction can be allowed when approved mechanical ventilation is utilized in multi-bed rooms.

5.3.3 All windows in rooms to be used by patients are to be constructed to eliminate drafts and to provide adequate light and ventilation, and easy to open and close.

5.3.4 The building shall be so constructed and maintained to prevent the entrance or existence of rodents and insects at all times. All exterior openings shall be effectively screened during the fly season. Screen doors shall open outward. All screening shall have at least sixteen (16) mesh per inch.

5.3.5 Patient's rooms shall open directly into a corridor.

5.4 Plumbing:

The plumbing shall meet the requirements of all municipal or county codes. Where there are no local codes, the provisions of the Division of Public Health Sanitary Plumbing Code shall prevail.

5.5 Heating:

The heating equipment for all living and sleeping quarters shall be adequate, safe, protected and easily controlled. It shall be capable of maintaining the temperature in each room used by patients at a minimum of 72°F (21°C).

5.6 Lighting:

Each room must be suitably lighted at all times for maximum safety, comfort, sanitation, and efficiency of operation. A minimum of 30 foot candles of light shall be provided for all working and reading surfaces, and a minimum of 10 foot candles of light on all other areas. This includes hallways, stairways, storerooms and bathrooms.

5.7 Safety Equipment:

5.7.1 To prevent slipping, staircases shall have stair treads and sturdy handrails.

5.7.2 Stairways shall be well lighted with electric switches at the top and the bottom, and shall have a night light.

5.7.3 Hallways shall have night lights. Hallways shall have handrails on both sides of corridors.

5.7.4 Low windows, open porches, changes in floor level and danger areas on the grounds shall be protected.

5.7.5 Floor surfaces shall not be slippery and shall be kept in good repair. If rugs are used, they should be large enough so that they will not slip nor curl up at the edges.

5.7.6 Bed side rails and safety gates at stairs shall be available.

5.7.7 All doors for areas used by patients shall be capable of being opened from both sides.

5.8 Bedrooms:

5.8.1 Each room shall be well lighted and well ventilated. Each room shall be an outside room with at least one (1) window opening directly to the outside. The window sill shall be at least three (3) feet above the floor and above grade. Windows shall be so constructed as to allow a maximum of sunlight and air and to eliminate drafts, and easy to open and close.

5.8.2 Bedrooms for one (1) person shall be at least 100 square feet in size and bedrooms for more than one (1) person shall provide at least 80 square feet of floor space per person and be adequately spaced for patient care. (Minimum room areas are exclusive of toilet rooms, closets, lockers, wardrobes, alcoves or vestibules.) The ceiling shall not be less than seven (7) feet from floor.

5.8.3 Each bedroom shall have walls that go to the ceiling and also have a door that can be closed.

5.8.4 The beds shall be at least four (4) feet apart. Cubicle curtains or bed screens shall be available for each bed in multi bed rooms to insure privacy for patients.

5.8.5 Adequate electrical outlets shall be conveniently located in each room and each room shall have general lighting and night lighting. A reading light shall be provided for each patient. At least one light fixture shall be switched at the entrance to each bedroom.

5.8.6 Walls shall be finished in colors which are light and cheerful.

5.8.7 Bedrooms shall not be arranged in such a way that the only means of communication to the outside is through another room.

5.8.8 One (1) or more rooms, vented to the outside, shall be provided with private toilet and handwashing facilities and available for patients who are critically ill or who require isolation.

5.8.9 Facilities shall insure adequate privacy and separation of sexes in sleeping arrangements, except in cases of husband and wife.

5.8.10 If bedroom doors of patients are locked, all persons on duty must carry a master key for those locks.

5.8.11 The maximum capacity per room shall be four (4) patients.

5.9 Bathrooms:

5.9.1 Bathrooms shall be constructed so that the walls and floors are impervious to water. At least one (1) window or mechanical ventilation to the outside shall be provided. Floors shall not be slippery.

5.9.2 Bathtubs or showers shall be provided at the rate of one (1) for each twelve (12) beds which are not otherwise served by bathing facilities within patient's rooms. At least one (1) bathtub shall be provided in each nursing unit. Each tub or shower shall be in an individual room or enclosure which provides space for the private use of the bathing fixture, for drying and dressing, and for a wheelchair and attendant. Showers in central bathing facilities shall be at least four (4) feet square, without curbs, and designed to permit use by a wheelchair patient.

5.9.3 When toilets, washbasins and showers are in the same room, provisions shall be made for privacy. At least one (1) toilet for every four (4) patients and one (1) washbasin, with hot and cold water, for every four (4) patients shall be located on the floor occupied by the patients.

5.9.4 Each toilet, bathtub or shower used by the patients shall be provided with a substantial handgrip.

5.9.5 Bathrooms shall be equipped with a permanently mounted signalling device for emergencies.

5.9.6 Separate bathroom facilities shall be provided for the staff in facilities with more than four (4) patients and shall include handwashing facilities, soap and individual towels.

5.9.7 Adequate facilities shall be provided for the orderly storage of employee's clothing and personal belongings.

5.9.8 Doors are to be wide enough for wheelchairs.

5.10 Dayroom and Dining Area:

5.10.1 Allow at least 30 square feet per bed for the first 100 beds and 27 square feet per bed for all beds in excess of 100; in areas furnished for patient dining, recreational and social activities.

5.10.2 The dining area shall be large enough to accommodate all patients that are not confined to their rooms. Patients are to be encouraged to eat in the dining room if their condition permits, even if a wheelchair is needed.

5.10.3 When a multi-purpose room is used, it shall have sufficient space to accommodate all activities to prevent interference one with the other.

5.11 Kitchen and Food Storage Areas:

The Division of Public Health's Regulations Governing the Sanitation of Public Eating Places shall apply to institutions and are appended hereto.

5.12 Sanitation and Housekeeping

5.12.1 A ventilated janitor's closet shall be provided for each nursing unit or floor. This closet will contain a service floor level sink; hot and cold water with a mixing faucet.

5.12.2 All areas used for soiled linen are to be vented directly outside and have a higher air removal rate than the surrounding area.

5.12.3 If linen chutes are used, they will be provided with adequate means of cleaning.

5.12.4 Linen Services.

5.12.4.1 On Site Processing Requirements:

The laundry shall include: One room with separate areas for receiving, sorting and washing of soiled linen; one room for drying, mending and storing clean linen and handwashing facilities immediately accessible to both the preceding areas.

5.12.4.2 Off Site Processing Requirements:

A soiled linen holding room and a clean linen receiving and storage room.

5.12.4.3 There shall be a reasonable amount of clean linen available at all times.

5.12.5 A suitable bedpan cleaning unit shall be available unless disposable bedpans are used throughout the facility.

5.12.6 All rooms and every part of the building shall be kept clean, orderly and free of offensive odors.

5.13 Nursing Equipment and Supplies:

5.13.1 There shall be sufficient equipment and supplies for nursing care to meet the needs of each patient. It shall be the responsibility of the administrator to obtain specific items required for individual cases when so requested by the attending physician or supervisor of nursing services.

5.13.2 Each patient shall be provided with:

5.13.2.1 A bed in good repair and having a comfortable, well-constructed mattress. The mattress shall be covered or protected with non-porous material.

5.13.2.2 A satisfactory bedside stand with a drawer and provisions for a towel rack, bedpan, urinal, emesis basin and washbasin.

5.13.2.3 A minimum of at least two (2) drawers in a dresser or chest of drawers.

5.13.2.4 A private enclosed space for hanging clothing.

5.13.2.5 A comfortable chair.

Furniture shall be so arranged and located as to provide convenient access to patients.

5.13.3 Each bedroom shall be provided with a wall, door or dresser mirror.

5.13.4 Overbed tables or lap tables shall be provided for patients who are unable to take meals in the dining room.

5.13.5 Cubicle curtains or screens shall be provided around each bed in bedrooms occupied by more than one (1) patient.

5.13.6 A nurse's call system shall be provided for each patient. This system shall have a call button or equivalent accessible to each bed, and also be permanently mounted in each toilet room, bathroom and shower room used by patients.

5.13.7 There shall be sufficient space and facilities available for the proper cleansing, disinfection, sterilization and storage of nursing supplies and equipment.

5.13.8 The nursing home shall provide safe storage for patient's valuables.

6.0 Fire Safety

6.1 Fire safety in nursing homes shall comply with the adopted rules and regulations of the State Fire Prevention Commission. Enforcement of the Fire Regulations is the responsibility of the State Fire Prevention Commission. All applications for license or renewal of license must include, with the application, a letter certifying compliance by the Fire Marshal having jurisdiction. Notification of non-compliance with the Rules and Regulations of the State Fire Prevention Commission shall be grounds for revocation of license.

6.2 The staff shall be made familiar, by regular fire drills, at least quarterly, with emergency and evacuation plans. Written records should be kept of attendance and content of such drills. Emergency plans shall be posted in a conspicuous place at each nursing station. Orient staff on all shifts, all members must participate.

7.0 Skilled Nursing Care

7.1 There shall be a registered professional nurse on duty each shift, seven (7) days a week.

7.2 There shall be a sufficient number of nursing service personnel to provide a minimum of 2.50 hours of direct care and treatment per patient, per day.

7.3 Under supervision of a physician, who sees patients and renews orders at least every thirty (30) days.

7.4 Provisions must be made for a rehabilitation program to restore patients to their maximum potential.

7.5 Only registered professional nurses or licensed practical nurses shall be permitted to administer medications.

7.6 Nurse Aide/nurse Assistant Requirements:

Each nurse aide/nurse assistant employed by any nursing home either as contract/agency or facility staff as of October 1, 1990 shall be required to meet the following:

7.6.1 Training/Testing

7.6.1.1 Nurse aide/nurse assistant shall complete a nurse aide training course approved by Delaware State Board of Nursing and by the State Board of Health.

7.6.1.2 Nurse aide/nurse assistant is required to pass competency evaluation test approved by State of Delaware.

7.6.1.3 Employees of Delaware nursing homes shall by duly certified within 4 months of employment.

7.6.1.4 Contract aides must be certified prior to placement in any nursing home.

7.6.2 A nurse aide/nurse assistant who has not performed nursing related services for pay for a continuous 24 month period after completion of a training and testing program, must complete and pass a new training and competency evaluation (testing) program.

7.6.3 A nurse aide/nurse assistant who has not been employed in health care setting for three years will be required to meet the requirements in Section 7.6.1 above.

7.6.4 A nurse aide/nurse assistant trained and certified outside the State of Delaware may be deemed qualified to meet the Board of Health requirements based on a case by case review and approval.

7.6.5 Employees hired as nurse aide/nurse assistant who are currently enrolled in a nursing program and have satisfactorily completed the fundamentals of nursing course with a clinical component will be deemed to meet the training and testing requirements. These individuals will be approved with submittal of a letter from their school of nursing attesting to current enrollment status and satisfactory course completion as described.

7.7 Nurse Aide Training Program Curriculum

The following material identifies the minimum curriculum content for nurse aides/nursing assistants being prepared to work in nursing home facilities either as direct or contract staff.

The curriculum content for the nurse aide training program must include material which will provide a basic level of both knowledge and demonstratable skills for each individual completing the program. The program must be a minimum of 75 hours in length, divided equally between skills training and classroom instruction. Additional hours may be in either of these areas or both.

Programs may expand the curriculum content to provide opportunities for nurse aides to be placed in settings where nurse aides/nursing assistants are employed to perform basic skills as delegated by a licensed nurse in support of a professional plan of care.

7.7.1 The Nurse Aide Role and Function

Key Concepts:

Introduces the characteristics of an effective nurse aide: personal attributes, on the job conduct, appearance, grooming, health and ethical behaviour. Also presented are the responsibilities of the nurse aide as a member of the patient care team. Legal aspects of patient care and patient rights are presented. Relevant Federal and State statutes are referenced.

Competencies:

7.7.1.1 Function as a nurse aide within the legal and ethical standards set forth by the profession of nursing.

7.7.1.1.1 Define the role and functions of the nurse aide and provide awareness of the legal limitations of being a nurse aide.

7.7.1.1.2 Recognize the responsibilities of the nurse aide as a member of the health care team.

7.7.1.1.3 Identify the "chain of command" in the organizational structure of the health care agency.

7.7.1.1.4 Maintain acceptable personal hygiene and exhibit appropriate dress practices.

7.7.1.1.5 Recognize the importance of punctuality and commitment on the job.

7.7.1.1.6 Differentiate between ethical and unethical behaviour on the job.

7.7.2 Demonstrate behaviour which maintains resident's and/or client's rights.

7.7.2.1 Provide privacy and maintenance of confidentiality.

7.7.2.2 Promote the resident's right to make personal choices to accommodate individual needs.

7.7.2.3 Give assistance in resolving grievances.

7.7.2.4 Provide needed assistance in giving to and participating in resident and family groups and other activities.

7.7.2.5 Maintain care and security of resident's personal possessions.

7.7.2.6 Provide care which maintains the residents free from abuse, mistreatment orneglect and report any instances of such poor care to appropriate facility staff.

7.7.2.7 Maintain the resident's environment and care through appropriate nurse aide behaviour so as to minimize the need for physical and chemical restraints.

7.7.3 Environmental Needs of the Patient

Key Concepts: Introduces the nurse aide to the need to keep patients safe from injury and infection in the long term care setting. The nurse aide is taught why and how to use infection control and isolation techniques. Safety through prevention of fires and accidents, and emergency procedures for fire and other disasters are presented.

Competencies:

7.7.3.1 Apply the basic principles of infection control.

7.7.3.1.1 Identify how diseases are transmitted.

7.7.3.1.2 Demonstrate hand washing technique.

7.7.3.1.3 Perform basic cleaning, disinfecting, and sterilizing tasks.

7.7.3.1.4 Demonstrate proper isolation and safety techniques in care of infectious resident.

7.7.3.2 Assist with basic emergency procedures.

7.7.3.2.1 Follow safety and emergency procedures.

7.7.3.2.2 Identify safety measures that prevent accidents to residents.

7.7.3.2.3 Recognize signs when a resident is chokingor may have an obstructed airway.

7.7.3.2.4 Assist with clearing obstructed airway.

7.7.3.2.5 Call for help when encountering convulsive disorders, loss of consciousness, shock, hemorrhage, and assist the resident until professional help arrives.

7.7.3.2.6 Follow disaster procedures.

7.7.3.2.7 Report emergencies accurately and immediately.

7.7.3.2.8 Identify potential fire hazards.

7.7.4 Provide a safe, clean environment.

7.7.4.1 Identify the resident's need for a clean and comfortable environment.

7.7.4.2 Report unsafe conditions.

7.7.4.3 Report pests.

7.7.4.4 Report non-functioning equipment.

7.7.4.5 Prepare soiled linen for laundry.

7.7.4.6 Clean and disinfect unit for admission or following discharge.

7.7.4.7 Arrange furniture and equipment for the resident's convenience.

7.7.5 Psychosocial Needs of the Patient

Key Concepts: Focus is placed on the social, emotional, recreational and religious needs of patients in a long term care setting. It describes some of the physical, mental, and emotional changes associated with aging and institutionalization, and presents ways in which the nurse aide may effectively communicate with patients and their families.

Competencies:

7.7.5.1 Demonstrates appropriate and effective communication skills.

7.7.5.1.1 Demonstrate effective verbal and non-verbal communications in keeping with the nurse aide's role with residents and their families.

7.7.5.1.2 Observe by using the senses of sight, hearing, touch and smell to report resident behaviour to the licensed nurse.

7.7.5.1.3 Document observations using appropriate terms.

7.7.5.1.4 Recognize the importance of maintaining the patient's record.

7.7.5.1.5 Communicate with residents according to their state of development.

7.7.5.2 Demonstrate basic skills by identifying the psychosocial characteristics of the populations being served in the nursing facility including persons with mental retardation, mental illness and persons with dementia, Alzheimer's disease and related disorders.

7.7.5.2.1 Indicate the ways to meet the resident's basic human needs for life and mental well-being.

7.7.5.2.2 Modify his/her own behaviour in response to resident's behaviour.

7.7.5.2.3 Identify developmental tasks associated with the aging process.

7.7.5.2.4 Provide training in, and the opportunity for, self care according to resident's capabilities.

7.7.5.2.5 Demonstrate principles of behaviour management by reinforcing appropriate behaviour and reducing or eliminating inappropriate behaviour.

7.7.5.2.6 Demonstrate skills supporting age appropriate behaviour by allowing the resident to make personal choices, providing and reinforcing other behaviour consistent with resident's dignity.

7.7.5.2.7 Utilize resident's family as a source of emotional support.

7.7.5.2.8 Recognize how age, illness and disability affect sexuality.

7.7.6 Physical Needs of the Patient

Key Concepts: Presents the basic skills which nurse aides use in the physical care of patients. The nurse aide will learn basic facts about body systems and what is needed to promote good functioning. The nurse aide will learn to provide physical care to patients safely and to keep the patient clean, dry and comfortable. The nurse aide will also learn to make observations regarding patients and to record and/or report observations. The nurse aide will learn to maintain range of motion while providing physical care to patient. Introduction of the basics of range of motion and its integration into routine personal care activities.

Competencies:

7.7.6.1 Apply the principles of basic nutrition in the preparation and serving of meals.

7.7.6.1.1 List general principles of basic nutrition.

7.7.6.1.2 Read the instructions for special diets.

7.7.6.1.3 Serve prepared foods as instructed.

7.7.6.1.4 Identify cultural variations in diet.

7.7.6.2 Recognize abnormal signs and symptoms of common diseases and conditions. Examples are:

7.7.6.2.1 Upper respiratory infection - Report coughing, sneezing, elevated temperatures, etc.

7.7.6.2.2 Diabetes - Report excessive thirst, frequent urination, change in urine output and drowsiness, excessive perspiration and headache.

7.7.6.2.3 Urinary tract infection - Report frequent urination, burning or pain on urination, change in color of urine, blood or sediment in urine and strong odors.

7.7.6.2.4 Cardiovascular conditions - Report shortness of breath, chest pain, blue color to lips, indigestion, sweating, change in pulse, etc.

7.7.6.2.5 Cerebral vascular conditions - Report dizziness, changes in vision such as seeing double, etc., change in blood pressure, numbnessin any part of the body, or inability to move arm or leg, etc.

7.7.6.2.6 Skin conditions - Report break in skin, discoloration such as redness, black and blue areas, rash, itching, etc.

7.7.6.2.7 Gastrointestinal conditions - Report nausea, vomiting, pain, inability to swallow, bowel movement changes such as color, diarrhea, constipation.

(Continue to list common diseases and conditions based on the population being served.)

7.7.6.3 Provide personal care and basic nursing skills as directed by the licensed nurse.

7.7.6.3.1 Provide for residents privacy when providing personal care.

7.7.6.3.2 Assist the resident to dress and undress.

7.7.6.3.3 Assist the resident with bathing and personal grooming.

7.7.6.3.4 Observe and report condition of the skin.

7.7.6.3.5 Assist the resident with oral hygiene.

7.7.6.3.6 Administer oral hygiene for the unconscious resident.

7.7.6.3.7 Demonstrate measures to prevent decubitus ulcers, i.e., positioning, turning, and applying heel and elbow protectors.

7.7.6.3.8 Assist the resident in using the bathroom.

7.7.6.3.9 Assist the resident in using a bedside commode, urinal and bedpan.

7.7.6.3.10 Demonstrate proper bed making procedures.

7.7.6.3.11 Feed residents oral table foods in an appropriate manner.

7.7.6.3.12 Distribute nourishment and water.

7.7.6.3.13 Accurately measure and record:

7.7.6.3.13.1 intake and output

7.7.6.3.13.2 height and weight

7.7.6.3.13.3 C,P,R

7.7.6.3.14 Assist the resident with shaving.

7.7.6.3.15 Shampoo and groom hair.

7.7.6.3.16 Provide basic care of toenails and fingernails if appropriate.

7.7.6.3.17 Assist with catheter care.

7.7.6.3.18 Assist the professional nurse with a physical examination.

7.7.6.3.19 Apply a non-sterile dressing.

7.7.6.3.20 Apply non-sterile compresses and soaks.

7.7.6.3.21 Apply cold and/or heat applications.

7.7.6.4 Demonstrate skills which incorporate principles of restorative care under the direction of a licensed nurse.

7.7.6.4.1 Assist the resident in bowel and bladder training.

7.7.6.4.2 Assist the resident in activities of daily living and encourage self help activities.

7.7.6.4.3 Assist the resident with ambulation aids, i.e., cane, quadcane, walker, crutches, wheelchair and transfer aids, i.e., hydraulic lifts.

7.7.6.4.4 Perform range of motion exercise as instructed by the physical therapist or the professional nurse.

7.7.6.4.5 Assist in care and use of prosthetic devices.

7.7.6.4.6 Assist the resident in proper use of body mechanics.

7.7.6.4.7 Assist the resident with dangling, standing and walking.

7.7.6.4.8 Demonstrate proper turning and/or positioning both in bed and in a chair.

7.7.6.4.9 Demonstrate proper technique of transferring resident from bed to chair.

7.7.6.5 One man cardiopulmonary resuscitation (CPR) skills in the checking of conscious and unconscious victims.

7.7.6.6 Provide care to resident when death is imminent.

7.7.6.6.1 Discuss own feelings and attitude about death.

7.7.6.6.2 Explain how culture and religion influence a person's attitude toward death.

7.7.6.6.3 Discuss the stages of dying.

7.7.6.6.4 Recognize and report the common signs of approaching death.

7.7.6.6.5 Provide care (if appropriate) to the resident's body after death.

7.8 Instructors

7.8.1 Primary instructor is an individual responsible for overall coordination and implementation of nurse aide training program.

Qualifications:

7.8.1.1 RN licensure in the State of Delaware.

7.8.1.2 Two (2) years nursing experience in caring for the elderly and/or chronically ill of any age.

7.8.1.3 For instructors without prior teaching experience:

7.8.1.3.1 Successful completion of a "Train the Trainer" program which provides preparation in teaching adult learners principles of effective teaching and teaching methodologies.

7.8.1.4 Waiver of the Train the Trainer requirement is made for those nurses who demonstrate at least one (1) year of continuous teaching experience at the nursing assistant or LPN or RN program level.

7.8.2 Program Trainers is the individual(s) who provide assistance to primary instructors as resource personnel from the health field.

Qualifications:

7.8.2.1 Trainers may include: registered nurses, licensed practical nurses, pharmacists, dietitians, social workers, physical or occupational therapists, environmental health specialists, etc.

7.8.2.2 One (1) year of current experience in caring for the elderly and/or chronically ill of any age or have equivalent experience.

7.8.2.3 Trainers are to be licensed, registered and/or certified in their field, where applicable.

7.9 Training for Primary Instructors

The approved instructors will develop into competent trainers, possessing the necessary skills to train nursing assistants to meet the established certification criteria. The trainers will understand the roles and responsibilities associated with training. They will be able to design and implement a training program, assess its value, and modify it as needed. They will recognize the characteristics of adult learners and create a training environment conducive to effective learning.

7.9.1 Training course outline shall include:

7.9.1.1 Role of trainer.

7.9.1.2 Communication techniques.

7.9.1.3 Demonstration skills.

7.9.1.4 Teaching a process.

7.9.1.5 Teaching techniques.

7.9.1.6 Training techniques.

7.9.1.7 Developing a formal training plan.

7.9.2 Course Management Information

7.9.2.1 Training time will consist of sixteen minimum hours.

7.9.2.2 The instructor must have formal educational preparation or experience with skills of adult learning.

8.0 Personnel/Administrative

8.1 The administrator(s) shall be responsible for complying with the regulations herein contained. In the absence of the administrator, an employee shall be authorized, in writing, to be in charge.

8.2 All administrators of nursing homes must be licensed by the Board of Examiners of Nursing Home Administrators. Such administrators must be full time (40 hours per week) employees.

8.3 A staff of persons sufficient in number and adequately trained to meet requirements for care shall be employed. In addition to the staff engaged in the direct care and treatment of patients, there must be sufficient personnel to provide basic services; such as: food service, laundry, housekeeping and plant maintenance.

8.4 No employee shall be less than sixteen (16) years of age, unless they have been issued proper working papers.

8.5 The institution shall have written personnel policies and procedures that adequately support sound patient care. Personnel records are to be kept current and available for each employee, and contain sufficient information to support placement in the positions to which assigned.

8.6 Minimum requirements for employee physical examination:

8.6.1 Each person, including volunteers, who is involved in the care of patients shall have a screening test for tuberculosis as a prerequisite to employment. Either a negative intra-dermal skin test or a chest x-ray showing no evidence of active tuberculosis shall satisfy this requirement.

8.6.2 A report of this test shall be on file at the facility of employment.

8.7 No person having a communicable disease, shall be permitted to give care or service. All reportable communicable diseases shall be reported to the County Health Officer.

9.0 Services to Patients

9.1 General Services:

9.1.1 The skilled care nursing facility shall provide to all patients the care deemed necessary for their comfort, safety, nutritional requirements and general well-being.

9.1.2 The skilled care nursing facility shall have in effect a written transfer agreement with one (1) or more hospitals which provides the basis for effective working arrangements under which inpatient hospital care, or other hospital services, are available promptly to the facility's patients, when needed.

9.1.3 The skilled care nursing facility shall have a written provision for promptly obtaining required laboratory, x-ray and other diagnostic services. These services may be obtained from other facilities that are approved by the State Board of Health.

9.2 Medical Services:

9.2.1 All persons admitted to an institution (skilled care nursing home) shall be under the care of a licensed physician.

9.2.2 All nursing homes shall arrange for one (1) or more licensed physicians to be called in an emergency. Names and phone numbers of these physicians must be posted at all nurse's stations.

9.2.3 All orders for medications, treatments, diets, diagnostic services, etc. shall be in writing and signed by the attending physician.

9.2.4 All orders shall be renewed and signed by the physician at least every thirty (30) days.

9.2.5 A progress note shall be written and signed by the physician on each visit.

9.2.6 All telephone orders shall be countersigned by the physician within forty-eight (48) hours.

9.3 Specialized Services:

9.3.1 All specialized services shall be ordered, in writing, by the attending physician; such as: physical therapy, occupational therapy, speech therapy, etc.

9.3.2 The nursing home shall notify the family or guardian, as soon as feasible, when a special service has been ordered by the physician.

9.4 Nursing Services:

9.4.1 Individual nursing care plans shall be developed within seven (7) days of admission and reviewed every thirty (30) days.

9.4.2 There shall be a registered professional nurse designated as the Supervisory Nurse (Director of Nurses). The Supervising Nurse shall:

9.4.2.1 Be on duty a minimum of eight (8) hours daily, during the day time hours.

9.4.2.2 Designate adequate relief personnel, including a registered professional nurse in charge of each shift, when she is not in the facility so that a responsible person is available at all times in the event of an emergency.

9.4.2.3 Develop and/or maintain nursing service objectives, standards of nursing practice and nursing procedure manuals.

9.4.2.4 Assign and supervise all levels of nursing service personnel.

9.4.2.5 Coordinate nursing services with physicians, physical therapy, dietary, pharmaceutical, recreational activities and other specialized services.

9.4.2.6 Provide orientation programs for the new nursing service personnel and in-service education for all nursing personnel. Written records of the content of each program and the names of the personnel attending each program must be kept on file for one (1) year.

9.4.2.7 Participate in the selection of prospective patients, in terms of nursing services that they need, and nursing competencies available.

9.4.3 Should the Supervising Nurse (Director of Nurses) terminate her employment, the State Board of Health shall be notified, in writing, at once of this termination along with the name of her replacement, registration and current license number.

9.4.4 Each institution shall have at least two (2) or more nursing service personnel monitoring the patients twenty-four (24) hours a day.

9.4.5 Treatments and the administration of medications ordered by a physician shall be carried out according to his order, using acceptable techniques.

9.4.6 Orders for restraints shall be in writing and signed by the physician and shall contain:

9.4.6.1 Resident's name.

9.4.6.2 Reason and type of restraint prescribed.

9.4.6.3 The time it is to be administered and removed.

9.4.7 In applying restraints, careful consideration shall be given to the methods by which they can speedily be removed in case of fire or other emergency. Restraints shall be applied by a nurse or aide who has received proper training in this procedure.

9.5 Medications:

9.5.1 All medications administered to patients shall be ordered in writing and signed by the attending physician.

9.5.2 All medications shall be stored in a locked cabinet located in, or convenient to, the nurse's station. The key to this cabinet shall be kept in the possession of, or accessible to, only the licensed nursing personnel responsible for administering medications.

9.5.3 Internal medications shall be stored separately from external medications.

9.5.4 Schedule II substances shall be kept in separately locked, securely fixed boxes or drawers in the locked medication cabinet; hence, under two (2) locks.

9.5.5 Medications requiring refrigeration shall be kept in a refrigerator within the drug room or in a separate locked box within a refrigerator near the nursing station and separate from the foods.

9.5.6 All medications shall be accurately and plainly labelled, with a label affixed to the outside of the container. The label shall have the patient's name, name of the drug, potency, and the name of the prescribing physician. If the medication is for in-patient use it may be labelled "to be administered according to current physician's orders" provided that (1) the MAR accurately reflects the prescribers' current orders; and (2) the pharmacy is informed of any changes in directions within 24 hours and promptly records the change on the patient profile.

Prescriptions for outpatient use must be labelled in compliance with **24 Del.C. §2563**.

9.5.7 Medication containers having soiled, damaged, incomplete, illegible or makeshift labels must be returned to the pharmacist for relabeling or disposal. Containers not having any label shall be returned to the pharmacist for disposal.

9.5.8 Medications shall be given only to the individual patient for whom the prescription was issued and shall be given in accordance with the directions as prescribed.

9.5.9 Only licensed nurses may prepare and administer medications. The same licensed nurse who prepares the medications shall administer and then record them on the patient's chart.

9.5.10 Medications shall not be returned to the container and in circumstances such as refusal of drugs by the patient, the drugs shall be discarded and so indicated on the patient's chart.

9.5.11 Discontinued prescription (legend) pharmaceuticals shall not be retained, but shall be disposed of in one of two ways: (1) Flushed into the sewage system in the presence of a witness, or (2) Returned to the pharmacist for proper disposition; and the method so noted on the patient's chart.

9.5.12 No stock supplies of drugs except those commonly available without prescription (non-legend drugs, e.g., antacids, aspirins, laxatives) shall be kept in the facility. Exception to this shall be allowed in a facility where a licensed pharmacy is maintained.

9.5.13 All disinfectants, cleaning materials and poisons shall be kept in a safe place, separate and apart from medications and food, and accessible only to the operator and designated employees.

9.5.14 Schedule II substances shall be handled in the manner outlined by the State and Federal Laws and Regulations. All unused Schedule II substances shall be returned to the pharmacist for disposition.

9.5.15 An emergency drug kit with quantities of medications approved by the Board of Pharmacy, should be available at all times. Stocking of this kit should be arranged with a pharmacist who checks the contents after use and/or periodically.

Upon approval by the Board of Pharmacy, emergency kits containing controlled substances or emergency supplies of such substances may be maintain provided that:

9.5.15.1 Approved Schedule II substances are secured in a double locked cabinet in compliance with "D" of this Section.

9.5.15.2 Schedule III through V substances are secured in a single lock cabinet or case.

9.5.15.3 The controlled substances are accessible to only licensed personnel responsible for administering medications.

9.5.15.4 Readily retrievable records are maintained showing the receipt and disposition of the controlled substance.

9.5.15.5 A written policy is adopted which outlines the emergency conditions under which the use of the substance is authorized. The policy must be approved by the Pharmaceutical Control Officer. The Board of Health may revoke the right of institutions to maintain emergency kits containing controlled substances or emergency supplies of such substances if it receives evidence of non compliance.

9.5.16 Medications shall be released to patients on discharge or transfer only on the written authorization of the patient's physician. Patients who may leave the nursing home on a short leave may be issued a quantity of medication to meet their needs, with the approval of the patient's physician. These doses must be packaged and labeled by the pharmacist, unless the home administers medication from an individually packaged unit dose system.

9.5.17 Hypodermic syringes and/or needles supplied by the resident or his representative must carry a prescription label affixed to the outside of the container indicating that the syringes or needles were obtained with a physician's prescription. Facilities do not need a prescription to purchase hypodermic syringes and/or needles. (See Section 4757 of the Delaware Uniform Controlled Substance Act.)

9.5.18 The barrel, plunger and needle of disposable hypodermic syringes must be rendered useless, immediately after use and then properly discarded.

9.5.19 Each nursing home should have an advisory pharmacist to advise the administrator on pharmaceutical services, drugs and policies. A policy and procedure manual should be set up and would include policies pertaining to automatic stop orders.

9.5.20 A current drug reference text shall be available in each nursing home.

9.5.21 The administrator shall notify the Office of Narcotics and Dangerous Drugs, Division of Public Health, of any theft or unexplained loss of any controlled substances, syringes, or needles, or prescription pads within 48 hours of the discovery of such loss or theft.

9.6 Food Service:

9.6.1 A minimum of three (3) meals shall be served in each twenty four (24) hour period. There shall not be more than a fourteen (14) hour span between the evening meal and breakfast.

9.6.2 The food served shall be suitably prepared and of sufficient quantity and quality to meet the nutritional needs of the patients.

9.6.3 Special diets served shall be on the written prescription of the physician.

9.6.4 A copy of the current week's menus - regular and therapeutic - shall be posted in the kitchen and in a public area.

9.6.5 A copy of a recent diet manual shall be available for planning therapeutic menus and as a resource reference for physicians.

9.6.6 Menus showing food actually served each day shall be kept on file for at least one (1) month.

9.6.7 A two (2) day supply of food for emergency feeding shall be kept on the premises. (Items that need little or no water and heat to be served/readied are recommended.)

9.6.8 A suspected occurrence of food poisoning shall be reported immediately, by telephone, to the County Health Officer.

9.7 Housekeeping Services:

9.7.1 Routine housekeeping duties shall not be assigned to nursing service personnel.

9.7.2 Housekeeping personnel shall be sufficient to maintain all rooms and every part of the building clean and orderly.

9.7.3 Waste material, obsolete and unnecessary articles, cans, rubbish and other litter shall not be permitted to accumulate on the premises of the institution.

9.7.4 Infectious waste shall be stored in sanitary containers and disposed of in a sanitary manner.

9.7.5 No laundry operations may be carried out where food is prepared, served or stored.

9.8 Communicable Diseases:

9.8.1 Persons suffering from a communicable disease may at the discretion of the Director of the Division of Public Health be admitted to and reside in a nursing home except for strict isolation and respiratory care as recommended by the Centers for Disease Control. Such facility must be properly equipped and have adequate and trained staff to treat the communicable disease.

9.8.2 The nursing home shall establish a written procedure to be followed in the event that a patient with a communicable disease is admitted or an episode of communicable disease occurs. It is the responsibility of the nursing home to see that:

9.8.2.1 The necessary precautions stated in the written procedures are followed.

9.8.2.2 All rules of the Delaware Division of Public Health are followed so there is minimum danger of transmission to staff and residents.

9.8.3 Any patient found to have active tuberculosis in an infectious stage may not continue to reside in a nursing home that does not have approved facilities for respiratory isolation.

9.8.4 An individual, when suspected or diagnosed as having a communicable disease, shall be placed on the appropriate isolation or precaution as recommended for that disease by the Center for Disease Control. Those with a communicable disease which has been determined by the Director of the Division of Public Health, or his designee, to be a health hazard to visitors, staff, and other residents shall be placed on isolation care until they can be moved to an appropriate room or transferred to another facility.

9.8.5 The admission or occurrence of a patient with a communicable disease within a nursing home shall be reported to the Director of the Division of Public Health so as to determine the potential health hazard involved as currently required by the Division of Public Health. (See Appendix B - Notifiable Diseases)

9.8.6

9.8.6.1 All facilities shall have on file results of tuberculin tests (1) performed annually for all employees and (2) performed on all newly admitted patients. The tuberculin test to be used is the Mantoux test containing 5 TU PPD stabilized with Tween, injected intradermally, using a needle and syringe, usually on the volar surface of the forearm. Persons found to have a significant reaction (defined as 10 mm of induration or greater) to tests shall be reported to the Division of Public Health and managed according to recommended medical practice. A tuberculin test as specified, done within the twelve months prior to admission or employment, satisfies this requirement for asymptomatic individuals. A report of this skin test shall be kept on file.

9.8.6.2 Employees and patients who do not have a significant reaction to the initial tuberculin test (those individuals who have less than 10 mm induration) should be retested within 7-21 days to identify those who demonstrate delayed reactions. Tests done within one year of a previous test need not be repeated in 7-21 days.

9.8.7 All facilities shall have on file evidence of annual vaccination against influenza for all residents as recommended by the Immunization Practice Advisory Committee of the Center for Disease Control unless medically contraindicated.

9.8.8 All facilities shall have on file evidence of vaccination against pneumococcal pneumonia for all residents after the age of 65 years and as recommended by the Immunization Practice Advisory Committee of the Centers for Disease Control unless medically contraindicated.

9.9 Mental Illness:

9.9.1 If a patient becomes disturbed or unmanageable, he/she shall be evaluated by a physician and/or psychiatrist. If the patient's condition does not respond to treatment and improve, the patient shall be removed to a more suitable facility.

9.10 Records and Reports:

9.10.1 There shall be a separate clinical record maintained on each patient, which will be a chronological history of the patient's stay in the nursing home. Every patient's record shall contain:

9.10.1.1 Admission record: Including patient's name; birth date; home address prior to entering the facility; identification numbers, such as social security, medicaid, medicare, etc.; date of admission; physician's name, address and phone number; admitting diagnosis; next of kin (relationship, name, address, and phone number); and the facility's medical record number.

9.10.1.2 History and physical examination: Prepared by a physician within seven (7) days of the patient's admission to the home. If the patient has been admitted to the home immediately after discharge from a hospital, the patient's summary and history which was prepared at the hospital and the patient's physical examination which was performed at the hospital, if performed within seven (7) days prior to admission to the home, may be substituted in lieu of the above records. Additionally, a record of an annual medical evaluation performed by a physician must be contained in each patient's file.

9.10.1.3 Statement of complete diagnosis and prognosis.

9.10.1.4 Physician's orders: Including complete list of medications, medication name, dosage, frequency and route of administration, treatments, diets, level of permitted activity, and use of restraints (if the patient's condition requires them).

9.10.1.5 Physician's progress notes.

9.10.1.6 Nursing notes.

9.10.1.7 Medication sheets: Including medication, name, dosage, frequency and route of administration, space for recording initials of the nurse for each dose administered, signature identifying administering nurses' initials, including professional status.

9.10.1.8 Inventory of personal effects.

9.10.1.9 Accident reports.

9.10.1.10 Results of laboratory and special tests and x-rays ordered by the physician.

9.10.1.11 Discharge record or notes: Including condition on discharge, place to which discharged, and prognosis, if appropriate.

9.10.1.12 Special service notes: e.g., social services and activities, results of specialty consultations requested by the physician, physical therapy, dental and podiatry.

9.10.1.13 Interagency transfer forms, if the patient was admitted from an acute care facility or any other long-term facility.

9.10.2 Records shall be available at all times to legally authorized persons; otherwise, such records shall be held confidential.

9.10.3 For the legal protection of the institution, records shall be filed for five (5) years before being destroyed.

9.10.4 An accident report, with adequate documentation, shall be completed for each incident. Adequate documentation shall consist of patient involved, time of injury, disposition of patient, and notice that physician and family have been contacted. Accident reports are to be kept on file in the facility.

9.11 Patient Care Policies:

9.11.1 Every nursing home shall develop written policies pertaining to the services they provide. Such policies shall include:

9.11.1.1 Admission, transfer and discharge policies.

9.11.1.2 The categories of patients accepted or not accepted.

9.11.1.3 Physician's services.

9.11.1.4 Nursing services.

9.11.1.5 Dietary services.

9.11.1.6 Rehabilitative services.

9.11.1.7 Pharmaceutical services.

9.11.1.8 Diagnostic services.

9.11.1.9 A written policy denoting care of patients:

9.11.1.9.1 In an emergency.

9.11.1.9.2 During a communicable disease episode.

9.11.1.9.3 In case of critical illness or mental disturbance.

9.11.1.10 Dental services.

9.11.1.11 Social Services.

9.11.1.12 Patient activities: recreational, social, religious.

9.11.1.13 Clinical records.

9.11.1.14 Fire and safety policies.

9.11.2 The policies should reflect the philosophy and objectives of the individual home, i.e.:

9.11.2.1 To provide on a continuing basis good medical and nursing care for all persons admitted to the home who require such care.

9.11.2.2 To stimulate as much as possible the rehabilitation of each patient to his/her maximum level.

9.11.2.3 To preserve the dignity and individuality of all patients.

9.11.2.4 Through recreational activities, create a feeling of usefulness and security.

10.0 Severability

10.1 Should any section, sentence, clause or phrase of these regulations be legally declared unconstitutional or invalid for any reason, the remainder of said regulations shall not be effected thereby.

APPENDIX A

These Regulations are adopted by the Director, Division of Public Health pursuant to **16 Del.C. 1121,1122,1123, 1124**.

PATIENT'S BILL OF RIGHTS

RESPECT

1. Every patient and resident shall be treated with consideration, respect and full recognition of their dignity and individuality.

2. Every patient and resident shall receive care, treatment and services which are adequate and appropriate.

SERVICES AND PAYMENT

3. Each patient and resident and their families shall, prior to or upon admission, and during their stay, receive a written statement of the services provided by the facility including those required to be offered on an "as needed" basis.

A. They shall also receive a statement of related charges, including any charges for services not covered under Medicare, Medicaid or the facility's basic per diem rate.

B. Upon receiving such statement, the patient and his representative shall sign a written receipt which shall be retained by the facility.

~~TREATMENT~~

~~4. Each patient shall receive from the attending physician or resident physician of the facility, in lay terms, complete and current information regarding his diagnosis, treatment and prognosis, unless medically inadvisable.~~

~~5. Each patient and resident:~~

~~A. Shall participate in the planning of their medical treatment;~~

~~B. May refuse medication or treatment;~~

~~C. Shall be informed of the medical consequences of all medication and treatment alternatives; and~~

~~D. Shall give prior informed consent to participation in any experimental research, which shall be verified by his signature and the signature of a family member or representative.~~

~~6. The facility shall see to it that the name, address and telephone number of the patient or resident's physician is readily accessible to them at their bedside.~~

~~7. Each patient and resident's medical care program shall be conducted discreetly and in accordance with the patient's need for privacy.~~

~~A. Persons not directly involved in patient care shall not be present during medical examinations, treatment and case discussion.~~

~~B. Personal and medical records shall be treated confidentially; shall not be made public without the consent of the patient or resident; shall not be released to any person inside or outside the facility who has no demonstrable need for such records.~~

~~8. Every patient and resident shall be free from mental and physical abuse and also from chemical and physical restraints, restraints, unless authorized by a physician according to clear and indicated medical requirement.~~

~~COMMUNICATIONS~~

~~9. Every patient and resident shall receive from the Administrator or staff of the facility a courteous and reasonable response to his requests.~~

~~10. Every patient and resident shall be provided with information as to any relationships of the facility to other health care facilities as far as the patient's care is concerned.~~

~~11. To maintain reasonable continuity of care, every patient and resident at the least shall be informed of the availability of physicians and appointment times.~~

~~12. Every patient and resident may associate privately with people and groups of his own choice at any reasonable: hour.~~

~~A. May send and receive mail promptly and unopened.~~

~~B. Shall have access to any reasonable hour to a telephone where he may speak privately.~~

~~C. Shall have access to writing instruments, stationery and postage.~~

~~CONTROL OF FINANCIAL AFFAIRS~~

~~13. Each patient and resident has the right to menage his own financial affairs.~~

~~A. If, by written request, the facility nanages the patient's financial affairs, it shall have available for inspection a monthly accounting and shall furnish a quarterly statement upon request to the patient or a designated representative.~~

~~B. The patient and resident shall have unrestricted access to such accounts at reasonable hours.~~

~~PRIVACY~~

14. If married, every patient and resident shall enjoy privacy in visits by his spouse and, if both reside in the facility, they shall be allowed to share a room, unless medically contraindicated.

15. Every patient and resident has the right of privacy in their room and the facility's staff shall respect this right by knocking on the door before entering the room.

GRIEVANCES

16. Every patient and resident has the right, personally, or through others, to present grievances to the Division of Aging, the Ombudsman or to others.

A. There shall be no reprisal, restraint, interference, coercion or discrimination of the patient as a result of such grievance or suggestion.

B. Any alleged violation of any of the provisions of these Rules and Regulations should be presented orally or in writing and forwarded to the attention of the Ombudsman.

C. The Ombudsman shall consult with the ccmplainant to determine if he/she wishes to pursue an investigation. If the complainant wishes to pursue the matter, the Ombsdsman shall work closely with the complainant and the institution to resolve the matter. In any case, the confidentiality of the complainant shall not be revealed without his/her consent.

D. On completion of the investigation, the Ombudsman shall report the findings to the complainant and with the complainant's consent to the facility wherein the complaint originated.

E. If the grievance is not resolved at the end of the investigation by the Ombudsman, the grievance findings shall be forwarded to the State Board of Health for appropriate action after obtaining the consent of the complainant.

PERSONAL CHOICE/PERSONAL PROPERTY

17. A patient or resident shall not be required to perform services for the facility.

18. Every patient and resident shall have the right to retain and use their personal clothing and possessions where reasonable and shall be entitled to have security in their storage and use.

TRANSFERS/DISCHARGES

19. No patient or resident shall be transferred or discharged from a facility except for the following:

A. For medical reasons;

B. For the patient's own welfare or the welfare of the other patients; and

C. For non-payment of justified charges.

20. If good cause exists, the patient or resident shall be given 30 days advance notice of the proposed action and the reasons for the action and may request an impartial hearing. In emergency situations, such notice need not be given.

21. If a hearing is requested, it shall be held within ten (10) working days of the request. The hearing shall be conducted by the Division of Public Health. Hearing officers could include:

A. Nursing Home Ombudsman;

B. A staff member of the advocacy section, Division of Aging;

C. A physician from the Division of Public Health, not employed by a hospital operated by the Division.

D. The licensure program director for the type of home involved.

The Deputy Attorney General for the Division of Public Health may attend as legal officer in these hearings.

22. If the hearing determines in favor of the patient, the home shall be instructed to comply. If the home refuses to comply, the matter will be referred to the Attorney General's Office to see if further action is called for or permissible under the law.

DEVOLUTION OF RIGHTS

Where consistent with the above rights, all rights, particularly as they pertain to a patient adjudicated incompetent, a patient determined to be medically incompetent by his attending physician or a patient unable to communicate, shall devolve to that patient's next of kin, guardian, representative, sponsoring agency or representative payee (except where the facility is the representative payee).

NOTICE--AWARENESS OF RIGHTS

I. These provisions shall be posted conspicuously in a public place in each facility.

II. Copies are to be furnished to the patient or resident upon admission and to all current patients and residents and next of kin, guardian, representative, sponsoring agency or to representative payee.

III. Receipts for the statement signed by the above parties shall be retained in the facility's files.

Revised May 27, 1982

APPENDIX B

Notifiable Diseases

1. Acquired Immune Deficiency Syndrome
2. Amebiasis
3. Anthrax
4. Botulism
5. Brucellosis
6. Campylobacteriosis
7. Chancroid
8. Chlamydia trachomatis infections
9. Cholera
10. Condylomata acuminate
11. Diphtheria
12. Encephalitis
13. Foodborne Disease Outbreaks
14. Giardiasis
15. Gonococcal Infections
16. Granuloma Inguinale
17. Hansen's Disease (Leprosy)
18. Hepatitis (viral all types)

    Also, any unusual disease and adverse reaction to vaccine.
19. Herpes
20. Histoplasmosis
21. Human Immunodeficiency Virus (HIV)
22. Influenza
23. Lead Poisoning
24. Legionnaires Disease
25. Leptospirosis
26. Lyme Disease
27. Lymphogranuloma Venereum
28. Malaria
29. Measles

30. Meningitis (bacterial)
31. Meningitis (aseptic)
32. MeningococcalDisease (other)
33. Mumps
34. Pertussis
35. Plague
36. Poliomyelitis
37. Psittacosis
38. Rabies (man, animal)
39. Reye's Syndrome
40. Rocky Mountain Spotted Fever
41. Rubella
42. Rubella, Congenital Syndrome
43. Salmonellosis
44. Shigellosis
45. Smallpox
46. Syphilis
47. Tetanus
48. Toxic Shock Syndrome
49. Trichinosis
50. Tuberculosis
51. Tularemia
52. Typhoid Fever
53. Typhus Fever
54. Vaccine Adverse Reactions
55. Waterborne Disease Outbreaks
56. Yellow Fever

3205 Nursing Home Regulations for Intermediate Care (Formerly Regulation No. 58)

1.0 Definition

"Nursing Home" is an institution that provides permanent facilities that include in patient beds and medical services, including continuous nursing services, to provide treatment for patients who do not currently require continuous hospital services. Nursing homes may have various levels of care; however, in no case will a patient be cared for in an area designated at a lower level of care than his needs, as determined by a physician. Nursing homes shall be subject all applicable code requirements of the State Fire Prevention Commission.

"Intermediate Care" - Nursing Home provides care which is less than skilled care but more than Rest (Residential) or Rest (Family Care). The services are given in accordance with physician's orders, updated at least every sixty (60) days, and require the competence nursing aides under the supervision of a registered professional nurse or licensed practical nurse. A registered professional nurse or licensed practical nurse shall be employed full-time and on duty during the day shift, seven (7) days a week.

"Intermediate Care" - Nursing Home provides care to residents who may need a minimum of medical care but require a great deal of physical and emotional support to return them to a previous level of, or a new stage of, independence or to prevent regression. It can involve direct aide given in getting out of bed, walking, bathing, dressing, feeding and administration of medications, and similar forms of assistance on a regular basis.

2.0 Glossary of Terms

"Activities of Daily Living" - Getting out of bed, bathing, dressing, eating and ambulation.

"Continuous" - Available at all times without cessation, break or interruption.

"Direction" - Authoritative policy or procedural guidance for the accomplishment of a function or activity.

"Facilities" - The site, physical structure and equipment necessary to provide the required service.

"In-Patient Beds" - Accommodations with supportive services (such as; food, laundry, housekeeping) for patients who generally stay in excess of twenty four (24) hours.

"Institution" - The term "institution" as it appears in these regulations is used to refer to all facilities covered by **16 Del.C. §1101.**

"Licensed Health Practitioner" - Dentist, Podiatrist, Occupational or Physical Therapist or any health practitioner licensed to practice in the State of Delaware.

"Licensed Practical Nurse" - A nurse who is licensed to practice as a practical nurse in the State of Delaware.

"Medical Services" - The services pertaining to medical care and performed at the direction of a physician on behalf of patients; by physicians, dentists, nurses or any other **professional or technical personnel.**

"Nursing Service Personnel" - Those licensed or unlicensed persons giving direct services to the patients, pertaining to the curative, restorative or preventive aspects of nursing care, supervised by a registered professional nurse or a licensed practical nurse.

"Nursing Services" - Those medical services pertaining to the curative, restorative or preventive aspects of nursing care that are performed or supervised by a registered professional nurse or a licensed practical nurse, at the direction of a physician.

"Patient" - A person admitted to the nursing home because of illness and for whom there is planned continuing medical care, including nursing care, directed toward improvement in health, or for whom palliative medical measures are required though improvement in health or recovery cannot be expected.

"Personal Care Services" - Those health related services that include general supervision of, and direct assistance to, individuals in their activities of daily living.

"Physician" A physician licensed to practice in the State of Delaware.

"Registered Professional Nurse" - A nurse who is a graduate of an approved school of professional nursing and who is licensed to practice in the State of Delaware.

"Rehabilitation" - The restoration of an ill or injured person to self-sufficiency at his highest attainable level.

"Resident Beds" - Accommodations with supportive services (such as: food, laundry, housekeeping) for persons who generally stay in excess of twenty four (24) hours.

"Restraint" - Insofar as these regulations are concerned, restraint shall mean providing comfortable support and protection by limiting activity hazardous to the patient or others.

"Supervision" - Direct overseeing and inspection of the act of accomplishing a function or activity.

3.0 Licensing Requirements and Procedures

3.1 When an institution is classified under this Law or Regulations and plans to construct, extensively remodel or convert any buildings, two (2) copies of properly prepared plans and specifications for the entire institution shall be submitted to the Division of Public Health. An approval, in writing, is to be obtained before such work is begun. After the work is completed, in accordance with the plans and specifications, a new license to operate will be issued.

3.2 Separate licenses are required for institutions maintained in separate locations, even though operated under the same management. A separate license is not required for separate buildings maintained by the same management on the same grounds. A license is not transferable from person to person nor from one location to another.

In the event of the sale of a nursing home, the prospective buyer shall be informed of the waivers which were officially granted the previous owner. The Division of Public Health may grant the new owner

of the nursing home the same waivers which had been granted to the former owner. Such a waiver may be granted with the condition that a plan for correcting all deficiencies within a reasonable time may be required to be submitted to and accepted by the Division of Long Term Care prior to the issuance of a license.

3.3 The license shall be conspicuously posted.

3.4 All applications for renewal of licenses shall be filed with the Division of Public Health at least thirty (30) days prior to expiration. Licenses will be issued for a period of not to exceed one (1) year, twelve (12) months.

3.5 Licenses are issued with reference to levels of care. The number of patients and the type of patients shall be in accordance with the license.

4.0 General Requirements

4.1 All required records maintained by the institution shall be open to inspection by the authorized representatives of the Division of Public Health.

4.2 The term 'nursing home" shall not be used as a part of the name of any institution in this State, unless it has been so classified by the Division of Public Health.

4.3 Reserved.

4.4 Reserved.

4.5 No rules shall be adopted by the licensee or administrator of any institution which are in conflict with these regulations.

4.6 The Division of Public Health shall be notified, in writing, of any changes in the administrator, assistant administrator or director of nurses.

4.7 The nursing home must establish written policies regarding the rights and responsibilities of patients, and these policies and procedures are to be made available to patients, guardians, next of kin, or sponsoring agency(ies).

4.8 Each facility shall exhibit with the admission agreement, to all patients or their sponsors, a complete statement enumerating all charges for services, materials and equipment which shall or may be furnished to the patient during the period of residency.

4.9 Each facility shall make known, in writing, the refund and prepayment policy at the time of admission, and in the case of third party payment, an exact statement of responsibility in the event of retroactive denial.

5.0 Plant, Equipment and Physical Environment

5.1 Site Provisions:

Each institution shall be located on a site which is considered suitable by the Division of Public Health. The site must be easily drained and must be suitable for disposal of sewage and furnishing a potable water supply.

5.2 Water Supply and Sewage Disposal:

5.2.1 The water supply and the sewage disposal system shall be approved by the Division of Public Health and the Department of Natural Resources and Environmental Control respectively.

5.2.2 The water system shall be designed to supply adequate hot and cold water, under pressure, at all times.

5.2.3 Hot water at shower, bathing and hand washing facilities shall not exceed 110 F. (43 C).

5.3 Building:

5.3.1 All new construction, extensive remodeling or conversions shall comply with the applicable parts of the standards as set forth under Long Term Care of the General Standards of Construction for Hospital and Medical Facilities, a publication of the Department of Health and Human Services, and its amendment.

5.3.2 Window space shall not be less than one tenth (1/10) of the floor space. Up to 25% reduction may be allowed when approved mechanical ventilation is utilized in multi-bed rooms.

5.3.3 All windows in rooms to be used by patients are to be constructed to eliminate drafts and to provide adequate light and ventilation and shall be easy to open and close.

5.3.4 The building shall be so constructed and maintained to prevent the entrance or existence of rodents and insects at all times. All exterior openings shall be effectively screened during the fly season. Screen doors shall open outward. All screening shall have at least sixteen (16) mesh per inch.

5.3.5 Patient's rooms shall open directly into a corridor.

5.4 Plumbing:

The plumbing shall meet the requirements of all municipal or county codes. Where there is no local law, the provisions of the Division of Public Health Sanitary Plumbing Code shall prevail.

5.5 Heating:

The heating equipment for all living and sleeping quarters shall be adequate, safe, protected and easily controlled. It shall be capable of maintaining the temperature in each room used by patients at a minimum of 72 F (21 C).

5.6 Lighting:

Each room must be suitably lighted at all times for maximum safety, comfort, sanitation, and efficiency of operation. A minimum of 30 foot candles of light shall be provided for all working and reading surfaces, and a minimum of 10 foot candles of light in all other areas including hallways.

5.7 Safety Equipment:

5.7.1 To prevent slipping, staircases shall have stair treads and sturdy handrails.

5.7.2 Stairways shall be well lighted with electric switches at the top and bottom, and shall have a night light.

5.7.3 Hallways shall have night lights.

5.7.4 Low windows, open porches, changes in floor level and danger areas on the grounds shall be protected.

5.7.5 Floor surfaces shall not be slippery and shall be kept in good repair. If rugs are used, they shall be large enough so that they will not slip nor curl up at the edges.

5.7.6 Bedrails shall be available as deemed necessary by nursing or physician staff.

5.7.7 All doors for areas used by patients shall be capable of being opened from both sides.

5.8 Bedrooms:

5.8.1 Each room shall be well lighted and well ventilated. Each room shall be an outside room with at least one (1) window opening directly to the outside. The window sill shall be at least three (3) feet above the floor and above grade. Windows shall be so constructed as to allow a maximum of sunlight and air and to eliminate drafts. Windows shall also be easy to easy to open and close.

5.8.2 Bedrooms for the mentally retarded shall have at least 80 square feet per person in a single resident room and 60 square feet per person in multi-resident rooms. (Minimum room areas are exclusive of toilet rooms, closets, lockers, wardrobes, alcoves and vestibules.) The ceiling shall not be less than seven (7) feet from the floor.

5.8.3 Each bedroom shall have walls that go to the ceiling and also have a door that can be closed.

5.8.4 Cubicle screens or bed screens shall be available in multi-bed rooms to ensure privacy for patient where it is deemed advisable by medical or nursing staff.

5.8.5 Adequate electrical outlets shall be conveniently located in each room and each room shall have general lighting and night lighting. A reading light shall be provided for each patient. At least one light fixture shall be switched at the entrance to each bedroom.

5.8.6 Walls shall be finished in colors which are light and cheerful.

5.8.7 Bedrooms shall not be arranged in such a way that the only means of communication to the outside is through another room.

5.8.8 One (1) or more rooms; vented to the outside, shall be provided with private toilet and hand washing facilities to be used for patients who are critically ill or who require isolation.

5.8.9 Facilities shall ensure adequate privacy and separation of sexes in sleeping arrangements, except in cases of husband and wife and children from birth to age 9 years inclusive.

5.8.10 If bedroom doors of patients are locked, all persons on duty must carry a master key for those locks.

5.8.11 The maximum capacity per room shall be four (4) patients. However, where a physician or psychologist has justified in writing in the patient's medical record that the patient's programmatic needs can be better met by assignment to a room with more than four residents, a capacity in excess of four patients per room may be permitted.

5.9 Bathrooms:

5.9.1 Bathrooms shall be constructed so that the walls and floors are impervious to water. At least one (1) window or mechanical ventilation to the outside shall be provided. Floors shall not be slippery.

5.9.2 Bathtubs or showers shall be provided at the rate of one (1) for each twelve (12) beds which are not otherwise served by bathing facilities within patient's rooms. At least one (1) bathtub with shower shall be provided on each nursing unit. Each tub or shower shall be in an individual room or enclosure which provides space for the private use of the bathing fixture, for drying and dressing, and for a wheelchair and attendant. Showers in central bathing facilities shall be at least four (4) feet square, without curbs, and designed to permit use by a wheelchair patient.

5.9.3 When toilets, washbasins and showers are in the same room, provisions shall be made for privacy. At least one (1) toilet for every four (4) patients and one (1) washbasin, with hot and cold water, for every four (4) patients shall be located on the floor occupied by the patients.

5.9.4 Each toilet, bathtub or shower used by the patients shall be provided with a substantial hand grip.

5.9.5 Reserved.

5.9.6 Separate bathroom facilities shall be provided for the staff in facilities with more than four (4) patients, and shall include hand washing facilities, soap and individual towels.

5.9.7 Adequate facilities shall be provided for the orderly storage of employee's clothing and personal belongings.

5.9.8 Doors are to be wide enough for wheelchairs.

5.10 Dayroom and Dining Area:

5.10.1 Allow at least 30 square feet per bed for the first 100 beds and 27 square feet per bed for all beds in excess of 100; in areas furnished for patient dining, recreational and social activities.

5.10.2 The dining area shall be large enough to accommodate all patients that are not confined to their rooms. Patients are to be encouraged to eat in the dining room if their condition permits, even if a wheelchair is needed.

5.10.3 When a multi-purpose room is used, it shall have sufficient space to accommodate all activities to prevent interference one of with the other.

5.11 Kitchen and Food Storage Areas:

The Division of Public Health's Regulations Governing the Sanitation of Public Eating Places shall apply to institutions and are appended hereto.

5.12 Sanitation and Housekeeping:

5.12.1 A ventilated janitor's closet shall be provided for each nursing unit or floor. This closet shall contain a service, floor level, sink; hot and cold water; and a mixing faucet.

5.12.2 All areas used for soiled linen are to be vented directly outside and have a higher air removal rate than the surrounding area.

5.12.3 If linen chutes are used, they shall be provided with adequate means of cleaning.

5.12.4 Linen Services:

5.12.4.1 On Site Processing Requirements:

The laundry shall include: One room with separate areas for receiving, sorting and washing of soiled linen, one room for drying, mending and storing clean linen; and hand washing facilities immediately accessible to both the preceding areas.

5.12.4.2 Off Site Processing Requirements:

A soiled linen holding room and a dean linen receiving and storage room.

5.12.4.3 There shall be a reasonable amount of dean linen available at all times.

5.12.5 Suitable bedpan cleaning unit shall be available unless disposable bedpans are used throughout the facility.

5.12.6 All rooms and every part of the building shall be kept clean, orderly and free of offensive odors.

5.13 Nursing Equipment and Supplies:

5.13.1 There shall be sufficient equipment and supplies for nursing care to meet the needs of each patient. It shall be the responsibility of the administrator to obtain specific items required for individual cases, when so requested by the attending physician or supervisor of nursing services.

5.13.2 Each patient shall be provided with:

5.13.2.1 A bed in good repair with a comfortable well constructed mattress. The mattress shall be covered or protected with nonporous material.

5.13.2.2 A satisfactory bed-side stand with a drawer and provisions for a towel rack, bedpan, urinal, emesis basin and washbasin.

5.13.2.3 A minimum of at feast two (2) drawers in a dresser or chest of drawers.

5.13.2.4 A private enclosed space for hanging clothing.

5.13.2.5 A comfortable chair.

Furniture shall be so arranged and located as to provide convenient access to patients.

5.13.3 Each bedroom shall be provided with a wall, door or dresser mirror.

5.13.4 Over-bed tables or lap tables shall be provided for patients who are unable to take meals in the dining room.

5.13.5 See section 5.8.4.

5.13.6 Reserved.

5.13.7 There shall be sufficient space and facilities available for the proper cleansing, disinfection, sterilization and storage of nursing supplies and equipment.

5.13.8 The nursing home shall provide safe storage for patient's valuables.

6.0 Fire Safety

6.1 Fire safety in nursing homes shall comply with the adopted rules and regulations of the State Fire Prevention Commission. Enforcement of the fire regulations is the responsibility of the State Fire Prevention Commission. All applications for license or renewal of license must include, with the application, a letter certifying compliance by the Fire Marshal having jurisdiction. Notification of non-compliance with the Rules and Regulations of the State Fire Prevention Commission shall be grounds for revocation of license.

6.2 The staff shall be made familiar, by regular fire drills, at least quarterly, with emergency and evacuation plans. Written records shall be kept of attendance and content of such drills. Emergency plans shall be posted in a conspicuous place at each nursing station. Staff on all shifts shall be instructed on the emergency plans. All staff members shall participate.

7.0 Intermediate Nursing Care

7.1 Mentally Retarded Facilities of 25 beds or less shall have a registered professional nurse or a licensed practical nurse employed and on duty a minimum or twenty (20) hours per week.

7.2 There shall be a sufficient number of appropriately qualified and trained personnel who are responsible for the residents as follows:

7.2.1 For units serving residents who are severely/profoundly retarded, severely handicapped, are aggressive, assaultive or pose a security risk or for units serving residents who manifest severely hyperactive or psychotic like behavior, the overall ratio of staff members to residents shall be 1 to 2.

7.2.2 For units serving moderately retarded residents requiring habit training, the overall ratio of staff members to residents shall be 1 to 2.5.

7.2.3 For units serving residents in vocational training programs and adults who work in sheltered employment situations, the overall ratio of staff members to residents shall be 1 to 5.

7.3 Under supervision of a physician who sees patients and renews orders as needed.

7.4 Provision for a restorative and functional maintenance health program with nursing care.

7.5 In facilities where a licensed practical nurse serves as the charge nurse, consultation is provided by a registered professional nurse through a formal written contract, at regular intervals, but not less than four (4) hours weekly.

7.6 Only registered professional nurses or licensed practical nurses shall be permitted to administer medication.

7.7 Definition of Nurse Aide/Nurse Assistant:

An individual under the supervision of a licensed nurse, who provides care that does not require the judgment and skills of a licensed nurse.

The care may include but is not limited to the following: bathing, dressing, grooming, toileting, ambulating, transferring and feeding, observing and reporting the general well being for the person(s) to whom they are providing care.

Nurse Aide/Nurse Assistant Requirements:

Each nurse aide/nurse assistant employed by any nursing home either as contract/agency or facility staff as of October 1, 1990, shall be required to meet the following:

7.7.1 Training/Testing

7.7.1.1 Nurse aide/nurse assistant shall complete a nurse aide training course approved by Delaware State Board of Nursing and by the State Board of Health.

7.7.1.2 Nurse aide/nurse assistant is required to pass competency evaluation test approved by State of Delaware.

7.7.1.3 Employees of Delaware nursing homes shall by duly certified within 4 months of employment.

7.7.1.4 Contract aides must be certified prior to placement in any nursing home.

7.7.2 A nurse aide/nurse assistant who has not performed nursing related services for pay for a continuous 24 month period after completion of a training and testing program, must complete and pass a new training and competency evaluation (testing) program.

7.7.3 A nurse aide/nurse assistant who has not been employed in health care setting for three years will be required to meet the requirements in section 7.7.1 above.

7.7.4 A nurse aide/nurse assistant trained and certified outside the State of Delaware may be deemed qualified to meet the Division of Public Health requirements based on a case by case review and approval.

7.7.5 Employees hired as nurse aide/nurse assistant who are currently enrolled in a nursing program and have satisfactorily completed the fundamentals of nursing course with a clinical component will be deemed to meet the training and testing requirements. These individuals will be approved with submittal of a letter from their school of nursing attesting to current enrollment status and satisfactory course completion as described.

7.8 Nursing Aide Training Program Curriculum

The following material identifies the minimum curriculum content for nurse aides/nursing assistants being prepared to work in nursing home facilities either as direct on contract staff.

The curriculum content for the nurse aide training program must include material which will provide a basic level of both knowledge and demonstrable skills for each individual completing the program. The program must be a minimum of 75 hours in length, divided equally between skills training and classroom instruction. Additional hours may be in either of these areas or both.

Programs may expand the curriculum content to provide opportunities for nurse aides to be placed in settings where nurse aides/nurse assistants are employed to perform basic skills as delegated by a licensed nurse in support of a professional plan of care.

7.8.1 The Nurse Aide Role and Function

7.8.1.1 Key Concepts:

Introduces the characteristics of an effective nurse aide: personal attributes, on the job conduct, appearance, grooming, health and ethical behavior. Also presented are the responsibilities of the nurse aide as a member of the patient care team. Legal aspects of patient care and patient rights are presented. Relevant Federal and State statutes are referenced.

7.8.1.2 Competencies:

Function as a nurse aide within the legal and ethical standard set forth by the profession of nursing.

7.8.1.2.1 Define the role and functions of the nurse aide and provide awareness of the legal limitations of being a nurse aide.

7.8.1.2.2 Recognize the responsibilities of the nurse aide as a member of the health care team.

7.8.1.2.3 Identify the "chain of command" in the organizational structure of the health care agency.

7.8.1.2.4 Maintain acceptable personal hygiene and exhibit appropriate dress practices.

7.8.1.2.5 Recognize the importance of punctuality and commitment on the job.

7.8.1.2.6 Differentiate between ethical and unethical behavior on the job.

7.8.1.3 Demonstrate behavior which maintains resident's and/or client's rights.

7.8.1.3.1 Provide privacy and maintenance of confidentiality.

7.8.1.3.2 Promote the resident's right to make personal choices to accommodate individual needs.

7.8.1.3.3 Give assistance in resolving grievances.

7.8.1.3.4 Provide needed assistance in giving to and participating in resident and family groups and other activities.

7.8.1.3.5 Maintain care and security of resident's personal possessions.

7.8.1.3.6 Provide care which maintains the residents free from abuse, mistreatment or neglect and report any instances of such poor care to appropriate facility staff.

7.8.1.3.7 Maintain the resident's environment and care through appropriate nurse aide behavior so as to minimize the need for physical and chemical restraints.

7.8.2 Environmental Needs of the Patient

7.8.2.1 Key Concerts:

Introduces the nurse aide to the need to keep patients safe from injury and infection in the long term care setting. The nurse aide is taught why and how to use infection control and isolation techniques. Safety through. prevention of fires and accidents, and emergency procedures for fire and other disasters are presented.

7.8.2.2 Competencies:

7.8.2.2.1 Apply the basic principles of infection control.

7.8.2.2.1.1 Identify how diseases are transmitted.

7.8.2.2.1.2 Demonstrate handwashing technique.

7.8.2.2.1.3 Perform basic cleaning, disinfecting, and sterilizing tasks.

7.8.2.2.1.4 Demonstrate proper isolation and safety techniques in care of infectious resident.

7.8.2.3 Assist with basic emergency procedures.

7.8.2.3.1 Follow safety and emergency procedures.

7.8.2.3.2 Identify safety measures that prevent accidents to residents.

7.8.2.3.3 Recognize signs when a resident is choking or may have an obstructed airway.

7.8.2.3.4 Assist with clearing obstructed airway.

7.8.2.3.5 Call for help when encountering convulsive disorders, loss of consciousness, shock, hemorrhage, and assist the resident until professional help arrives.

7.8.2.3.6 Follow disaster procedures.

7.8.2.3.7 Report emergencies accurately and immediately.

7.8.2.3.8 Identify potential fire hazards.

7.8.3 Provide a safe, clean environment.

7.8.3.1 Identify the resident's need for a clean and comfortable environment.

7.8.3.2 Report unsafe conditions.

7.8.3.3 Report pests.

7.8.3.4 Report non-functioning equipment.

7.8.3.5 Prepare soiled linen for laundry.

7.8.3.6 Clean and disinfect unit for admission or following discharge.

7.8.3.7 Arrange furniture and equipment for the resident's convenience.

7.8.4 Psycho-Social Needs of the Patient

7.8.4.1 Key Concepts:

Focus is placed on the social, emotional, recreational and religious needs of patients in a long term care setting. It describes some of the physical, mental, and emotional changes associated with aging and institutionalization, and presents ways in which the nurse aide may effectively communicate with patients an their families.

7.8.4.2 Competencies:

7.8.4.2.1 Demonstrates appropriate and effective communication skills.

7.8.4.2.1.1 Demonstrate effective verbal and non-verbal communications in keeping with the nurse aide's role with residents and their families.

7.8.4.2.1.2 Observe by using the senses of sight, hearing, touch and smell to report resident behavior to the licensed nurse.

7.8.4.2.1.3 Document observations using appropriate terms.

7.8.4.2.1.4 Recognize the importance of maintaining the patient's record.

7.8.4.2.1.5 Communicate with residents according to their state of development.

7.8.4.2.2 Demonstrate basic skills by identifying the psycho-social characteristics of the populations being served in the nursing facility including persons with mental retardation, mental illness and persons with dementia, Alzheimer's disease and related disorders.

7.8.4.2.2.1 Indicate the ways to meet the resident's basic human needs for life and mental well-being.

7.8.4.2.2.2 Modify his/her own behavior in response to resident's behavior.

7.8.4.2.2.3 Identify developmental tasks associated with the aging process.

7.8.4.2.2.4 Provide training in, and the opportunity for, self-care according to resident's capabilities.

7.8.4.2.2.5 Demonstrate principles of behavior management by reinforcing appropriate behavior and reducing or eliminating inappropriate behavior.

7.8.4.2.2.6 Demonstrate skills supporting age-appropriate behavior by allowing the resident to make personal choice, providing and reinforcing other behavior consistent with resident's dignity.

7.8.4.2.2.7 Utilize resident's family as a source of emotional support.

7.8.4.2.2.8 Recognize how age, illness and disability affect sexuality.

7.8.5 Physical Needs of the Patient

7.8.5.1 Key Concepts:

Presents the basic skills which nurse aides use in the physical care of patients. The nurse aide will learn basic facts about body systems and what is needed to promote good functioning. The nurse aide will learn to provide physical care to patients safely and to keep the patient clean, dry and comfortable. The nurse aide will also learn to make observations regarding patients and to record and/or report observations. The nurse aide will learn to maintain range of motion while providing physical care to patient. Introduction of the basics of range of motion and its integration into routine personal care activities.

7.8.5.2 Competencies:

7.8.5.2.1 Apply the principles of basic nutrition in the preparation and serving of meals.

7.8.5.2.1.1 List general principles of basic nutrition.

7.8.5.2.1.2 Read the instructions for special diets.

7.8.5.2.1.3 Serve prepared foods as instructed.

7.8.5.2.1.4 Identify cultural variations in diet.

7.8.5.2.2 Recognize abnormal signs and symptoms of common diseases and conditions. Examples are:

7.8.5.2.2.1 Upper respiratory infection - Report coughing, sneezing, elevated temperatures, etc.

7.8.5.2.2.2 Diabetes Report excessive thirst, frequent urination, change in urine output and drowsiness, excessive perspiration and headache.

7.8.5.2.2.3 Urinary tract infection - Report frequent urination, burning or pain on urination, change in color of urine. blood or sediment in urine and strong odors.

7.8.5.2.2.4 Cardiovascular conditions - Report shortness of breath, chest pain, blue color to lips, indigestion, sweating, change in pulse, etc.

7.8.5.2.2.5 Cerebral vascular conditions - Report dizziness, changes in vision such as seeing double, etc., change in blood pressure, numbness in any part of the body, or inability to move arm or leg, etc.

7.8.5.2.2.6 Skin conditions - Report break in skin, discoloration such as redness, black and blue areas, rash, itching, etc.

7.8.5.2.2.7 Gastrointestinal conditions - Report nausea, vomiting, pain, inability to swallow, bowel movement changes such as color. diarrhea, constipation. (Continue to list common diseases and conditions based on the population being served.)

7.8.5.2.3 Provide personal care and basic nursing skills as directed by the Licensed nurse.

7.8.5.2.3.1 Provide for resident's privacy when providing personal care.

7.8.5.2.3.2 Assist the resident to dress and undress.

7.8.5.2.3.3 Assist the resident with bathing and personal grooming.

7.8.5.2.3.4 Observe and report condition of the skin.

7.8.5.2.3.5 Assist the resident with oral hygiene.

7.8.5.2.3.6 Administer oral hygiene for the unconscious resident.

7.8.5.2.3.7 Demonstrate measures to prevent decubitus ulcer, i.e., positioning turning, and applying heel and elbow protectors.

7.8.5.2.3.8 Assist the resident in using the bathroom.

7.8.5.2.3.9 Assist the resident in using a bedside commode, urinal and bedpan.

7.8.5.2.3.10 Demonstrate proper bedmaking procedures.

7.8.5.2.3.11 Feed residents oral table foods in an appropriate manner.

7.8.5.2.3.12 Distribute nourishment and water.

7.8.5.2.3.13 Accurately measure and record:

7.8.5.2.3.13.1 intake out output

7.8.5.2.3.13.2 height and weight

7.8.5.2.3.13.3 T.P.R

7.8.5.2.3.14 Assist the resident with shaving.

7.8.5.2.3.15 Shampoo and groom hair.

7.8.5.2.3.16 Provide basic care of toenails and fingernails if appropriate.

7.8.5.2.3.17 Assist with catheter care.

7.8.5.2.3.18 Assist the professional nurse with a physical examination.

7.8.5.2.3.19 Apply a non-sterile dressing.

7.8.5.2.3.20 Apply non-sterile compresses and soaks.

7.8.5.2.3.21 Apply cold and/or heat applications.

7.8.5.2.4 Demonstrate skills which incorporate principles of restorative care under the direction of a licensed nurse.

7.8.5.2.4.1 Assist the resident in bowel and bladder training.

7.8.5.2.4.2 Assist the resident in activities of daily living and encourage self help activities.

7.8.5.2.4.3 Assist the resident with ambulation aids, i.e., care, quadcane, walker, crutches, wheelchair and transfer aids, i.e., hydraulic lifts.

7.8.5.2.4.4 Perform range of motion exercise as instructed by the physical therapist or the professional nurse.

7.8.5.2.4.5 Assist in care and use of prosthetic devices.

7.8.5.2.4.6 Assist the resident in proper use of body mechanics.

7.8.5.2.4.7 Assist the resident with dangling, standing and walking.

7.8.5.2.4.8 Demonstrate proper turning and/or positioning both in bed and in a chair.

7.8.5.2.4.9 Demonstrate proper technique of transferring resident from bed to chair.

7.8.5.2.5 One-man cardiopulmonary resuscitation (CPR) skills in checking of conscious and unconscious victims.

7.8.5.2.6 Provide care to resident when death is imminent.

7.8.5.2.6.1 Discuss own feelings and attitude about death.

7.8.5.2.6.2 Explain how culture and religion influence a person's attitude toward death.

7.8.5.2.6.3 Discuss the stages of dying.

7.8.5.2.6.4 Recognize and report the common signs of approaching death.

7.8.5.2.6.5 Provide care (if appropriate) to the resident's body after death.

7.9 Instructors

7.9.1 Primary instructor is an individual responsible for overall coordination and implementation of nurse aide training program.

7.9.2 Qualifications:

7.9.2.1 RN licensure in the State of Delaware.

7.9.2.2 Two (2) years nursing experience in caring for the elderly and/or chronically ill of any age.

7.9.2.3 For instructors without prior teaching experience:

7.9.2.3.1 Successful completion of a "Train the Trainer" program which provides preparation in teaching adult learners principles of effective teaching and teaching methodologies.

7.9.2.4 Waiver of the Train the Trainer requirement is made for those nurses who demonstrate at least one (1) year of continuous teaching experience at the nursing assistant or LPN or RN program level.

7.9.3 Program Trainer(s) is the individual(s) who provide assistance to primary instructors as resource personnel from the health field.

7.9.3.1 Qualifications:

7.9.3.1.1 Trainers may include: registered nurses, licensed practical nurses, pharmacists, dietitians, social workers, physical or occupational therapists, environmental health specialists, etc.

7.9.3.1.2 One (1) year of current experience in caring for the elderly and/or chronically ill of any age or have equivalent experience.

7.9.3.1.3 Trainers are to be licensed, registered and/or certified in their field, where applicable.

7.10 Training for Primary Instructors

7.10.1 The approved instructors will develop into competent trainers, possessing the necessary skills to train nursing assistants to meet the established certification criteria. The trainers will understand the roles and responsibilities associated with training. They will be able to design and implement a training program, assess its value, and modify it as needed. They will recognize the characteristics of adult learners and create a training environment conducive to effective learning.

7.10.1.1 Training course outline shall include:

7.10.1.1.1 Role of trainer.

7.10.1.1.2 Communication techniques.

7.10.1.1.3 Demonstration skills.

7.10.1.1.4 Teaching a process.

7.10.1.1.5 Teaching techniques.

7.10.1.1.6 Training techniques.

7.10.1.1.7 Developing a formal training plan.

7.10.1.2 Course Management Information

7.10.1.2.1 Training time will consist of sixteen minimum hours.

7.10.1.2.2 The instructor must have formal educational preparation or experience with skills of adult learning.

8.0 Personnel/Administrative

8.1 The administrator(s) shall be responsible for complying with the regulations herein contained. In the absence of the administrator, an employee shall be authorized, in writing, to be in charge.

8.2 The chief administrative officer shall be a full-time and qualified as a licensed nursing home administrator or qualified mental retardation professional or, in the case of hospital, as a hospital administrator. Facilities of 25 beds or less shall have the services of a part-time Chief Administrative Officer for a minimum of twenty (20) hours per week. If the chief administrative officer is a qualified mental retardation professional, it shall be a person who has specialized training or one year of experience in treating or working with the mentally retarded; and in addition, is one of the following:

8.2.1 A psychologist with a master's degree from an accredited program.

8.2.2 A physician licensed by the State of Delaware.

8.2.3 An educator with a degree in education from an accredited program.

8.2.4 A social worker with a bachelor's degree in

8.2.4.1 Social work from an accredited program; or

8.2.4.2 A field other than social work and at least three (3) years of social work experience under the supervision of a qualified social worker.

8.2.5 A physical or occupational therapist who is a graduate of an accredited program and has a State of Delaware license or registration.

8.2.6 A speech pathologist or audiologist who is a graduate of an accredited program and licensed by the State of Delaware.

8.2.7 A registered professional nurse who is licensed by the State of Delaware.

8.2.8 A therapeutic recreation specialist who is a graduate of an accredited program and is registered with the National Therapeutic Recreation Society.

8.2.9 A rehabilitation counselor who is certified by the Committee on Rehabilitation Counselor Certification.

8.3 A staff of persons sufficient in number and adequately trained to meet requirements for care shall be employed. In addition to the staff engaged in the direct care and treatment of patients, there must be

sufficient personnel to provide basic services; such as: food service, laundry, housekeeping and plant maintenance.

8.4 No employee shall be less than sixteen (16) years of age, unless they have been issued proper working papers.

8.5 The institution shall have written personnel policies and procedures that adequately support sound patient care. Personnel records are to be kept current and available for each employee, and contain sufficient information to support placement in the positions to which assigned.

8.6 Minimum requirements for employee physical examination:

8.6.1 Each person. including volunteers, who is involved in the care of patients shall have a screening test for tuberculosis as a prerequisite to employment. Either a negative intra-dermal skin test or a chest x-ray showing no evidence of active tuberculosis shall satisfy this requirement.

8.6.2 A report of this test shall be on file at the facility of employment.

8.7 No person having a communicable disease shall be permitted to give care or service. All reportable communicable diseases shall be reported to the County Health Officer.

9.0 Services to Patients

9.1 General Services:

9.1.1 The intermediate care nursing facility shall provide to all patients the care deemed necessary for their comfort, safety, nutritional requirements and general well being. There shall be specific evaluation and program plans for each resident that are:

9.1.1.1 Available to direct care staff in each living unit

9.1.1.2 Reviewed by a member or members of an interdisciplinary program team at least monthly, with documentation of such review entered in the resident's record.

9.1.2 The intermediate care nursing facility shall have in effect a written transfer agreement with one (1) or more hospitals which provides the basis for effective working arrangements under which in-patient hospital care, or other hospital services, are available promptly to the facility's patient's, when needed.

9.1.3 The intermediate care nursing facility shall have a written provision for promptly obtaining required laboratory, x-ray and other diagnostic services. These services may be obtained from other facilities that are approved by the Division of Public Health.

9.2 Medical Services:

9.2.1 All persons admitted to an institution (intermediate care nursing home) shall be under the care of a licensed physician.

9.2.2 All nursing homes shall arrange for one (1) or more licensed physicians to be called in an emergency. Names and phone numbers of these physicians shall be posted at all nurse's stations.

9.2.3 All order for medications, treatments, diets, diagnostic services, etc., shall be in writing and signed by the attending physician.

9.2.4 All statements of medical treatment goals and management plans shall be reviewed and updated as needed, but, at least annually, to ensure continuing appropriateness of the goals, consistency of management methods with the goals and the achievement of progress towards the goals.

9.2.5 A progress note shall be written and signed by the physician on each visit.

9.2.6 All telephone orders shall be countersigned by the physician within forty-eight (48) hours.

9.3 Specialized Services:

9.3.1 All specialized services shall be ordered, in writing, by the attending physician; such as: physical therapy, occupational therapy, speech therapy, etc.

9.3.2 The nursing home shall notify the family or guardian, as soon as feasible, when a special service has been ordered by the physician.

9.4 Nursing Services:

9.4.1 Individual nursing care plans shall be developed by nursing services as part of the total rehabilitation program with modification of the nursing as needed to meet the resident's daily needs. Nursing care plans are to be reviewed at least annually for adults and more frequently for children, in accordance with developmental changes.

9.4.2 There shall be a registered professional nurse or a licensed practical nurse designated as the supervisory nurse, who shall:

9.4.2.1 For facilities of twenty-five (25) beds or less, a registered professional nurse or licensed practical nurse must be on duty at least twenty (20) hours weekly.

9.4.2.2 Designate adequate relief personnel, including a registered professional or licensed practical nurse, so that a responsible person is available at all times in the event of an emergency.

9.4.2.3 Develop and maintain nursing service objectives, standards of nursing practice and nursing procedure manuals.

9.4.2.4 Assign and supervise all levels of nursing service personnel.

9.4.2.5 Coordinate nursing services with physicians, physical therapy, dietary, pharmaceutical, recreational activities and other specialized services.

9.4.2.6 Provide orientation programs for the new nursing service personnel and in-service education for all nursing personnel. Written records of the content of each program must be kept on file for one (1) year.

9.4.2.7 Participate in the selection of prospective patients, in terms of nursing services that they need, and nursing competencies available.

9.4.3 Should the Supervising Nurse (Director of Nurses) terminate her employment, the Division of Public Health shall be immediately notified in writing of this termination along with the name of her replacement, registration and current license number.

9.4.4 Each institution shall have at least two (2) or more nursing service personnel monitoring the patients twenty four (24) hours a day.

9.4.5 Treatments and the administration of medications ordered by a physician shall be carried out according to his order, using acceptable techniques.

9.4.6 Orders for restraints shall be in writing and signed by the physician and shall contain:

9.4.6.1 Resident's name.

9.4.6.2 Reason for type of restraints prescribed.

9.4.6.3 The time it is to be administered and removed.

9.4.7 In applying restraints, careful consideration shall be given to the methods by which they can speedily be removed in case of fire, or other emergency. Restraints shall be applied by a nurse or aide who has received proper training in this procedure.

9.5 Medications:

9.5.1 All medications administered to patients shall be ordered in writing, and signed by the attending physician.

9.5.2 All medications shall be stored in a locked cabinet located in, or convenient to, the nurse's station. The key to this cabinet shall be kept in the possession of, or accessible to, only the licensed nursing personnel responsible for administering medications.

9.5.3 Internal medications shall be stored separately from external medications.

9.5.4 Schedule II substances shall be kept in separately locked, securely fixed boxes or drawers in the locked medication cabinet; hence, under two (2) locks.

9.5.5 Medications requiring refrigeration shall be kept in a refrigerator within the drug room or in a separate locked box within a refrigerator near the nursing station and separate from the foods.

9.5.6 All medications shall be accurately and plainly labeled, with a label affixed to the outside of the container. The label shall have he patient's name, name of the drug, potency, and the name of the prescribing physician. If the medication is for in-patient use, it may be labeled, to be administered according to current physician's orders provided that (1) the MAR accurately reflects the

prescriber's current orders; and (2) the pharmacy is informed of any changes in directions within 24 hours and promptly records the change on the patient profile. Prescriptions for outpatient use must be labeled in compliance with **24 Del.C. 2563**.

9.5.7 Medication containers having soiled, damaged, incomplete, illegible or makeshift labels must be returned to the pharmacist for relabeling or disposal. Containers not having any label shall be returned to the pharmacist for disposal.

9.5.8 Medications shall be given only to the individual patient for whom the prescription was issued, and shall be given in accordance with the directions, as prescribed.

9.5.9 Only licensed nurses may prepare and administer medications. The same licensed nurse who prepares the medications, shall given them and then record them on the patient's chart.

9.5.10 Medications shall not be returned to the container and in circumstances such as refusal of drugs by the patient, the drug shall be discarded and so indicated on the patient's chart.

9.5.11 Discontinued prescription (legend) pharmaceuticals shall not be retained, but shall be disposed of in one of two ways: (1) Flushed into the sewage system in the presence of a witness, or (2) Returned to the pharmacist for proper disposition; and the method so noted on the patient's chart.

9.5.12 No stock supplies of drugs except those commonly available without prescription (non-legend drugs, e.g., antacids, aspirins, laxatives) shall be kept in the facility. Exception to this shall be allowed in a facility where a licensed pharmacy is maintained.

9.5.13 All disinfectants, cleaning materials and poisons shall be kept in a safe place, separate and apart from medications and food, and accessible only to the operator and designated employees.

9.5.14 Schedule II substances shall be handled in the manner outlined by the State and Federal Laws and Regulations. All unused Schedule II substances shall be returned to the pharmacist for disposition.

9.5.15 Upon approval by the Board of Pharmacy, emergency kits containing controlled substances or emergency supplies of such substances may be maintained provided that:

9.5.15.1 Approved Schedule 11 substances are secured in a double-locked cabinet in compliance with "D" of this Section.

9.5.15.2 Schedule III through V substances are secured in a single-lock cabinet or case.

9.5.15.3 The controlled substances are accessible to only licensed personnel responsible for administering medications.

9.5.15.4 Readily retrievable records are maintained showing the receipt and disposition of the controlled substance.

9.5.15.5 A written policy is adopted which outlines the emergency conditions under which the use of the substance is authorized. The policy must be approved by the Pharmaceutical Control Officer. The Division of Public Health may revoke the right of institutions to maintain emergency kits containing controlled substances or emergency supplies of such substances if it receives evidence of noncompliance.

9.5.16 Medications shall be released to patients on discharge or transfer only on the written authorization of the patient's physician. Patients who may leave the nursing home on a short leave may be issued a quantity of medication to meet their needs, with the approval of the patient's physician. These doses must be packaged and labeled by the pharmacist, unless the home administers medication fro an individually packaged unit dose system.

9.5.17 Hypodermic syringes and needles supplied by the resident or his representative must carry a prescription label affixed to the outside of the container indicating that the syringes or needles were obtained with a physician's prescription. Facilities do not need a prescription to purchase hypodermic syringes and needles. (See Section 4757 of the Delaware Uniform Controlled Substance Act.)

9.5.18 The barrel, plunger and needle of disposable hypodermic syringes must be rendered useless, immediately after use and then properly discarded.

9.5.19 Each nursing home shall have an advisory pharmacist to advise the administrator on pharmaceutical services, drugs and policies. A policy and procedure manual shall be set up and shall include policies pertaining to automatic stop orders.

9.5.20 A current drug reference text shall be available in each nursing home.

9.5.21 The administrator shall notify the Office of Narcotics and Dangerous Drugs, Division of Public Health, of any theft or unexplained loss of any controlled substances, syringes, or needles, or prescription pads within 48 hours of the discovery of such loss or theft.

9.6 Food Service

9.6.1 A minimum of three (3) meals shall be served in each twenty four (24) hour period. There shall not be more than a fourteen (14) hour span between the evening meal and breakfast

9.6.2 The food served shall be suitably prepared and of sufficient quantity and quality to meet the nutritional needs of the patients.

9.6.3 Special diets served shall be on the written prescription of the physician.

9.6.4 A copy of the current week's menus - regular and therapeutic - shall be posted in the kitchen and in a public area.

9.6.5 A copy of a recent diet manual shall be available for planning therapeutic menus and as a resource reference for physicians.

9.6.6 Menus showing food actually served each day shall be kept on file for at least one (1) month.

9.6.7 A two (2) day supply of food for emergency feeding shall be kept on the premises. (Items that need little or no water and heat to be served are recommended.)

9.6.8 A suspected occurrence of food poisoning shall be reported immediately, by telephone, to the County Health Officer.

9.7 Housekeeping Services:

9.7.1 Routine housekeeping duties shall not be assigned to nursing service personnel.

9.7.2 Housekeeping personnel shall be sufficient to maintain all rooms and every part of the building clean and orderly.

9.7.3 Waste material, obsolete and unnecessary articles, cans, rubbish and other litter shall not be permitted to accumulate on the premises of the institution.

9.7.4 Infectious waste shall be stored in sanitary containers and disposed of in a sanitary manner.

9.7.5 No laundry operations may be carried out where food is prepared, served or stored.

9.8 Communicable Diseases:

9.8.1 Persons suffering from a communicable disease may, at the discretion of the Director of the Division of Public Health, be admitted to and reside in a nursing home except for strict isolation and respiratory care as recommended by the Centers for Disease Control. Such facility must be properly equipped and have adequate and trained staff to treat the communicable disease.

9.8.2 The nursing home shall establish a written procedure to be followed in the event that a patient with a communicable disease is admitted or an episode of communicable disease occurs. It is the responsibility of the nursing home to see that:

9.8.2.1 The necessary precautions stated in the written procedures are followed.

9.8.2.2 All rules of the Delaware Division of Public Health are followed so there is a minimum danger of transmission to staff and residents.

9.8.3 Any patient found to have active tuberculosis in an infectious stage may not continue to reside in a nursing home that does not have approved facilities for respiratory isolation.

9.8.4 An individual, when suspected or diagnosed as having a communicable disease, shall be placed on the appropriate isolation or precaution as recommended for that disease by the Center for Disease Control. Those with a communicable disease which has been determined by the Director of the Division of Public Health, or his designee, to be a health hazard to visitors, staff, and other residents shall be placed on isolation care until they can be moved to an appropriate room or transferred to another facility.

9.8.5 The admission or occurrence of a patient with a communicable disease within a nursing home shall be reported to the Director of the Division of Public Health so as to determine the potential health hazard involved as currently required by the Division of Public Health. (See Appendix A Notifiable Diseases)

9.8.6 All facilities shall have on file results of tuberculin tests (1) performed annually for all employees and (2) performed on all newly admitted patients. The tuberculin test to be used is the Mantoux test containing 5 TU PPD stabilized with Tween, injected intradermally, using a needle and syringe, usually on the volar surface of the forearm. Persons found to have a significant reaction (defined as 10 mm of induration or greater) to tests shall be reported to the Division of Public Health and managed according to recommended medical practice. A tuberculin test as specified, done within the twelve months prior to admission or employment, satisfies this requirement for asymptomatic individuals. A report of this skin test shall be kept on file.

9.8.6.1 Employees and patients who do not have a significant reaction to the initial tuberculin test (those individuals who have less than 10 mm induration) should be retested within 7 - 21 days to identify those who demonstrate delayed reactions. Tests done within one year of a previous test need not be repeated in 7 - 21 days.

9.8.7 All facilities shall have on file evidence of annual vaccination against influenza for all residents, as recommended by the Immunization Practice Advisory Committee of the Center for Disease Control, unless medically contraindicated.

9.8.8 All facilities shall have on file evidence of vaccination against pneumococcal pneumonia for all residents after the age of 65 years and as recommended by the Immunization Practice Advisory Committee of the Centers for Disease Control unless medically contraindicated.

9.9 Mental Illness:

9.9.1 Patients who are, or become, mentally ill and who may be harmful to themselves or others, shall not be admitted or retained in an intermediate care nursing home.

9.9.2 If a patient becomes disturbed or unmanageable, he/she shall be evaluated by a physician or psychiatrist. If the patient's condition does not respond to treatment and improve, the patient shall be removed to a more suitable facility.

9.10 Records and Reports:

9.10.1 There shall be a separate clinical record maintained on each patient, which wi l be a chronological history of the patient's stay in the nursing home. Every patient's record shall contain:

9.10.1.1 Admission record: Including patients name; birth date; home address prior to entering the facility; identification numbers, such as social security, medicaid, medicare, etc.; date of admission; physician's name, address and phone number; admitting diagnosis; next of kin (relationship, name, address, and phone number); and the facility's medical record number.

9.10.1.2 History and physical examination: Prepared by a physician within seven (7) days of the patient's admission to the home. If the patient has been admitted to the home immediately after discharge from a hospital, the patient's summary and history which was prepared at the hospital and the patient's physical examination which was performed at the hospital, if performed within seven (7) days prior to admission to the home, may be substituted in lieu of the above records. Additionally, a record of an annual medical evaluation performed by a physician must be contained in each patient's file.

9.10.1.3 Statement of complete diagnosis and prognosis.

9.10.1.4 Physician's orders: Including complete list of medications, medication name, dosage, frequency and route of administration, treatments, diets level of permitted activity, and use of restraints (if the patient's condition requires them).

9.10.1.5 Physician's progress notes.

9.10.1.6 Nursing notes.

9.10.1.7 Medication sheets: Including medication, name, dosage, frequency and route of administration, space for recording initials of the nurse for each dose administered, signature identifying administering nurses' initials, including professional status.

9.10.1.8 Inventory of personal effects.

9.10.1.9 Accident reports.

9.10.1.10 Results of laboratory and special tests and x-rays ordered by the physician.

9.10.1.11 Discharge record or notes: Including condition on discharge, place to which discharged, and prognosis, if appropriate.

9.10.1.12 Special service notes: e.g., social services and activities, results of specialty consultations requested by the physician, physical therapy, dental and podiatry.

9.10.1.13 Inter-agency transfer forms, if the patient was admitted from an acute care facility or any other long-term facility.

9.10.2 Records shall be available at all times to legally authorized persons; otherwise, such records shall be held confidential.

9.10.3 For the legal protection of the institution, records shall be retained for five (5) years before being destroyed.

9.10.4 An accident report, with adequate documentation, shall be completed for each incident. Adequate documentation shall consist of patient involved, time of injury, disposition of patient, and documentation that physician and family have been contacted. Accident reports are to be kept on file in the facility.

9.11 Patient Care Policies:

9.11.1 Every nursing home shall develop written policies pertaining to the services they provide. Such policies shall include:

9.11.1.1 Admission, transfer and discharge policies.

9.11.1.2 The categories of patients accepted or not accepted.

9.11.1.3 Physician's services.

9.11.1.4 Nursing services.

9.11.1.5 Dietary services.

9.11.1.6 Rehabilitative services.

9.11.1.7 Pharmaceutical services,

9.11.1.8 Diagnostic services.

9.11.1.9 A written policy denoting care of patients:

9.11.1.9.1 In an emergency.

9.11.1.9.2 During a communicable disease episode.

9.11.1.9.3 In case of critical illness or mental disturbance.

9.11.1.10 Dental services.

9.11.1.11 Social services.

9.11.1.12 Patient activities: recreational, social, religious.

9.11.1.13 Clinical records.

9.11.1.14 Fire and safety policies.

9.11.2 The policies should reflect the philosophy and objectives of the individual home, i.e.:

9.11.2.1 To provide on a continuing basis good medical and nursing care for all persons admitted to the home who require such care.

9.11.2.2 To stimulate as much as possible the rehabilitation of each patient to his/her maximum level.

9.11.2.3 To preserve the dignity and individuality of all patients.

9.11.2.4 Through recreational activities, create a feeling of usefulness and security.

10.0 Severability

10.1 Should any section, sentence, clause or phrase of these regulations be legally declared unconstitutional or invalid for any reason, the remainder of said regulations shall not be effected thereby.

11.0 Waiver of Standards

11.1 Specific standards may be waived by the State Board of Health provided that each of the following conditions are met:

11.1.1 Strict enforcement of the standard would result in unreasonable hardship on the license.

11.1.2 The Waiver is in accordance with the particular needs of any client of the licensee.

11.1.3 A Waiver must not adversely affect the health, safety, welfare, or rights of any client of the licensee.

11.1.4 The request for a Waiver must be made to the State Board of Health in writing by the licensee with substantial detail justifying the request.

11.1.5 Prior to filing a request for a waiver, the facility shall provide written notice of the request to each resident, each court appointed guardian of any resident, each person appointed in the durable power of attorney of any resident, each person appointed to be a resident's health care agent under the Death with Dignity Act and each spouse and adult child of any resident. Prior to filing a request for a waiver, the facility shall also provided written notice of the request to the Office of Long Term Care Ombudsman. The notice shall state that the recipient has the right to object to the waiver request orally at the State Board of Health meeting when the request is being considered or in writing to the Board of Health in advance of such meeting.

11.1.6 A Waiver granted by the State Board of Health is not transferable to another licensee in the event of a change of ownership.

11.1.7 A Waiver shall be granted for the term of the license.

APPENDIX A

These Regulations are adopted by the Director, Division of Public Health pursuant to **16 Del.C. 1124**.

PATIENT' S BILL OF RIGHTS

RESPECT

1. Every patient and resident shall be treated with consideration, respect and full recognition of their dignity and individuality.

2. Every patient and resident shall receive care, treatment and services which are adequate and appropriate.

SERVICES AND PAYMENT

3. Each patient and resident and their families shall, prior to or upon admission, and during their stay, receive a written statement of the services provided by the facility including those required to be offered on an "as needed" basis.

A. They shall also receive a statement of related charges, including any charges for services not covered under Medicare, Medicaid or the facility's basic per diem rate.

B. Upon receiving such statement, the patient and his representative shall sign a written receipt which shall be retained by the facility.

TREATMENT

4. Each patient shall receive from the attending physician or resident physician of the facility, in lay terns, complete and current information regarding his diagnosis, treatment and prognosis, unless medically inadvisable.

5. Each patient and resident:

A. Shall participate in the planning of their medical treatment;

B. May refuse medication or treatment;

C. Shall be informed of the medical consequences of all medication and treatment alternatives; and

D. Shall give prior informed consent to participation in any experimental research, which shall be verified by his signature and the signature of a family member or representative.

6. The facility shall see to it that the name, address and telephone number of the patient or resident's physician is readily accessible to them at their bedside.

7. Each patient and resident's medical care program shall be conducted discreetly and in accordance with the patient's need for privacy.

A. Persons not directly involved in patient care shall not be present during medical examinations, treatment and case discussion.

B. Personal and medical records shall be treated confidentially; shall not be made public without the consent of the patient or resident; shall not be released to any person inside or outside the facility who has no demonstrable need for such records.

8. Every patient and resident shall be free from mental and physical abuse and also from chemical and physical restraints, unless authorized by a physician according to clear and indicated medical requirement.

COMMUNICATIONS

9. Every patient and resident shall receive from the Administrator or staff of the facility a courteous and reasonable response to his requests.

10. Every patient and resident shall be provided with information as to any relationships of the facility to other health care facilities as far as the patient's care is concerned.

11. To maintain reasonable continuity of care, every patient and resident at the least shall be informed of the availability of physicians and appointment times.

12. Every patient and resident may associate privately with people and groups of his own choice at any reasonable hour.

A. May send and receive mail promptly and unopened.

B. Shall have access to any reasonable hour to a telephone where he may speak privately.

C. Shall have access to writing instruments, stationery and postage.

CONTROL OF FINANCIAL AFFAIRS

13. Each patient and resident has the right to manage his own financial affairs.

A. If, by written request, the facility manages the patient's financial affairs, it shall have available for inspection a monthly accounting and shall furnish.a quarterly statement upon request to the patient or a designated representative.

B. The patient and resident shall have unrestricted access to such accounts at reasonable hours.

PRIVACY

14. If married, every patient and resident shall enjoy privacy in visits by his spouse and, if both reside in the facility, they shall be allowed to share a room, unless medically contraindicated.

15. Every patient and resident has the right of privacy in their room and the facility's staff shall respect this right by knocking on the door before entering the room.

GRIEVANCES

16. Every patient and resident has the right, personally, or through others, to present grievances to the Division of Aging, the Ombudsman or to others.

A. There shall be no reprisal, restraint, interference, coercion or discrimination of the patient as a result of such grievance or suggestion.

B. Any alleged violation of any of the provisions of these Rules and Regulations should be presented orally or in writing and forwarded to the attention of the Ombudsman.

C. The Ombudsman shall consult with the complainant to determine if he/she wishes to pursue an investigation. If the complainant wishes to pursue the matter, the Ombudsman shall work closely with the complainant and the institution to resolve the matter. In any case, the confidentiality of the complainant shall not be revealed without his/her consent.

D. On completion of the investigation, the Ombudsman shall report the findings to the complainant and with the complainant's consent to the facility wherein the complaint originated.

E. If the grievance is not resolved at the end of the investigation by the Ombudsman, the grievance findings shall be forwarded to the State `Board of Health for appropriate action after obtaining the consent of the complainant.

PERSONAL CHOICE/PERSONAL PROPERTY

17. A patient or resident shall not be required to perform services for the facility.

18. Every patient and resident shall have the right to retain and use their personal clothing and possessions where reasonable and shall be entitled to have security in their storage and use.

TRANSFERS/ DISCHARGES

19. No patient or resident shall be transferred or discharged from a facility except for the following:

A. For medical reasons;

B. For the patient's own welfare or the welfare of the other patients; and

C. For non-payment of justified charges.

20. If good cause exists, the patient or resident shall be given 30 days advance notice of the proposed action and the reasons for the action and may request an impartial hearing. In emergency situations, such notice need not be given.

21. If a hearing is requested, it shall be held within ten (10) working days of the request. The hearing shall be conducted by the Division of Public Health. Hearing officers could include:

A. Nursing Home Ombudsman;

B. A staff member of the advocacy section, Division of Aging;

C. A physician from the Division of Public Health, not employed by a hospital operated by the Division;

D. The licensure program director for the type of home involved.

The Deputy Attorney General for the Division of Public Health may attend as legal officer in these hearings.

22. If the hearing determines in favor of the patient, the home shall be instructed to comply. If the home refuses to comply, the matter will be referred to the Attorney General's office to see if further action is called for or permissible under the law.

DEVOLUTION OF RIGHTS

Where consistent with the above rights, all rights, particularly as they pertain to a patient adjudicated incompetent, a patient determined to be medically incompetent by his attending physician or a patient unable to communicate, shall devolve to that patient's next of kin, guardian, representative, sponsoring agency or representative payee (except where the facility is the representative payee).

NOTICE-AWARENESS OF RIGHTS

1. These provisions shall be posted conspicuously in a public place in each facility.
2. Copies are to be furnished to the patient or. resident upon admission. and to all current patients and residents and next of kin, guardian, representative, sponsoring agency or representative payee.
3. Receipts for the statement signed by the above parties shall be retained in the facility's files.

APPENDIX B

Notifiable Diseases

1. Acquired Immune Deficiency Syndrome
2. Amebiasis
3. Anthrax
4. Botulism
5. Brucellosis
6. Campylobacteriosis
7. Chancroid
8. Chlamydia trachomatous infections
9. Cholera
10. Condylomata acuminate (venereal warts)
11. Diphtheria
12. Encephalitis
13. Foodborne Disease outbreaks
14. Giardiasis
15. Gonococcal Infections
16. Granuloma Inguinale
17. Hansen's Disease (Leprosy)
18. Hepatitis (viral-all types)
19. Herpes
20. Histoplasmosis
21. Human Immunodeficiency Virus (HIV)
22. Influenza
23. Lead Poisoning
24. Legionnaires Disease
25. Leptospirosis
26. Lyme Disease
27. Lymphogranuloma Venereum
28. Malaria
29. Measles
30. Meningitis (bacterial)
31. Meningitis (aseptic)

~~32. Meningococcal Disease (other)~~
~~33. Mumps~~
~~34. Pertussis~~
~~35. Plague~~
~~36. Poliomyelitis~~
~~37. Psittacosis~~
~~38. Rabies (man, animal)~~
~~39. Reye's Syndrome~~
~~40. Rocky Mountain Spotted Fever~~
~~41. Rubella~~
~~42. Rubella, Congenital Syndrome~~
~~43. Salmoneliosis~~
~~44. Shigellosis~~
~~45. Smallpox~~
~~46. Syphilis~~
~~47. Tetanus~~
~~48. Toxic Shock Syndrome~~
~~49. Trichinosis~~
~~50. Tuberculosis~~
~~51. Tularemia~~
~~52. Typhoid Fever~~
~~53. Typhus Fever~~
~~54. Vaccine Adverse Reactions~~
~~55. Waterborne Disease Outbreaks~~
~~56. Yellow Fever~~

3201 Skilled And Intermediate Care Nursing Facilities

1.0 Scope

1.1 A Nursing facility (NF) is a residential institution, as defined in 16 **Delaware Code**, §1102(4), which provides services to residents which include resident beds, continuous nursing services, and health and treatment services for individuals who do not currently require continuous hospital care. Care is given in accordance with a physician's orders and requires the competence of a registered nurse (RN).

1.2 Nursing facilities shall be subject to all applicable local, state and federal code requirements, including but not limited to the applicable code requirements of the State Fire Prevention Commission.

2.0 Definitions

2.1 Activities of Daily Living (ADLs) - Normal daily activities including but not limited to ambulating, transferring, range of motion, grooming, bathing, dressing, eating and toileting.

2.2 Advance Directive - Written instructions such as a living will or durable power of attorney for health care, in accordance with 16 **Delaware Code**, Chapter 25, relating to the provision of health care should the individual become incapacitated.

2.3 Associated Entity - The partially or wholly owned subsidiary, parent company or partner of the applicant for licensure or any other entity identified on the corporation formation documents.

2.4 Department/DHSS - Department of Health and Social Services

2.5 Division - Division of Long Term Care Residents Protection

2.6 Extensive Remodeling - Renovations or alterations within the facility that modify the square footage of any room intended for resident use.

2.7 Food Service Manager -

2.7.1 For facilities subject to 16 **Delaware Code**, §1164, an individual who meets the statutory requirements for a food service manager. A facility may seek a waiver of the statutory requirements if an insufficient pool of applicants exists. The facility must demonstrate the inability to hire a person who meets the requirements after a recruitment process of at least 90 days duration that included advertising in at least two newspapers of general circulation and one trade journal, offering a competitive salary. If those conditions are met, the Division may waive the education requirement for an applicant who meets the requirements of a "person in charge" as defined in the current Delaware Food Code.

2.7.2 For facilities not subject to 16 **Delaware Code**, §1164, an individual who, at a minimum, meets the requirements of a "person in charge" as defined in the current Delaware Food Code.

2.8 Full-time - Forty hours per week or the standard workweek established by the facility.

2.9 Incident - An occurrence or event, a record of which must be maintained in facility files, which includes all reportable incidents and the additional occurrences or events listed in Section 10.5 of these regulations. (Also see Reportable Incident, Section 10.6.)

2.10 Nursing Home Administrator - A licensee of the Delaware Board of Examiners of Nursing Home Administrators who manages the facility on a full-time basis, and is responsible for the delivery quality care to its residents and for the implementation of the policies and procedures of the facility.

2.11 Nursing Services - Those curative, restorative, preventive or palliative health care services provided by certified nursing assistants, licensed practical nurses and registered nurses to assist a resident to attain or maintain his or her highest practicable physical, mental, and psychosocial well-being as determined by the resident's assessment and individual care plan.

2.12 Pediatric resident - A person residing in a nursing facility who is under 18 years of age and for who there is a care plan including medical care, treatment and other related services in accordance with the Regulations for Nursing Homes Admitting Pediatric Residents.

2.13 Physician - A medical doctor or doctor of osteopathy licensed to practice medicine in the State of Delaware.

2.14 Rehabilitation - The actions and services such as physical therapy, occupational therapy, speech therapy and psychosocial services provided or required to restore an ill or injured person to self-sufficiency at his or her highest attainable level.

2.15 Reportable Incident - An occurrence or event which must be reported immediately to the Division and for which there is reasonable cause to believe that a resident has been abused, neglected, mistreated or subjected to financial exploitation/misappropriation of their property as those terms are defined in 16 Delaware Code, §1131 and/or 42 CFR 483.13(c). Reportable incident also includes an occurrence or event listed in Section 10.6 of these regulations. (Also see Incident, Section 2.9.)

2.16 Resident - A person admitted to a nursing facility because of illness or impairment, under a physician's care, for whom there is planned continuing health care directed toward improvement in health or for whom palliative medical and nursing measures are required.

2.17 Restraint - A physical or chemical means of restricting or controlling a resident. Specifically, a mechanical device, material or equipment attached or adjacent to a resident's body that the resident cannot remove easily, and which restricts freedom of movement or normal access to the resident's body.

2.18 Satisfactory Compliance History - A sworn affidavit, as required by 16 Delaware Code, §1104(d), attesting to a licensure applicant's provision of quality care in a nursing facility, during the five years preceding the initial application, as determined by the absence of the following:

2.18.1 Termination or denial of participation in the Medicare or Medicaid program

2.18.2 State licensure revocation

2.18.3 Financial insolvency

2.18.4 Outstanding civil actions for debt

2.18.5 Outstanding civil money penalty

2.19 Social worker - For facilities subject to 16 **Delaware Code**, §1165, with at least 100 beds, an individual with a bachelor's degree in social work, or a bachelor's degree in a human services field including, but not limited to, sociology, special education, rehabilitation counseling, and psychology; and one year of supervised social work experience in a health care setting working directly with individuals. For facilities with fewer than 100 beds, the facility may designate the director of admissions or a nurse to assume the duties of the social worker.

2.20 Supervision - The oversight and direction of personnel necessary to ensure the safety, comfort and well-being of residents.

3.0 General Requirements

3.1 The term "nursing home" or "nursing facility" shall not be used as part of the name of any facility in this State unless it has been so licensed by the Division.

3.2 Each nursing facility shall develop written policies pertaining to the services provided.

3.3 A nursing facility shall not adopt any policy which conflicts with applicable statutes or regulations.

3.4 Inspections and monitoring by the Division shall be carried out in accordance with 16 **Delaware Code**, §1107.

3.5 Upon receipt of a report of any violation(s) of these regulations, the facility shall submit a written plan of action to correct cited deficiencies within 10 working days or such other time period as may be specified. The plan of action shall address corrective actions and include all measures and completion dates to prevent their recurrence as follows:

3.5.1 How the corrective action will be accomplished for a resident(s) affected by the deficient practice;

3.5.2 How the facility will identify other residents having the potential to be affected by the same deficient practice;

3.5.3 What measures or systemic changes will be put in place to ensure that the deficient practice will not recur;

3.5.4 What program will be put into place to monitor the continued effectiveness of the corrective actions.

3.6 The Division shall be notified, in writing, upon any changes in the administrator, assistant administrator or director of nursing positions.

3.7 The nursing facility shall comply with 42 CFR 483.10, 483.12, 483.13, 483.15 and/or 16 **Delaware Code**, §1121 regarding the rights of residents. Those rights shall be made available in writing to residents, guardians, representatives or next of kin.

3.8 Each facility shall provide, in writing, the refund and prepayment policy at the time of admission, and in the case of residents admitted while awaiting approval of third-party payment, an exact statement of responsibility in the event of retroactive denial. The facility shall notify residents, in writing, at least 30 days prior to a rate increase.

3.9 A facility may require an individual who has legal access to a resident's income or resources available to pay for facility care to sign a contract to provide for facility payment from the resident's income or resources. However, in doing so, the facility shall not require a third party to incur personal financial liability for the nursing facility expenses.

4.0 Licensing Requirements and Procedures

4.1 Licenses and renewals shall be issued to a nursing facility which meets the requirements of 16 **Delaware Code**, §1104. For initial licensure, the nursing facility shall also demonstrate during a physical inspection of the premises that the facility complies with all applicable regulations.

4.2 A new applicant for licensure shall substantiate a satisfactory compliance history as defined in these regulations.

4.3 The Division may consider sanctions or other information which, in combination, may impact licensure eligibility. Accordingly, the applicant shall disclose the following:

4.3.1 The imposition of temporary management by the Centers for Medicare and Medicaid Services (CMS) or any state jurisdiction against the applicant or associated entity during the preceding five years

4.3.2 The imposition of immediate jeopardy by CMS against the applicant or associated entity during the preceding five years

4.3.3 A substandard survey by CMS or any state jurisdiction against the applicant or associated entity during the preceding five years

4.3.4 The imposition of a civil money penalty by any state jurisdiction against the applicant or associated entity during the preceding five years

4.3.5 A ban on admissions by any state jurisdiction against the applicant or associated entity during the preceding five years

4.3.6 A list of all facilities managed, owned or controlled by the applicant or associated entity in any jurisdiction during the preceding five years

4.3.7 Information as required by 16 **Delaware Code**, §1104(e)

4.4 Financial information disclosed to the Division as required by 16 **Delaware Code**, §1104(e) shall not be subject to Freedom of Information Act requests except as follows:

4.4.1 Any information known to the Division regarding a civil action for debt owed by a facility

4.4.2 Any information known to the Division regarding current facility bankruptcy proceedings

4.4.3 The name of any facility currently under intensive Division review for potential financial incapability

4.5 Each license shall be renewed on the anniversary date of initial licensure. Each license holder shall file an application for renewal at least 30 days prior to the expiration of the current license and pay the applicable fee as established in 16 **Delaware Code**, §1106(a).

4.6 A new license shall be required in the event of a change in the nursing home management company, building owner or controlling person as defined in 16 **Delaware Code**, §1102(1).

4.7 Each license shall specify the number of licensed beds. A facility seeking to change the number of licensed beds shall apply to the Division for a modified license authorizing the revised number of beds.

4.8 Separate licenses are required for facilities maintained in separate locations, even though operated under the same management. A separate license is not required for separate buildings maintained by the same management on the same grounds.

4.9 When a facility plans to construct or extensively remodel a licensed facility or convert a building to a licensed facility, it shall submit one copy of properly prepared plans and specifications for the entire facility to the Division. An approval, in writing, shall be obtained before such work is begun. After the work is completed, in accordance with the plans and specifications, a modified license to operate shall be issued. All completed construction, extensive remodeling or conversions shall remain in accordance with the plans and specifications, as approved by the Division.

5.0 Personnel/Administrative

5.1 The administrator(s) shall be responsible for complying with all applicable laws and regulations.

5.2 Each nursing facility shall have a full-time administrator. When an administrator will be temporarily absent for a period of two weeks or more, a management employee shall be designated to be in charge. The Division shall be notified in writing upon such designation.

5.3 The nursing facility shall designate a physician to serve as the medical director who shall be responsible for implementation of resident care policies and the coordination of medical care in the facility.

5.4 Nursing facilities shall provide professional nursing, nursing services direct care and other services as follows:

5.4.1 Nursing facilities subject to 16 **Delaware Code**, §1161 to §1165 shall provide professional nursing, nursing services direct care and other services in accordance with statutory requirements.

5.4.2 Nursing facilities not subject to 16 **Delaware Code**, §1161 to §1165 shall provide professional nursing, nursing services direct care and other services as follows:

5.4.2.1 The facility shall provide a sufficient number of nursing services direct care staff to provide a minimum of 2.25 hours of direct care and treatment per resident per day.

5.4.2.2 In addition to the requirement above, the nursing facility shall have a full-time director of nursing who is a registered nurse. The director of nursing shall have overall responsibility for the coordination, supervision and provision of nursing services.

5.4.2.3 At a minimum, a registered nurse or licensed practical nurse shall be on duty at all times during the first and second shifts.

5.4.2.4 At a minimum, in the absence of a nurse on the third shift, a registered nurse or licensed practical nurse shall be on call.

5.4.2.5 Facilities not subject to 16 **Delaware Code**, §1164 may increase the level of care and services for a current resident whose condition requires such an increase in the level of care and services as an alternative to discharge to another facility. Such increased care and services shall be provided by a qualified caregiver(s) whose scope of practice includes the provision of such care and services, and shall be available during any shift when the resident's needs require such care and services.

5.4.2.6 All other nursing services direct caregivers shall be certified nursing assistants.

5.4.2.7 At a minimum, in the absence of a nurse on the third shift, at least one certified nursing assistant shall be qualified to assist with self-administration of medication (AWSAM) and to provide basic first aid.

5.4.2.8 The facility shall employ an activities director who shall ensure the provision of activities as described in these regulations.

5.5 The facility shall have written personnel policies and procedures. Personnel records shall be kept current and available for each employee, and include the following:

5.5.1 Results of tuberculosis screening

5.5.2 Documentation of annual influenza vaccination or refusal.

5.5.3 Results of criminal background check

5.5.4 Results of mandatory drug testing

5.5.5 Result of Adult Abuse Registry check

5.5.6 Titles and hours of in-service training

5.5.7 If applicable, license number and expiration date

5.5.8 If applicable, certification expiration date

6.0 Services To Residents

6.1 General Services

6.1.1 The nursing facility shall provide to all residents the care necessary for their comfort, safety and general well-being, and shall meet their medical, nursing, nutritional, and psychosocial needs.

6.1.2 The nursing facility shall have in effect a written transfer agreement with one or more hospitals to ensure inpatient hospital care, emergency care, or other hospital services are available promptly to residents when needed.

6.1.3 The nursing facility shall have written agreements for promptly obtaining required laboratory, x-ray and other ancillary services.

6.1.4 Each nursing facility providing skilled services shall implement each resident's physician's orders obtained on the day of admission and renewed or revised at least every 30 days for the first 90 days after admission, and every 60 days thereafter. Any nursing facility not providing skilled services shall implement each resident's physician's orders obtained on the day of admission and renewed or revised every 60 days thereafter.

6.2 Financial Services

6.2.1 The facility shall deposit any residents' personal funds in excess of $50 in an interest bearing account (or accounts) that is separate from any of the facility's operating accounts, and that credits all interest earned on resident's funds to that account. (In pooled accounts, there shall be a separate accounting for each resident's share.)

6.2.2 The facility shall establish and maintain a system that assures a complete and separate accounting, according to generally accepted accounting principles, of each resident's personal funds which shall be available through quarterly statements and on request to the resident or his/her representative.

6.2.3 Upon the death of a resident, the facility shall convey within 30 days the resident's funds, and a final accounting of those funds to the individual or probate jurisdiction administering the resident's estate.

6.2.4 The facility shall purchase a surety bond to assure the security of resident funds.

6.3 Medical Services

6.3.1 All persons admitted to a nursing facility shall be under the care of a physician licensed to practice in Delaware.

6.3.2 All nursing facilities shall arrange for one or more licensed physicians to be called in an emergency. Names, telephone and fax numbers of these physicians shall be posted at all nurses' stations.

6.3.3 For a resident admitted or readmitted from the hospital with orders for nine or more medications (excluding over-the-counter medications), the attending physician or designee or medical director shall conduct a comprehensive medication review within 10 days.

6.3.4 All written or verbal physician orders shall be signed by the attending physician or prescriber within 10 days.

6.3.5 After the initial physician visit, an advanced practice nurse or physician's assistant, affiliated with the physician, may alternate with the physician, making every other required visit.

6.3.6 A progress note shall be written and signed by the physician or designee (an advanced practice nurse or physician's assistant) after examining the resident at each visit

6.4 Therapy Services

6.4.1 All specialized services such as physical therapy, occupational therapy, and speech therapy shall be ordered by the attending physician. The facility shall assure the provision of these services through a written plan of care in accordance with physician orders.

6.4.2 Upon completion of a specialized service, the therapist shall communicate to the interdisciplinary team in writing any maintenance program to be included in the care plan.

6.5 Nursing Administration

6.5.1 The facility's director of nursing shall:

6.5.1.2 Develop and/or maintain nursing policy and procedure manuals

6.5.1.3 Assign duties to and supervise all levels of nursing services direct caregivers

6.5.1.4 Coordinate nursing services with medical, therapy, dietary, pharmaceutical, recreational, and other ancillary services

6.5.1.5 Coordinate orientation programs for new nursing services direct caregivers (including temporary staff) and in-service education, as appropriate, for such staff. Written records of the content of each in-service program and the attendance records shall be maintained for two years

6.5.1.6 Participate in the selection of prospective residents by evaluating the nursing services required and the facility's ability to competently provide those required services or ensure that such an evaluation is conducted by a designated registered nurse

6.5.2 Treatments and medications ordered by a physician shall be administered using professionally accepted techniques in accordance with 24 **Delaware Code,** Chapter 19.

6.5.3 Within 14 days of admission, the facility shall make a comprehensive assessment of each resident's needs. This assessment shall include, at a minimum, the following information:

6.5.3.1 Identification, background and demographic information
6.5.3.2 Customary routine
6.5.3.3 Cognitive patterns
6.5.3.4 Communication
6.5.3.5 Vision
6.5.3.6 Mood and behavior patterns
6.5.3.7 Psychosocial well-being
6.5.3.8 Physical functioning and structural problems
6.5.3.9 Continence
6.5.3.10 Disease diagnoses and health conditions
6.5.3.11 Dental and nutritional status
6.5.3.12 Skin condition
6.5.3.13 Activity pursuits
6.5.3.14 Medications
6.5.3.15 Special treatments and procedures
6.5.3.16 Discharge potential

6.5.4 The resident assessment shall include a screening instrument for mental illness, mental retardation, and developmental disabilities to assess if an individual has an active treatment need for one of these conditions.

6.5.5 Based on the physician's admission orders and the admission information for each resident, an interim individual nursing care plan shall be developed within 24 hours of admission pending the completion of a comprehensive resident assessment.

6.5.6 A comprehensive care plan shall be developed to address medical, nursing, nutritional and psychosocial needs within 7 days of completion of the comprehensive assessment. Care plan development shall include the interdisciplinary team that includes the attending physician, an RN/ LPN and other appropriate staff as determined by the resident's needs. With the resident's consent, the resident, the resident's family or the resident's legal representative may attend care plan meetings.

6.5.7 The assessment and care plan for each resident shall be reviewed/revised as needed when a significant change in physical or mental condition occurs, and at least quarterly. A complete comprehensive assessment shall be conducted and a comprehensive care plan shall be developed at least yearly from the date of the last full assessment.

6.5.8 The resident has the right to be free from any physical or chemical restraints imposed for purposes of discipline or convenience, and not required to treat the resident's medical symptoms.

6.5.8.1 The resident's comprehensive assessment shall document the medical symptom(s) potentially requiring the use of restraints.

6.5.8.2 The facility shall follow a comprehensive, systematic process of evaluation and care planning to ameliorate medical and psychosocial indicators prior to restraint use.

6.5.8.3 The resident's care plan shall document the facility's use of interventions, such as modifying the resident's environment to increase safety, and use of assistive devices to enhance monitoring in order to avoid the use of restraints.

6.5.8.4 Should such interventions and assistive devices fail to provide for the resident's safety, a physician's written order permitting the use of restraints shall be required and shall specify the type of restraint ordered.

6.5.8.5 The facility shall be accountable for the safe and effective implementation of the physician's order permitting the use of restraints.

6.5.8.6 When the use of restraints has been implemented, the facility shall initiate a systematic process, on an ongoing basis, documented in the care plan, in an effort to employ the least restrictive restraint.

6.5.8.7 In an emergency, when the resident's unanticipated violent or aggressive behavior places him/her or others in imminent danger, restraints may be used as a last resort to protect the safety of the resident or others, and such use shall not extend beyond the immediate episode.

6.5.9 The facility shall ensure that each nursing and ancillary staff member providing care to a resident under 16 years of age meets the standards as defined in regulations for nursing facilities admitting pediatric residents.

6.5.10 The facility shall ensure that all licensed or certified direct care staff receive CPR certification and shall ensure that at least one staff person with current CPR certification is present in the facility during all shifts.

6.6 Activities

6.6.1 The nursing facility's activities program shall provide diversified individual activity plans and group activities for each resident based on the comprehensive assessment as well as an activity assessment conducted by the activity director. The activities offered shall reflect the needs, interests, abilities, preferences, limitations and age of each resident.

6.6.2 Scheduled activities offered to residents shall include therapeutic, recreational, social and spiritual activities, educational opportunities, and interaction with community groups. They are designed to sustain resident function, prevent decline and increase life satisfaction. Activities shall be conducted in a manner that enhances quality of life, promotes choice, stimulation or solace where appropriate and physical, cognitive, social and emotional health.

6.6.3 If a resident's comprehensive assessment indicates a need for activities to be addressed in the resident's care plan, that care plan shall identify and specify the type of interventions which will promote the resident's well-being and assist in the achievement of the established care plan goals for the resident.

6.6.4 There shall be a mechanism for promoting each resident's awareness of the time and location of activities programs. Facility staff members **[~~shall~~ may]** assist in the activities program including but not limited to transporting residents to programs.

6.7 Social Services

6.7.1 The facility shall identify each resident's need for social services to attain or maintain the highest practicable physical, mental and psychosocial well-being of each resident; and shall assist each resident to obtain all required services to meet the individual resident's needs. These social services shall include, but not be limited to:

6.7.1.1 Making arrangements for obtaining needed adaptive equipment, clothing and personal items

6.7.1.2 Making referrals and obtaining services from outside entities

6.7.1.3 Assisting residents with financial and legal matters, according to facility policy

6.7.1.4 Discharge planning services

6.7.1.5 Assisting residents to determine how they would like to make decisions about their health care, and whether or not they would like anyone else to be involved in those decisions

6.7.1.6 Meeting the needs of residents who are grieving

6.8 Food Service

6.8.1 Meals

6.8.1.1 A minimum of three meals or the equivalent shall be served in each 24-hour period. Meals shall be served at regular times comparable to meal times in the community.

6.8.1.2 The facility shall offer snacks at bedtime daily.

6.8.1.3 When residents refuse a meal served, substitutes of similar nutritive value shall be offered.

6.8.1.4 Menus shall meet the nutritional needs of residents in accordance with the recommended dietary allowances of the Food and Nutrition Board, National Research Council, National Academy of Sciences.

6.8.1.5 Therapeutic diets, mechanical alterations and changes in either must be prescribed by an attending physician within 72 hours of implementation. All meals and snacks shall be served in accordance with the therapeutic diet, if prescribed.

6.8.1.6 Nutritional supplements shall be served as prescribed by the physician.

6.8.2 Menus

6.8.2.1 Menus shall be planned in advance and a copy of the current week's menu shall be posted in the kitchen and in a public area. Portion sizes shall be listed on a menu in the food service area.

6.8.2.2 Menus showing food actually served each day shall be kept on file for at least 3 months. When changes in the menu are necessary, substitutions of similar nutritive value shall be provided.

6.8.2.3 A 3-day supply of food shall be kept on the premises at all times.

6.8.2.4 A copy of a recent dietary manual shall be available for planning therapeutic menus and as a resource for staff.

6.8.3 Nutritional Assessment

6.8.3.1 The immediate nutritional needs of each resident shall be addressed upon admission.

6.8.3.2 A comprehensive nutritional assessment which includes an evaluation of each resident's caloric, protein, and fluid requirements shall be completed within 14 days of admission in consultation with a dietitian.

6.8.3.3 The facility shall have an ongoing evaluation and assessment program to meet the nutritional needs of all residents.

6.8.3.4 The facility shall obtain and document each resident's weight at least monthly.

6.9 Housekeeping and Laundry Services

6.9.1 The facility shall employ sufficient housekeeping personnel and provide the necessary equipment to maintain a safe, clean, and orderly environment, free from offensive odors, for the interior and exterior of the facility.

6.9.2 A full-time employee shall be designated responsible for housekeeping services and for supervision and training of personnel.

6.9.3 The facility shall have written policies and procedures and schedules for cleaning all areas of the facility.

6.9.4 The facility shall maintain a supply, in the amount of 3 sets per resident, of towels, washcloths, sheets and pillowcases changed weekly or whenever soiled.

6.9.5 The facility's handling, storage, processing and transporting of linens shall comply with facility infection control policies and procedures.

6.9.6 The facility shall contract with a licensed pest control vendor to ensure that the entire facility is free of **[live]** insects and other vermin.

6.10 Pharmacy Services

6.10.1 Each nursing facility shall have a consultant pharmacist who shall be responsible for the general supervision of the nursing facility's pharmaceutical services.

6.10.2 For a resident admitted or readmitted from the hospital with orders for nine or more medications (excluding over-the-counter medications), the facility shall complete an on-site or off-site pharmacy review within 10 days of admission or readmission.

6.11 Medications

6.11.1 Medication Administration

6.11.1.1 All medications (prescription and over-the-counter) shall be administered to residents in accordance with orders which are signed and dated by the ordering physician or prescriber. Each medication shall have a documented supporting diagnosis. Verbal or telephone orders shall be written by the nurse receiving the order and then signed by the ordering physician or prescriber within 10 days.

6.11.1.2 Standing orders may be established for over-the-counter medications that have been approved by the resident's attending physician.

6.11.1.3 Standing orders shall be initiated by licensed nurses, but shall not be used for more than 72 hours without approval by the physician.

6.11.1.4 When any standing order is initiated, it shall be written as a complete order on the MAR for the specified time period and charted when administered.

6.11.1.5 Medications shall be given only to the individual resident for whom the prescription or order was issued, and shall be given in accordance with the prescriber's instructions.

6.11.1.6 An individual resident may self-administer medications upon the written order of the physician, following determination by the interdisciplinary team that this practice is safe. The facility shall establish policies and procedures pertaining to the security of self-administered medication.

6.11.1.7 The facility's policies and procedures shall not prohibit or restrict a resident from receiving medications from the pharmacy of the resident's choice. However, the resident and/or his representative shall be informed of any ramifications of ordering medications from other than the facility's pharmacy, such as cost differences, responsibility for delivery of medication to the facility and length of ordering time.

6.11.1.8 Only licensed nurses shall administer medications and then record the administration on the resident's Medication Administration Record (MAR) immediately after administration to that resident.

6.11.1.9 The facility shall ensure that licensed nurses administering medications count controlled substances at the beginning and end of each shift. The on-coming medication nurse shall conduct, verify, and document the controlled substance count in the presence of the off-going medication nurse.

6.11.1.10 Any medications removed but not administered to the resident shall not be returned to the original container. In circumstances such as refusal of drugs by the resident, the drugs shall be discarded and the refusal recorded on the resident's Medication Administration Record (MAR). If the medication is a controlled substance, the signature of the administering nurse is required on the record of the controlled substance count.

6.11.1.11 Each nursing home shall have available a current edition of at least one drug reference text for the nursing staff.

6.11.1.12 Medication shall be released to residents on discharge or transfer only by the written authorization of the resident's physician. A resident who leaves the nursing facility on a short leave may be issued a quantity of medication to meet his/her needs, with the approval of the resident's physician.

6.11.1.13 The barrel, plunger, needle and contents of disposable hypodermic syringes shall be properly discarded in accordance with OSHA regulations immediately after use.

6.11.1.14 The administrator or designee shall notify the Office of Controlled Substances in the Division of Professional Regulation and the Division of Long Term Care Residents Protection of any unexplained loss of controlled substances, syringes, needles, or prescription pads within 8 hours of discovery of such loss or theft.

6.11.2 Medication Storage and Stocks

6.11.2.1 Stock supplies of drugs available without a prescription (over-the-counter drugs such as antacids, aspirin, laxatives) may be kept in the facility. These over-the-counter drugs shall be labeled "house stock". **[~~and dated when sent by the supplier~~]**

6.11.2.2 Prescription medications for emergency or interim use may be stocked **[~~in a secured box~~]** by the facility subject to Board of Pharmacy regulations.

6.11.3 Medication Labeling

6.11.3.1 Medications shall be labeled in accordance with 24 **Delaware Code**, §2522 and the regulations of the Board of Pharmacy.

6.11.3.2 Medications dispensed using a unit dose system shall be pharmacy-prepared or manufacturer-prepared in individually packaged and sealed doses that are identifiable and properly labeled. The label shall include, at a minimum, the brand and/or generic name of the medication, strength, and lot number and expiration date.

6.11.3.3 Doses of medications for individual residents shall be placed into individual resident bins, compartments or drawers and shall be subdivided by administration time, labeled with the resident's name.

6.12 Communicable Diseases

6.12.1 General Requirements

6.12.1.1 The facility shall follow Division of Public Health regulations for the Control of Communicable and Other Disease Conditions and Centers for Disease Control guidelines for communicable diseases.

6.12.1.2 The facility shall establish written policies and procedures implementing the Division of Public Health regulations and Centers for Disease Control guidelines for communicable diseases.

6.12.1.3 The nursing facility shall ensure that the necessary precautions stated in the policies and procedures are followed.

6.12.1.4 A resident, when suspected or diagnosed as having a communicable disease, shall be placed on the appropriate precautions as recommended for that disease by the Centers for Disease Control. Residents infected or colonized with the same organism may share a room based on current standard of practice.

6.12.1.5 The admission of a resident with or the occurrence of a disease or condition on the Division of Public Health List of Notifiable Diseases/Conditions within a nursing facility shall be reported to the resident's physician and the facility's medical director. The facility shall also report such an admission or occurrence to the Division of Public Health's Health Information and Epidemiology office.

6.12.2 Specific Requirements for Tuberculosis

6.12.2.1 A resident diagnosed with active tuberculosis in an infectious stage shall not continue to reside in a nursing facility unless that facility has a room with negative pressure ventilation and staff trained to care for residents requiring respiratory isolation.

6.12.2.2 A resident of any facility unable to provide care as described above who is diagnosed with active tuberculosis in an infectious stage shall be transferred to an acute care hospital, and the facility shall notify the Division of Public Health's Health Information and Epidemiology office immediately.

6.12.2.3 All facilities shall have on file results of tuberculin tests performed on all newly admitted residents and newly hired employees, and annually thereafter on all employees. A tuberculin test as specified, done within the twelve months prior to employment, or a chest x-ray showing no evidence of active tuberculosis shall satisfy this requirement for asymptomatic individuals. If an individual was previously documented as a positive reactor or has a history of hypersensitivity to the PPD test, a negative chest x-ray shall meet this requirement.

6.12.2.4 The tuberculin test shall be the Mantoux test containing 5 TU-PPD stabilized with Tween, injected intradermally. Current Centers for Disease Control guidelines shall be followed for interpreting the PPD test.

6.12.2.5 Persons found to have a significant reaction (defined as 10 mm or more of induration) to the test shall be reported to the Division of Public Health's Health Information and Epidemiology office and managed according to recommended medical practice.

6.12.2.6 Persons who do not have a significant reaction to the initial tuberculin test shall be retested within 7-21 days to identify those who demonstrate delayed reactions. Initial tests done within one year of a previous test need not be repeated in 7-21 days.

6.12.3 Immunizations

6.12.3.1 All facilities shall have on file evidence of annual vaccination against influenza for all residents, as recommended by the Immunization Practice Advisory Committee of the Centers for Disease Control, unless medically contraindicated.

6.12.3.2 All facilities shall have on file evidence of vaccination against pneumococcal pneumonia for all residents older than 65 and as recommended by the Immunization Practice Advisory Committee of the Centers for Disease Control unless medically contraindicated.

6.12.3.3 A resident who refuses to be vaccinated against influenza or pneumococcal pneumonia shall be informed by the facility of the health risks involved. The reason for the refusal(s) shall be documented in the resident's medical record annually.

6.12.4 Employee Health

6.12.4.1 All employees shall receive education and training on standard precautions, use of personal protective equipment, the importance of hand hygiene, the facility's infection control policies and reporting of exposures to blood or other potentially infectious materials.

6.12.4.2 Personal protective equipment, as required by Centers for Disease Control guidelines, shall be made available by the facility for employee use.

6.12.4.3 If an accidental exposure to blood or other potentially infectious materials occurs (specifically to eye, mouth, other mucous membrane or non-intact skin), appropriate first aid treatment shall be given immediately and follow-up testing and counsel inginitiated. A copy of the exposure incident and follow-up treatment shall be maintained in the employee's personnel file.

6.12.4.4 Facilities shall establish procedures in accordance with Division of Public Health requirements and Centers for Disease Control guidelines for exclusion from work and authorization to return to work for staff with communicable diseases.

6.13 Infection Control

6.13.1 Infection Control Committee

6.13.1.1 The nursing facility shall establish an infection control committee (or a subcommittee of an overall quality control program) of professional staff whose responsibility shall be to manage the infection control program in the facility. One member of the committee shall be designated the infection control coordinator.

6.13.1.2 The infection control committee shall consist of members of the medical and nursing staffs, administration, dietetic department, pharmacy, housekeeping, maintenance, and therapy services.

6.13.1.3 The infection control committee shall establish written policies and procedures that describe the role and scope of each department/service in infection prevention and control activities.

6.13.1.4 The committee is responsible for the development and coordination of policies and procedures to accomplish the following:

6.13.1.4.1 Prevent the spread of infections and communicable diseases

6.13.1.4.2 Promote early detection of outbreaks of infection

6.13.1.4.3 Ensure a sanitary environment for residents, staff and visitors

6.13.1.4.4 Establish guidelines for the implementation of isolation/precautionary measures

6.13.1.4.5 Monitor the rate of nosocomial infection

6.13.1.5 The infection control coordinator shall maintain records of all nosocomial infections and corrective actions related to those infections to enable the committee to analyze clusters or significant increases in the rate of infection and to make recommendations for the prevention and control of additional cases.

6.13.1.6 The infection control committee shall establish the infection control training of staff and volunteers, and disseminate current information on health practices.

6.13.2 Infectious Waste

6.13.2.1 The facility shall establish and implement policies and procedures for the collection, storage, handling and disposition of all pathological and infectious wastes within the facility as well as for those to be removed from the facility including the following:

6.13.2.1.1 Needles, syringes and other solid, sharp, or rigid items shall be placed in a puncture resistant container prior to disposal by an infectious waste hauler approved by the Department of Natural Resources and Environmental Control (DNREC).

6.13.2.1.2 Non-rigid items, such as blood tubing and disposable equipment and supplies, shall be placed in double, heavy duty, impervious plastic bags prior to disposal by an infectious waste hauler approved by DNREC.

6.13.2.1.3 Fecal matter and biological liquid waste shall be flushed into the sewage system.

7.0 Plant, Equipment and Physical Environment

7.1 All new construction, extensive remodeling or conversions to a nursing facility shall comply with the standards and guidelines set forth under the "Nursing Facilities" section of the current edition of Guidelines for Design and Construction of Health Care Facilities, a publication of the American Institute of Architects Committee on Architecture for Health with assistance of the U.S. Department of Health and Human Services.

7.2 The facility shall be handicapped accessible and meet applicable American National Standards Institute (A.N.S.I.) standards.

7.3 Facility Systems Requirements

7.3.1 Water Supply and Sewage Disposal

7.3.1.1 The facility water supply and sewage disposal system shall comply with Division of Public Health and Department of Natural Resources and Environmental Control standards, respectively.

7.3.1.2 The water system shall supply hot and cold water under sufficient pressure to satisfy facility needs at peak demand.

7.3.1.3 Hot water accessible to residents shall not exceed 110° F.

7.3.2 Heating, Ventilation, Air Conditioning

7.3.2.1 The HVAC system for all areas used by residents shall be safe and easily controlled.

7.3.2.2 Ambient temperature in areas used by residents shall be maintained in a range from 71° F. to 81° F.

7.3.3 Facility lighting shall meet current standards of the Guidelines for Design and Construction of Health Care Facilities.

7.3.4 The facility shall be equipped with a resident call system which meets the current standards of the Guidelines for Design and Construction of Health Care Facilities. An intermediate care facility serving only developmentally disabled residents shall be exempt from this regulation.

7.4 Physical Environment Requirements

7.4.1 Safety Requirements

7.4.1.1 Stairs shall have stair treads and handrails.

7.4.1.2 Hallways shall have handrails on both sides of corridors. An intermediate care facility serving only developmentally disabled residents shall be exempt from this regulation.

7.4.1.3 Non-skid flooring materials shall be used and maintained in good condition.

7.4.2 Bedrooms

7.4.2.1 Each room shall be an outside above-grade room with at least one window opening to the outside.

7.4.2.2 Residents' rooms shall open directly into a corridor.

7.4.2.3 Each resident shall be provided with a reading light. At least one bedroom light shall be controlled by a switch at the bedroom entrance.

7.4.2.4 The facility shall provide at least one room with private toilet and hand washing sink for residents who require isolation.

7.4.2.5 The maximum capacity per room shall be four residents.

7.4.3 Bathrooms

7.4.3.1 Bathroom walls and floors shall be impervious to water. Bathrooms shall have at least one window or mechanical ventilation.

7.4.3.2 A minimum of one bathtub or shower shall be provided for every 20 residents not otherwise served by bathing facilities within residents' rooms. Each nursing unit shall have at least one bathtub.

7.4.3.3 Each tub or shower in a central bathing facility shall be in an individual room or enclosure with space for the private use of the tub or shower, for drying and dressing, and for a wheelchair and attendant. Showers shall be at least four feet square without curbs. Toilets in central bathing facilities shall have provisions for privacy.

7.4.3.4 Each resident's room shall have direct access to a hand washing sink and a toilet.

7.4.3.5 A wall-mounted hand grip shall be provided at each resident toilet, bath tub and shower.

7.4.3.6 Separate bathroom and hand washing sinks shall be provided for the staff.

7.4.4 Resident Common Areas

7.4.4.1 Areas for resident recreational and social activities shall provide at least 30 square feet per bed for the first 100 beds and 27 square feet per bed for beds in excess of 100.

7.4.4.2 The dining areas shall accommodate all residents.

7.4.4.3 Facilities for resident hair care and grooming shall be separate from resident rooms.

7.4.4.4 Equipment and materials for resident hair care and grooming shall comply with facility infection control policies and procedures.

7.5 Kitchen and Food Storage Areas

7.5.1 Facilities shall comply with the Delaware Food Code.

7.6 Sanitation and Laundry

7.6.1 The facility shall provide for the safe storage of cleaning materials, pesticides and other potentially toxic materials.

7.6.2 Each facility shall have a janitor's closet containing a service sink.

7.6.3 For on-site laundry processing, the facility shall:

7.6.3.1 Provide a room under negative air pressure for receiving, sorting, and washing soiled linen. Washers must be supplied with hot water of 160º F.

7.6.3.2 Provide a room under positive air pressure for drying and folding clean linen, equipped with a hand washing sink.

7.6.4 For off-site laundry processing, the facility shall:

7.6.4.1 Contract with a commercial laundry.

7.6.4.2 Provide a soiled linen holding room (or a designated area in the soiled utility room) under negative air pressure for the storage of soiled linen.

7.6.4.3 Provide a clean linen storage area.

7.6.5 The facility shall have a soiled utility room under negative pressure for storage of infectious waste **[**~~**and sharps**~~**]** and for disposal of body fluids. The room shall have a work counter, hand washing sink, and clinical sink or other bed pan cleaning device.

7.7 Equipment and Supplies

7.7.1 The facility shall supply sufficient equipment and supplies for nursing care to meet the needs of each resident. The facility shall obtain specific items when indicated for individual residents and approved by the attending physician or director of nursing.

7.7.2 The facility shall provide each resident with:

7.7.2.1 A hospital bed of appropriate size with a mattress covered with non-porous material. Modifications or attachments to the bed shall conform to manufacturer's specifications.

7.7.2.2 A bedside stand with a drawer and storage space for a bedpan, urinal, emesis basin and washbasin.

7.7.2.3 A minimum of two drawers in a dresser or chest of drawers.

7.7.2.4 A closet or wardrobe.

7.7.2.5 A chair suitable for resident relaxation.

7.7.2.6 An over-bed table.

7.7.3 The facility shall provide cubicle curtains around each bed in bedrooms occupied by more than one resident.

7.7.4 The facility shall provide sufficient storage space on each nursing unit for nursing supplies and equipment.

7.7.5 The facility shall provide safe storage for residents' valuables.

7.7.6 The facility shall maintain a functioning scale, calibrated quarterly, capable of accurately weighing each resident.

8.0 Emergency Preparedness

8.1 Nursing facilities shall comply with the rules and regulations adopted and enforced by the State Fire Prevention Commission or the municipality with jurisdiction.

8.2 Regular fire drills shall be held at least quarterly on each shift. Written records shall be kept of attendance at such drills.

8.3 Each facility shall develop and maintain all-hazard emergency plans for evacuation and sheltering in place.

8.4 The staff on all shifts shall be trained on emergency and evacuation plans. Evacuation routes shall be posted in a conspicuous place at each nursing station.

8.5 In the event of a facility evacuation, the evacuation plan shall, at a minimum, provide for the transfer or availability of resident medications and records.

8.6 Each facility shall submit with their annual license renewal an updated Division of Public Health Residential Health Care Facilities Emergency Planning Checklist, electronically if possible.

9.0 Quality Assessment and Assurance

9.1 Each facility shall have a quality assessment and assurance committee which shall include the director of nursing, a physician and at least 3 other members of the facility's staff.

9.2 The facility's quality assessment and assurance committee shall:

9.2.1 Meet at least quarterly to identify and discuss quality issues in the facility.

9.2.2 Develop and implement appropriate plans of action to address identified quality issues in the facility.

10.0 Records and Reports

10.1 There shall be a separate clinical record maintained on each resident as a chronological history of the resident's stay in the nursing facility. Each resident's record shall contain current and accurate information including the following:

10.1.1 Admission record which shall include the resident's name, birth date, home address prior to entering the facility, identification numbers (including Social Security), date of admission, physician's name, address and telephone number, admitting diagnoses, name, address and telephone number of resident's representative, the facility's medical record number, and advance directive(s) if applicable.

10.1.2 History and physical examination prepared by a physician within 14 days of the resident's admission to the nursing facility. If the resident has been admitted to the facility from a hospital, the

resident's summary and history prepared at the hospital and the resident's physical examination performed at the hospital, if performed within 14 days prior to admission to the facility, may be substituted. A record of subsequent annual medical evaluations performed by a physician must be contained in each resident's file.

10.1.3 A record of post-admission diagnoses.

10.1.4 Physician's orders which include a complete list of medications, dosages, frequency and route of administration, indication for usage, treatments, diets, restrictions on level of permitted activity if any, and use of restraints if applicable.

10.1.5 Physician's progress notes.

10.1.6 Nursing notes, which shall be recorded by each person providing professional nursing services to the resident, indicating date, time, scope of service provided and signature of the provider of the service. Nursing notes shall include care issues, nursing observations, resident change of status and other significant events.

10.1.7 Medication administration record (MAR) including medications, dosages, frequency, route of administration, and initials of the nurse administering each dose. The record shall include the signature of each nurse whose initials appear on the MAR.

10.1.8 Inventory of resident's personal effects upon admission.

10.1.9 Results of laboratory tests, x-ray reports and results of other tests ordered by the physician.

10.1.10 Discharge record which includes date and time, discharge location, and condition of resident.

10.1.11 Special service notes, e.g., social services, activities, specialty consultations, physical therapy, dental, podiatry.

10.1.12 Interagency transfer form, if applicable.

10.1.13 Copies of power(s) of attorney and guardianship, if applicable.

10.1.14 Nutrition progress notes and record of resident weights.

10.1.15 CNA flow sheets.

10.2 Confidentiality of resident records shall be maintained in accordance with the federal Health Insurance Portability and Accountability Act (HIPAA) and 16 **Delaware Code**, §1121(6).

10.3 Records shall be retained for 6 years after discharge. For a minor, records shall be retained for three years after age of majority.

10.4 Electronic Record keeping

10.4.1 Where facilities maintain residents' records in electronic format by computer or other devices, electronic signatures shall be acceptable.

10.4.2 The facility shall have a written attestation policy.

10.4.3 The computer network and all devices used to maintain resident medical records shall have safeguards to prevent unauthorized access and alteration of records.

10.4.4 All data entry devices shall require user authentication to access the computer network.

10.4.5 The computer program shall control each person's extent of access to residents' records based on that individual's personal identifier.

10.4.6 The computer's internal clock shall record the date and time of each entry.

10.4.7 An entry, once recorded, shall not be deleted. Alterations or corrections shall supplement the original record.

10.4.8 All entries shall have the date and time of the entry and the individual's personal identifier logged in a file which is accessible to designated administrative staff only.

10.4.9 The computer system shall back up all data to ensure record retention.

10.4.10 The facility shall provide independent computer access to electronic records to satisfy the requirements of the survey and certification process.

10.5 Incident reports, with adequate documentation, shall be completed for each incident. Adequate documentation shall consist of the name of the resident(s) involved; the date, time and place of the incident; a description of the incident; a list of other parties involved, including witnesses; the nature of

any injuries; resident outcome; and follow-up action, including notification of the resident's representative or family, attending physician and licensing or law enforcement authorities, when appropriate.

10.6 All incident reports whether or not required to be reported shall be retained in facility files for three years. Reportable incidents shall be communicated immediately, which shall be within eight hours of the occurrence of the incident, to the Division of Long Term Care Residents Protection. Telephone number: 1-877-453-0012; fax number: 1-877-264-8516.

10.7 Incident reports which shall be retained in facility files are as follows:

10.7.1 All reportable incidents as detailed below.

10.7.2 Falls without injury and falls with minor injuries that do not require transfer to an acute care facility or neurological reassessment of the resident.

10.7.3 Errors or omissions in treatment or medication.

10.7.4 Injuries of unknown source.

10.7.5 Lost items which are not subject to financial exploitation.

10.7.6 Skin tears.

10.7.7 Bruises of unknown origin.

10.8 Reportable incidents are as follows:

10.8.1 Abuse as defined in 16 **Delaware Code**, §1131.

10.8.1.1 Physical abuse with injury if resident to resident and physical abuse with or without injury if staff to resident or any other person to resident.

10.8.1.2 Any sexual act between staff and a resident and any non-consensual sexual act between residents or between a resident and any other person such as a visitor.

10.8.1.3 Emotional abuse whether staff to resident, resident to resident or any other person to resident.

10.8.2 Neglect, mistreatment or financial exploitation as defined in 16 **Delaware Code**, §1131.

10.8.3 Resident elopement under the following circumstances:

10.8.3.1 A resident's whereabouts on or off the premises are unknown to staff and the resident suffers harm.

10.8.3.2 A cognitively impaired resident's whereabouts are unknown to staff and the resident leaves the facility premises.

10.8.3.3 A resident cannot be found inside or outside a facility and the police are summoned.

10.8.4 Significant injuries.

10.8.4.1 Injury from an incident of unknown source in which the initial investigation or evaluation concludes that there is a reasonable suspicion that the injury was caused by abuse, neglect or mistreatment.

10.8.4.2 Injury which results in transfer to an acute care facility for treatment or evaluation or which requires periodic neurological reassessment of the resident's clinical status by professional staff for up to 24 hours.

10.8.4.3 Areas of contusions or bruises caused by staff to a dependent resident during ambulation, transport, transfer or bathing.

10.8.4.4 Significant error or omission in medication/treatment, including drug diversion, which causes the resident discomfort, jeopardizes the resident's health and safety or requires periodic monitoring for up to 48 hours.

10.8.4.5 A burn greater than first degree.

10.8.4.6 Any serious unusual and/or life-threatening injury.

10.8.5 Entrapmemt which causes the resident injury or immobility of body or limb or which requires assistance from another person for the resident to secure release.

10.8.6 Suicide or attempted suicide.

10.8.7 Poisoning.

10.8.8 Fire within a facility.

10.8.9 Utility interruption lasting more than eight hours in one or more major service including electricity, water supply, plumbing, heating or air conditioning, fire alarm, sprinkler system or telephones.

10.8.10 Structural damage or unsafe structural conditions.

10.8.11 Water damage which impacts resident health, safety or comfort.

10.9 The facility shall maintain written policies and procedures, in accordance with 16 **Delaware Code** Chapter 25, regarding health care decisions including advance directives. The facility shall provide written information to all residents explaining such policies and procedures.

11.0 Facility Closure

11.1 In the event of the closing of a facility, the facility shall:

11.1.1 Notify the Division of Long Term Care Residents Protection, the Ombudsman, the Division of Public Health and, if applicable, the Division of Medicaid and Medical Assistance and the Centers for Medicare and Medicaid Services at least 90 days before the planned closure.

11.1.2 Notify each resident directly and his/her attending physician and, if applicable, his/her responsible party by telephone and in writing at least 90 days before the planned closure.

11.1.3 Give the resident or the resident's responsible person an opportunity to designate a preference for relocation to a specific facility or for other arrangements.

11.1.4 Arrange for relocation to other facilities in accordance with the resident's preference, if possible.

11.1.5 Ensure that all resident records, medications, and personal belongings are transferred with the resident and, if to another facility, accompanied by the interagency transfer form.

11.1.6 Provide an accounting of resident trust fund accounts which shall be transferred to each resident's possession or to the facility to which the resident relocates. A record of the accounting of the funds shall be maintained by the closing facility for audit purposes.

11.1.7 Advise any applicant for admission to a facility which has a planned closure date in writing of the planned closure date prior to admission.

12.0 Waivers and Severability

12.1 Waivers may be granted by the Division of Long Term Care Residents Protection for good cause.

12.2 Should any section, sentence, clause or phrase of these regulations be legally declared unconstitutional or invalid for any reason, the remainder of said regulations shall not be affected thereby.