Appendix A.3

RULES
OF
ALABAMA STATE BOARD OF HEALTH
ALABAMA DEPARTMENT OF PUBLIC HEALTH

CHAPTER 420-5-10

NURSING FACILITIES





ORIGINAL RULES EFFECTIVE AUGUST 23, 1996
AMENDMENTS EFFECTIVE JULY 15, 1998
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STATE OF ALABAMA
DEPARTMENT OF PUBLIC HEALTH
MONTGOMERY, ALABAMA

ALABAMA STATE BOARD OF HEALTH
DIVISION OF LICENSURE AND CERTIFICATION
ADMINISTRATIVE CODE

CHAPTER 420-5-10
NURSING FACILITIES

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420-5-10-.01 Definitions.

(1) **Definitions** - (a list of selected terms often used in connection with these rules):

(a) "AAC Rule" - Alabama Administrative Code Rule.

(b) "These Rules" - Rules 420-5-10-.01 through 420-5-10-.11, Chapter 420-5-10, Nursing Facilities, Alabama Administrative Code.

(c) "Accredited Medical Record Technician (ART)" - A person trained in record maintenance and preservation, and accredited by the American Health Information Management Association.

(d) "Administrator" - A person who holds a valid Alabama Nursing Home Administrator's license who is delegated the responsibility and authority for the interpretation, implementation, and proper application of policies and programs established by the governing authority. The Administrator is delegated responsibility for the establishment of safe and effective administrative management, control and operation of the services provided.

(e) "Advisory Board" - See Section 22-21-27 of Appendix A.

(f) "Applicant" - The person, partnership, corporation, association, city, county, or other organization legally responsible for operation of the facility.

(g) "Assisted Living Facility" - A facility as defined in the Rules of Alabama State Board of Health, Division of Licensure and Certification, Chapter 420-5-4.

(h) "Board or State Board of Health" - The Alabama State Board of Health.

(i) "Combination Facility" - A facility which provides more than one level of care and is licensed under one license, e.g., general hospital and skilled nursing facility, skilled nursing facility and assisted living facility.

(j) "Communicable" - Conditions that are capable of being transmitted from one person to another. For reporting purposes, nursing facilities shall refer to the Notifiable Disease Case Report, Alabama Department of Public Health, Form ADPH-EPI-22/Rev. 1-88 (exception AIDS).

(k) "Dentist" - A person currently licensed to practice dentistry in Alabama under the provisions of current state statutes.

(l) "Director of Food Services/Dietary Manager" - A who is a full-time employee, and if not a qualified dietitian, is one who: (1) is a graduate of a dietary manager's training program, approved by the Dietary Manager's Association, or (2) is a graduate of a dietetic technician program approved by the American Dietetic Association, or (3) is a graduate from a college or university who has received a B.S. degree in the field of dietetics, food and nutrition or food service management which included course work in diet therapy and quantity food production.

(m) "Duly Licensed and/or Registered" - The person to whom the term is applied is duly licensed and/or registered by the proper authority to follow his or her profession within the State of Alabama, and when applied to an institution, shall mean that the institution is duly licensed by the State Board of Health.

(n) "Governing Authority" - Owner(s), hospital association, county hospital board, board of directors, board of trustees, or any other comparable designation of an individual or group of individuals who have the purpose of owning, acquiring, constructing, equipping, operating, and/or maintaining a nursing facility and exercising control over the affairs of said nursing facility.

(o) "Hospital" - A facility as defined in the Rules of Alabama State Board of Health, Division of Licensure and Certification, Chapter 420-5-7.

(p) "Independent Clinical Laboratory" - A facility as defined in the Rules of Alabama State Board of Health, Division of Licensure and Certification, Chapter 420-5-8.

(q) "License" - The document issued by the State Board of Health and signed by the State Health Officer. The license shall constitute the authority to receive residents and perform the services included within the scope of the applicable rules. The license shall be posted in a conspicuous place on the premises.

(r) "Licensed Practical Nurse" - A person currently licensed in the State of Alabama in accordance with the *Code of Alabama*.

(s) "Licensee" - The individual owner, partnership, corporation, association, city, county or other organization to whom the license is issued and upon whom rests the responsibility for compliance with these rules.

(t) "Long Term Care" - Prolonged care of residents in licensed institutions and/or organized departments within a licensed institution where the average length of resident stay is 25 days or longer.

(u) "May" indicates permission.

(v) "Medical Laboratory Technician" - A person who meets at least one of the following requirements:

(i) Successful completion of two years of academic study (a minimum of 60 semester hours or equivalent) in an accredited college or university with an associate degree in Medical Technology, or four years of academic study with a bachelor degree in Medical Technology; or

(ii) Graduation from high school and, subsequent to graduation, has had two years of documented experience as a technician trainee in a clinical laboratory of a hospital, a health department, a university, or a medical research institution or in a clinical laboratory providing equivalent training accepted by the State Board of Health as defined under "Independent Clinical Laboratory" (420-5-10-.01 (1)(p); or

(iii) Graduation from high school and successful completion of an official military laboratory procedures course of at least twelve calendar months of study and has had at least one year of experience as a technician trainee in a clinical laboratory of a hospital, a health department, a university, or a medical research institution or in a clinical laboratory providing equivalent training accepted by the State Board of Health.

(iv) Achieve a satisfactory grade on a proficiency examination for technologists approved by the United States Secretary of Health and Human Services.

(w) "Medical Staff" - Licensed physicians, osteopaths and dentists who are privileged by agreement with the licensee to attend to residents within the institution.

(x) "Medication" - All substances having medicinal properties intended for external and/or internal use for the treatment, prevention, diagnosing or curing of any disease, illness, malady, etc., in humans. The term "medication" as defined in the Pharmacological Basis of Therapeutics and shall encompass all other synonymous terms such as drugs, biologicals, chemicals, potions, remedies, or poisons.

(y) "Medicine or Drug Room" - A specific area, not subject to licensure by the Alabama State Board of Pharmacy, in a licensed nursing facility, used for the purpose of storing and/or preparing medications for administration and equipment necessary to administer medications to the residents of that facility.

(z) "Nurse Aide" - Any individual providing nursing related services to residents in a facility who is not a licensed health professional, a registered dietitian, or someone who volunteers to provide such services without pay.

(aa) "Nursing Facility" - A business entity that is engaged in providing housing, meals and care to sick or disabled individuals who require, on a daily basis or more frequently, medical care, nursing care, or rehabilitation services. This definition shall not include any business, operation, or facility that is exempt from licensure pursuant to Alabama law, nor shall it include any business, operation, or facility that is (1) licensed by the Alabama State Board of Health as another kind of facility, and (2) functioning within the scope of applicable law and administrative rules.

(bb) "Owner" - The person, partnership, corporation, association, city, county, or other entity who through asset ownership, lease or sublease is entitled to responsibility for and control of operation of the facility.

(cc) "Resident Activities Consultant" - A person who:

(i) Is registered or meets requirements for registration as a professional level Therapeutic Recreation Specialist by the National Recreation and Park Association; or

(ii) Is a qualified occupational therapist or occupational therapy assistant; or

(iii) Has two years of experience in a social or recreations program within the past five years, one year of which was full time in a resident activities program in a health care setting.

(dd) "Resident Activities Coordinator" - A person who is registered or meets the requirements for a resident activities consultant or a person who serves under the supervision of a qualified resident activities consultant or has the equivalent of two years of full-time experience, under the supervision of a qualified resident activities consultant.

(ee) "Pharmacist" - A person currently licensed to practice pharmacy in Alabama under the provisions contained in current state statutes and rules of the Alabama State Board of Pharmacy.

(ff) "Pharmacist Consultant" - A person currently licensed and registered by the Alabama State Board of Pharmacy to provide consultative services as defined by current state statutes and rules of the Alabama State Board of Pharmacy.

(gg) "Pharmacy" - A place licensed by the Alabama State Board of Pharmacy in which prescriptions, drugs, medicines, chemicals, and poisons are sold, offered for sale, compounded or

dispensed, and shall include all places whose title may imply the sale, offering for sale, compounding or dispensing of prescription drugs, medicines, chemicals, or poisons or the storage of such items.

(hh) "Physician" - A person currently licensed to practice medicine and/or surgery in Alabama under the provisions contained in current state statutes.

(ii) "Qualified Dietetic Consultant" - A person who is eligible for registration by the Commission on Dietetic Registration (CDR), has at least one year of full-time experience in the dietetic service of a health care institution in a supervisory capacity, or has satisfactorily completed the test for registration administered by CDR and meets the annual requirements in continuing education required by CDR.

(jj) "Qualified Dietitian" - A person currently licensed in the State of Alabama in accordance with the provisions contained in current state statutes as governed by the Alabama Board of Examiners for Dietetic/Nutrition Practice.

(kk) "Registered Nurse" - A person registered and currently licensed in the State of Alabama in accordance with the provisions contained in current state statutes.

(ll) "Registered Records Administrator (RRA)" - A person skilled in record maintenance and preservation, and who is registered by the American Medical Record Association.

(mm) "Rehabilitation" - An organized or well-defined program of therapeutics designed to help residents overcome physical, social, vocational or economic limitations as a result of a disability. Rehabilitation includes helping residents to reach the highest functional level of physical, psychological and socio-economic adjustment compatible with their disability.

(nn) "Resident" - A person admitted to a nursing facility by and upon the order of a physician.

(oo) "Shall" indicates mandatory requirements.

(pp) "Skilled Nursing Facility" - A facility providing skilled nursing and other related services which meets the Alabama State Board of Health's Rules for Nursing Facilities.

(qq) "Social Service Consultant" - An individual who meets the requirements of and is certified by the State of Alabama Board of Social Work Examiners.

(rr) "Social Service Designee" - A person employed by a facility with less than 120 beds on a full-time basis to meet the Social Service needs of residents. These persons must have a minimum of a G.E.D. or High School Diploma and have experience in dealing with the public.

(ss) "Social Worker" - A person who has either a Baccalaureate of Social Work or Masters of Social Work degree and is licensed in accordance with the *Code of Alabama*.

(tt) "Therapist" - A professionally trained and/or duly licensed and/or registered person, when required by state statutes, (such as physical therapist, occupational therapist, speech therapist, respiratory therapist, audiologist, etc.) who is skilled in the application of treatment techniques and procedures to residents under the general direction of a physician.

(uu) "Training and Abuse Registry"

(i) Abuse or Neglect or Misappropriation of Resident Property. The Department of Public Health shall establish and maintain such registry. The registry shall provide for the inclusion of specific documented findings by the Alabama Department of Public Health of resident neglect or abuse or misappropriation of resident property by any individual used by a nursing facility, as well as any brief statement of the individual disputing the findings. In the case of inquiries to the registry concerning an individual listed in the registry, any information disclosed concerning such a finding shall also include disclosure of any such statement in the registry relating to the finding or a clear and accurate summary of such a statement. Individuals must be notified in writing prior to the inclusion of findings in the registry and allowed the opportunity for a hearing in the event the individual disputes the findings.

(ii) Nurse Aide Training. The names and addresses of all nurse aides who attended an approved training program and who have successfully passed the approved competency evaluation will be included on the registry. The only exception of the requirement for attendance at an approved training program is those nurses' aides who are hired by a nursing facility prior to July 1, 1989, and who successfully pass the approved competency evaluation prior to January 1, 1990.

(vv) "Health Care Professional" - A physician, physician assistant, nurse practitioner, physical, speech or occupational therapist; physical or occupational therapy assistant; registered professional nurse; licensed practical nurse; licensed or certified social worker, or dietitian.

(ww) "Special Focus Facility" (SFF) - A federally certified nursing facility that has been identified as one with a noteworthy history of poor performance and is involuntarily enrolled in a special program with increased oversight and enhanced enforcement activity designed to stimulate improvements in quality of care and quality of life. Once selected as an SFF, the Alabama Department of Public Health conducts twice the number of standard surveys and applies progressive enforcement until the nursing home either (a) graduates from the SFF program or (b) their provider agreement with Medicare/Medicaid is terminated.
Authors: Rick Harris, Walter T. Geary, J., M.D.
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420-5-10-.02 Licensing And Administrative Procedures.

(1) Legal Authority for Adoption of Regulations. Pursuant to the authority granted by Code of Ala. 1975, §22-21-20 et seq. and in accordance with the Alabama Administrative Procedures Act, Code of Ala. 1975, §41-22-1 et seq., the State Board of Health does hereby adopt and promulgate rules governing all nursing facilities in Alabama except those exempt by law from licensure.

(2) Types of License. All licenses are issued for the calendar year and shall expire December 31, unless renewed by the owner for the succeeding year.

(a) Regular License. A regular license shall be issued by the State Board of Health after the Board has determined that the nursing facility is in substantial compliance with the rules herein adopted.

(b) Probational License. The State Board of Health may, in its discretion and in lieu of license revocation, issue a probational license to a facility when inspection shows that the maintenance and operation of the facility are such that the facility no longer substantially complies with the rules adopted herein. However, the Board may issue a probational license only after determining that the health and safety of residents are

adequately protected despite the non-compliance, and that the facility has submitted an adequate written plan to correct the non-compliance in a timely manner.

(3) Application and Fee

(a) Every facility shall be required to submit an application for license accompanied by the required statutory fee, in accordance with the provisions of Section 22-21-24 of the Code of Ala. 1975. Every application must be submitted on a form supplied by the Board and must contain all the information requested on said form, along with the required fee, in order for the application to be processed and considered.

(b) Name of Facility. Every facility shall be designated by a permanent and distinctive name, which shall be used in applying for a license and shall not be changed without prior written notice to the Board specifying the name to be discontinued as well as the new name.

(4) Licensing.

(a) Issuance of License. The license document issued by the State Board of Health shall set forth the name and location of the facility, the type of facility, and the bed capacity for which the institution is licensed, and the type of license (temporary, regular, or probational).

(b) Separate License. A separate license shall be required for each nursing facility when more than one facility is operated under the same management; (Separate licenses are not required for separate buildings on the same grounds used by the same facility). Facilities offering different types of health care services in one building or complex of buildings (e.g., a building housing a nursing facility and a hospital) shall also be separately licensed.

(c) Basis for Denial of License.

1. The State Board of Health may deny a license to any corporation, partnership or individual making application to own or operate any nursing facility if said corporation, partnership or individual:

(i) Falsified any information or record required by the application or license; or

(ii) Has been convicted of a felony, in this or any other state or federal jurisdiction, for physical, mental, or verbal abuse or neglect of an individual or misappropriation of

property of a nursing facility resident or financial abuse of residents; or

(iii) Has been convicted of fraud in this or any other state or federal jurisdiction; or

(iv) Has previously been the subject of license revocation proceedings and does not demonstrate a recent ability and willingness to fully comply with State Board of Health rules; or

(v) Does not demonstrate adequate resources, ability, or intent, to fully comply with the State Board of Health rules.

(d) Basis for License Revocation. The State Board of Health may revoke a license to operate a nursing facility if the owner and/or operator of said facility:

1. Violates any of the provisions of Code of Ala. 1975, §22-21-20 et seq., or the rules and regulations issued pursuant thereto;

2. Permits, aides or abets the commission of any illegal act in such facility; or

3. Engages in conduct or practices deemed by the State Board of Health to be detrimental to the welfare of the residents of such facility.

(5) Right of Review. Whenever a license is denied or revoked, the applicant or licensee will be afforded an opportunity for a hearing in accordance with the requirements for contested case proceedings under the Alabama Administrative Procedures Act, Code of Ala. 1975, §41-22-1 et seq., and Chapter 420-1-3 of the Alabama Administrative Code.

(a) In the case of a license revocation, prior notice of the grounds for proposed revocation and the date, time and place set for the hearing shall be given in accordance with the Alabama Administrative Procedures Act, Code of Ala. 1975, 41-22-1 et seq. and Chapter 420-1-3, of the Alabama Administrative Code (AAC).

(b) All due process and procedural protection granted to the licensee or applicant by the Alabama Administrative Procedures Act shall be provided.

(c) All appeals from adverse hearing proceedings shall be subject to the requirements of the Alabama Administrative Procedures Act.

(6) Re-issuance of License.

(a) The following changes in the status of the facility will require issuance of a new license, upon application and payment of license fee:

1. Change in facility ownership.

(i) A change of ownership occurs whenever there is a change in the legal form under which the controlling entity is organized. Transactions constituting a change of ownership include, but are not limited to, the following:

(I) Sale or donation of the facility's legal title

(II) Lease of the entire facility's real and personal property

(III) A sole proprietor becomes a member of a partnership or corporation, succeeding him as the new operator

(IV) A partnership dissolves

(V) One partnership is replaced by another through the removal, addition or substitution of a partner

(VI) A general partnership becomes a limited partnership, or a limited partnership becomes general

(VII) Two (2) or more corporations merge and the originally licensed corporation does not survive

(VIII) Corporations consolidate

(IX) A non-profit corporation becomes a general corporation, or a for-profit corporation becomes; non-profit

(X) Transfers between levels of government

2. Increase in bed capacity

(b) The following status changes require issuance of a new license without payment of licensure fee:

1. Change in type of care offered (e.g., nursing facility to skilled, distinct part SNF changes)

2. Change of location

3. Change in name of the facility

(c) The governing authority shall file with the State Board of Health, an application for license 30 days before any proposed change requiring a new license, in order to permit processing of the application and issuance of the license prior to the desired effective date of the change.

(7) Compliance Exceptions. At its discretion, the State Board of Health may grant an exception to, or modify the application of, one or more provisions of these rules or referenced codes, for a period and under conditions, if any, determined by the Board. The exceptions or modification shall be based on hardship, impracticability, or economic infeasibility in complying with the rules. The facility's request shall be in writing, shall state the specific provisions for which the exception or modification is requested, and reasons for each requested exception or modification.

(8) Compliance with State and Local Laws.

(a) Licensing of Staff. Staff of the facility shall be currently licensed or registered in accordance with the applicable laws.

(b) Compliance with Other Laws. The facility shall be in compliance with laws relating to fire and safety, sanitation, communicable and reportable diseases, Certificate of Need, and other relevant health and safety requirements.

(9) Inspections. Failure or refusal to submit to a survey will result in initiation of license revocation proceedings. Findings noted during a survey shall be corrected by execution of an acceptable plan of correction. The plan of correction shall be succinctly written to address identified problems in a timely manner and returned to Alabama Department of Public Health not later than 10 calendar days after receipt of Statement of Deficiencies.

(10) A renewal application and an annual Licensure fee must be submitted to arrive at the Alabama Department of Public Health, not later than December 15 each year to assure continued Licensure status.

Authors: Patricia E. Ivie, Jimmy D. Prince

Statutory Authority: Code of Ala. 1975, §§22-21-20, et seq.

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420-5-10-.03 Administrative Management.

(1) A facility must be administered in a manner that enables it to use its resources effectively and efficiently to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident.

(2) A facility must be licensed under applicable State and local law

(3) The facility must operate and provide services in compliance with all applicable Federal, State, and local laws, regulations, and codes, and with accepted professional standards and principles that apply to professionals providing services in such a facility.

(4) Facilities must meet the applicable provisions of HHS regulations pertaining to nondiscrimination on the basis of race, color, or national origin; nondiscrimination on the basis of handicap; nondiscrimination on the basis of age; protection of human subjects of research and fraud and abuse. Although these regulations are not in themselves considered requirements under this part, their violation may result in the revocation of the facility license.

(5) Governing body. The facility must have a governing body, or designated persons functioning as a governing body, that is legally responsible for establishing and implementing policies regarding the management and operation of the facility; and

(6) The governing body appoints the administrator who is:

(a) Licensed by the State where licensing is required, and;

(b) Responsible for the management of the facility.

(7) A current roster of the governing authority members shall be maintained in the nursing facility. At its discretion, the Alabama Department of Public Health may request that a copy of this roster be placed on file with the Division.

(a) The facility must supply full and complete information to the Alabama Department of Public Health as to the identity: (1) of each officer and director of the corporation

where the nursing facility is organized as a corporation and (2) where a nursing facility is organized as a partnership.

(b) Of each person who has any direct or indirect ownership interest of 10 per centum or more in such nursing facility or who is the owner (in whole or in part) of any mortgage, deed of trust, note, or other obligation secured (in whole or in part) by such nursing facility or any of the property or assets of such nursing facility, and

(c) In case a nursing facility is organized as a corporation, of each officer and director of the corporation, and

(d) In case a nursing facility is organized as a partnership, the name of each partner.

(e) The governing authority shall submit to the state agency within 15 days any changes in the information herein required.

(f) There must be an individual authorized in writing to act for the administrator during absences.

(g) Written notification shall be made to the Alabama Department of Public Health, within 15 days of the Administrator's appointment.

(h) The accounting method and procedures shall be sufficient to permit an annual audit, accurate determination of the cost of operation, the cost per resident day, and accounting for resident's funds.

(i) Whenever there is found to be evidence of fraud or misrepresentation to secure money or property from residents, or applicants, or there is any evidence of misappropriation or conversion of money or property of residents or applicants, this must be reported to the proper authorities at the Alabama Department of Public Health.

(j) Unusual Occurrences. Occurrences such as catastrophes and unusual occurrences which threaten the welfare, safety or health of residents, personnel, or visitors shall be documented within 24 hours of the incident or occurrence. This documentation shall be retained in the facility for at least 2 years. All records required by this subsection shall be, upon request, made immediately available to surveyors employed by the Alabama Department of Public Health. Copies of such records shall be forwarded to the Alabama Department of Public Health promptly upon request. The term "Unusual occurrences" includes life threatening burns, and deaths under unusual circumstances.

(k) Fires shall be reported within 24 hours of the occurrence to the Technical Services Unit of the Alabama Department of Health.

(8) Required training of nursing aides - Definition Licensed health professional means a physician; physician assistant; nurse practitioner; physical, speech, or occupational therapist; physical or occupational therapy assistant; registered professional nurse; licensed practical nurse; licensed or certified social worker, or Dietitians. Nurse aide means any individual providing nursing related services to residents in a facility who is not a licensed health professional, a registered dietitian, or someone who volunteers to provide such services without pay.

(9) General rule. A facility must not use any individual working in the facility as a nurse aide for more than four months, on a full-time basis, unless:

(a) That individual is competent to provide nursing related services; and

(b) That individual has completed a training and competency evaluation program; or

(c) That individual has been deemed or determined competent by the Alabama Nurse Aide Registry.

(10) Non-permanent employees. A facility must not use on a temporary, per diem, leased, any basis other than a permanent employee any individual who does not meet the requirements in paragraphs B & C above as a nurse aide.

(11) Competency A facility must not use any individual who has worked less than four months as a nurse aide in that facility unless the individual:

(a) Is a full-time employee in a State-approved training and competency evaluation program

(b) Has demonstrated competence through satisfactory participation in a State-approved nurse aide training and competency evaluation program; or

(c) Has been deemed or determined competent by the Alabama Nurse Aide Registry.

(12) Registry verification Before allowing an individual to serve as a nurse aide, a facility must receive

registry verification that the individual has met competency evaluation requirements unless:

(a) The individual is a full-time employee in a training and competency evaluation program approved by the State; or

(b) The individual can prove that he or she has recently successfully completed a training and competency evaluation program approved by the State and has not yet been included in the registry Facilities must follow up to ensure that such an individual actually becomes registered

(13) Multi-state registry verification. Before allowing an individual to serve as a nurse aide, a facility must contact the Alabama Nurse Aide Registry to seek information from every State registry the facility believes includes information on the individual.

(14) Required retraining. If, since an individuals most recent completion of a training and competency evaluation program, there has been a continuous period of 24 consecutive months during none of which the individual provided nursing-related services for monetary compensation, the individual must complete a new training and competency evaluation program.

(15) Regular in-service education. The facility must complete a performance review of every nurse aide at least once every 12 months, and must provide regular in-service education based on the outcome of these reviews The in-service training must:

(a) Be sufficient to ensure that continuing competence of nurse aides, but must be no less than 12 hours per year;

(b) Address areas of weakness as determined in nurse aides' performance reviews and may address the special needs of residents as determined by the facility staff; and

(c) For nurse aides providing services to individuals with cognitive impairments, also address the care of the cognitively impaired.

(16) Proficiency of Nurse aides. The facility must ensure that nurse aides are able to demonstrate competency in skills and techniques necessary to care for residents' needs, as identified through resident assessments, and described in the plan of care.

(17) Staff qualifications. The facility must employ on a full-time, part-time or consultant basis those professionals necessary to carry out the provisions of these requirements.

(18) Professional staff must be licensed, certified, or registered in accordance with applicable State laws.

(19) Use of outside resources. If the facility does not employ a qualified professional person to furnish a specific service to be provided by the facility, the facility must have that service furnished to residents by a person or agency outside the facility under an arrangement described in section 1861(w) of the Social Security Act as amended or an agreement described in paragraph (20) of this section.

(20) Arrangements as described in Section 1861(w) of the Social Security Act as amended or agreements pertaining to services furnished by outside resources must specify in writing that the facility assumes responsibility for:

(a) Obtaining services that meet professional standards and principles that apply to professionals providing services in such a facility; and

(b) The timeliness of the services

(21) Medical director. The facility must designate a physician to serve as medical director

(22) The medical director is responsible for:

(a) Implementation of resident care policies; and

(b) The coordination of medical care in the facility

(23) The facility must provide or obtain laboratory services to meet the needs of its residents. The facility is responsible for the quality and timeliness of the services.

(24) If the facility provides its own laboratory services, i.e., bedside testing including glucose or glucometer, the services must meet the applicable condition for coverage of the services furnished by laboratories specified in Part 493 of Title 42 Code of Federal Regulations revised 10/1/93.

(25) If the facility does not provide laboratory services on site, it must have an agreement to obtain these services only from a laboratory that meets the requirements of Part 493 of Title 42 Code of Federal Regulations revised 10/1/93.

(26) The facility must:

(a) Provide or obtain laboratory services only when ordered by the attending physician;

(b) Promptly notify the attending physician of the findings;

(c) Assist the resident in making transportation arrangement to and from the source of service if the resident needs assistance; and

(d) File in the resident's clinical record laboratory reports that are dated and contain the name and address of the testing laboratory

(27) If the laboratory chooses to refer specimens for testing to another laboratory, the referral laboratory must be certified in the appropriate specialties and sub-specialties of services in accordance with the requirements of Part 493 of Title 42 Code of Federal Regulations revised 10/1/93.

(28) Radiology and other diagnostic services. The facility must provide or obtain radiology and other diagnostic services to meet the needs of its residents. The facility is responsible for the quality and timeliness of the services.

(29) If the facility provides its own diagnostic services, the services must meet the applicable conditions of participation four hospitals contained in Section 482.26 of Title 42 Code of Federal Regulations revised 10/1/93.

(30) If the facility does not provide its own diagnostic services, it must have an agreement to obtain these services from a provider or supplier that is approved to provide these services under Medicare.

(31) The facility must:

(a) Provide or obtain radiology and other diagnostic services only when ordered by the attending physician;

(b) Promptly notify the attending physician of the finding;

(c) Assist the resident in making transportation arrangements to and from the source of service, if the resident needs assistance; and

(d) File in the resident's clinical record signed and dated reports of x-ray and other diagnostic services.

(32) Clinical records. The facility must maintain clinical records on each resident in accordance with accepted professional standards and practices that are:

(a) Complete;

(b) Accurately documented;

(c) Readily accessible; and

(d) Systematically organized.

(33) Clinical records must be retained for:

(a) Five years from the date of discharge when there is no requirement in State law; or

(b) For a minor, three years after a resident reaches legal age under State law.

(34) The facility must safeguard clinical record information against loss, destruction, or unauthorized use.

(35) The facility must keep confidential all information contained in the resident's records, regardless of the form or storage method of the records, except when release is required by:

(a) Transfer to another health care institution;

(b) Law;

(c) Third party payment contract; or

(d) The resident.

(36) The clinical record must contain:

(a) Sufficient information to identify the resident;

(b) A record of the resident's assessments;

(c) The Plan of Care and services provided;

(d) The results of any pre-admission screening conducted by the State; and

(e) Progress notes.

(37) Disaster and emergency preparedness. The facility must have detailed written plans and procedures to meet all potential emergencies and disasters, such as fire, severe weather, and missing residents.

(a) The facility must train all employees in emergency procedures when they begin to work in the facility;

(b) Periodically review the procedures with existing staff; and

(c) Carry out unannounced staff drills using those procedures.

(38) The facility must have in effect a written transfer agreement with one or more hospitals approved for participation under the Medicare and Medicaid programs that reasonably assures that:

(a) Residents will be transferred from the facility to the hospital, and ensured of timely admission to the hospital when transfer is medically appropriate, as determined by the attending physician; and

(b) Medical and other information needed for care and treatment of residents, and, when the transferring facility deems it appropriate, for determining whether such residents can be adequately cared for in a less expensive setting than either the facility or the hospital, will be exchanged between the institutions.

(39) The facility is considered to have a transfer agreement in effect if the facility has attempted in good faith to enter into an agreement with a hospital sufficiently close to the facility to make transfer feasible.

(40) Quality assessment and assurance. A facility must maintain a quality assessment and assurance committee consisting of:

(a) The director of nursing services;

(b) A physician designated by the facility; and

(c) At least three other members of the facility's staff.

(41) The quality assessment and assurance committee:

(a) Meets at least quarterly to identify issues with respect to which quality assessment and assurance activities are necessary; and

(b) Develops and implements appropriate plans of action to correct identified quality deficiencies.

(42) A State or the Secretary may not require disclosure of the records of such committee except insofar as such disclosure is related to the compliance of such committee with the requirements of this section.

(43) Disclosure of ownership. The facility must comply with the Disclosure requirements of Sections 420.206 and 455.104 of Title 42 Code of Federal Regulations revised 10/1/93.

(44) The facility must provide written notice to the Alabama Department of Public Health, if a change occurs in:

(a) Persons with an ownership or control interest, as defined by 420-5-10.02(6)(a)(i) - (x);

(b) The officers, directors, agents, or managing employees;

(c) The corporation, association, or other company responsible for the management of the facility; or

(d) The facility's administrator or director of nursing

(45) The notice specified in the paragraph (44) of this section must include the identity of each new individual or company.

(46) Any facility designated as a federal "Special Focus Facility" must place signage on their main entrance door informing the public of this designation. The signage must remain posted until the facility is taken off the Special Focus Facility listing or the provider agreement with CMS is terminated.

(a) The signage must state in bold print: This nursing home has been designated as a Special Focus Facility.

(b) The signage must further state: A Special Focus Facility is one with a noteworthy history of poor performance. A Special Focus Facility nursing home is required to have increased oversight and is subject to enhanced enforcement activity

designed to stimulate improvement. Additional information about the federal Special Focus Facility program and process can be obtained from the administrator of this facility; by a search of the federal web site: www.cms.gov/sff; or by reviewing the information on the web site of the Alabama Department of Public Health: www.adph.org by searching keyword: sff.

(c) The signage lettering must be printed in block letters comparable to Times New Roman with font of at least 24 points. The notice must be on paper the size of at least 8 1/2'' by 11'' and of adequate size as to be readily noticed by all who enter.

Authors: Rick Harris, Walter T. Geary, Jr. M.D.
Statutory Authority: Code of Ala. 1975, §§22-21-20, et seq.
History: Repealed and Replaced: Filed July 19, 1996; effective August 23, 1996. **Amended:** Filed November 18, 1999; effective December 23, 1999. **Amended:** Filed September 18, 2003; effective October 23, 2003. **Amended:** Filed June 23, 2004; effective July 28, 2004. **Amended:** Filed June 15, 2016; effective July 30, 2016.

420-5-10-.04 Personnel.

(1) General. The administrator shall be responsible for implementation and maintenance of written personnel policies and procedures that support sound resident care and personnel practices. Personnel records shall be in effect current and available for each employee and contain sufficient information to support placement in the position to which assigned. Written policies for control of communicable disease shall be in effect to ensure that employees with symptoms or signs of communicable disease or infected skin lesions are not permitted to work, and that safe and sanitary environment for personnel exists. Incidents and accidents to personnel shall be reviewed to identify health and safety hazards.

(2) Personnel Records. Each nursing facility shall maintain a personnel record for each employee. As a minimum, the record shall include:

(a) Application for employment which contains information regarding education, training, experience, and if applicable, registration, and/or licensure information of the applicant.

(b) A job description.

(c) General administrative and job related orientation

(3) In addition to requirements at 420-5-10-.17, each facility shall:

(a) Establish vaccination requirements for employees, that are consistent with current recommendations from the Center for disease Control and Prevention (CDC) and the federal Occupational Safety and Health Administration (OSHA).

(b) Personnel absent from duty because of any communicable disease shall not return to duty until examined by a physician or freedom from any condition that might endanger the health of residents or employees. Documentation of freedom from communicable disease shall be available in facility records.

(4) Personnel Qualifications, Requirements and Training.

(a) Qualifications of Personnel. The name and qualifications of all professional employees shall be kept on file for inspection by the State Board of Health.

(b) Staff Development. Each employee shall receive appropriate orientation to the facility and its policies and to his/her position and job duties, to ensure competency in the job placement. All employees shall participate in in-service educational programs planned and conducted for the development and improvement of their skills.

Author: Patricia E. Ivie
Statutory Authority: Code of Ala. 1975, §§22-21-20, et seq.
History: Repealed and Replaced: Filed July 19, 1996; effective August 23, 1996.

420-5-10-.05 Resident Right.

(1) Resident rights. The resident has a right to a dignified existence, self-determination, and communication with and access to persons and services inside and outside the facility. A facility must protect and promote the rights of each resident, including each of the following rights

(2) Exercise of rights.

(a) The resident has the right to exercise his or her rights as a resident of the facility and as a citizen or resident of the United States

(b) The resident has the right to be free of interference, coercion, discrimination, and reprisal from the facility in exercising his or her rights

(c) In the case of a resident adjudged incompetent under the laws of a State by a court of competent jurisdiction, the rights of the resident are exercised by the person appointed under State law to act on the resident's behalf.

(d) In the case of a resident who has not been judged incompetent by the State court, any legal-surrogate designated in accordance with State law may exercise the resident's right to the extent provided by State law.

(3) Notice of rights and services

(a) The facility must inform the resident both orally and in writing in a language that the resident understands of his or her rights and all rules and regulations governing resident conduct and responsibilities during the stay in the facility. Such notification must be made prior to or upon admission and during the resident's stay. Receipt of such information, and many amendments to it, must be acknowledged in writing.

(b) The resident or his or her legal representative has the right:

1. Upon an oral or written request, to access all records pertaining to himself or herself including current clinical records within 24 hours(excluding weekends and holidays); and

2. After receipt of his or her records for inspection, to purchase at a cost not to exceed the community standard photocopies of the records or any portions of them upon request and two working days advance notice of the facility.

(c) The resident has the right to be fully informed in language that he or she can understand of his or her total health status, including but not limited to, his or her medical condition.

(d) The resident has the right to refuse treatment, to refuse to participate in experimental research, and to formulate an advance directive as specified in paragraph (h) of this section; and

(e) The facility must:

1. Inform each resident who is entitled to Medicaid benefits, in writing, at the time of admission to the nursing facility or, when the resident becomes eligible for Medicaid of:

(i) The items and services that are included in nursing facility services under the State plan for which the resident may not be charged.

(ii) Those other items and services that the facility offers and for which the resident may be charged, and the amount of charges for those services; and

2. Inform each resident when changes are made to the items and services specified in paragraphs (e)1(i) & (ii) above.

(f) The facility must inform each resident before, or at the time of admission, and periodically during the resident's stay, of services available in the facility and of charges for those services, including any charges for services not covered under Medicare or by the facility's per diem rate.

(g) The facility must furnish a written description of legal rights which includes:

1. A description of the manner of protecting personal funds.

2. A description of the requirements and procedures for establishing eligibility for Medicaid, including the right to request an assessment by the State Medicaid Agency to determine the extent of a couple's non-exempt resources at the time of institutionalization and attributes to the community spouse an equitable share of resources which cannot be considered available for payment toward the cost of the institutionalized spouse's medical care in his or her process of spending down to Medicaid eligibility levels;

3. A posting of names, addresses, and telephone numbers of all pertinent State client advocacy groups such as the State survey and certification agency, the State licensure office, the State ombudsman program, the protection and advocacy network, and the Medicaid fraud control unit; and

4. A statement that the resident may file a complaint with the State survey and certification agency concerning resident abuse, neglect, and misappropriation of resident property in the facility.

(h) The facility must maintain written policies and procedures regarding advance directives. These requirements

include provisions to inform and provide written information to all adult residents concerning the right to accept or refuse medical or surgical treatment and, at the individual's option, formulate an advance directive. This includes a written description of the facility's policies to implement advance directives.

(i) The facility must inform each resident of the name, specialty, and a way of contacting the physician responsible for his or her care.

(j) The facility must prominently display in the facility written information, and provide to residents and applicants for admission oral and written information about how to apply for and use Medicare and Medicaid benefits, and how to receive refunds for previous payments covered by such benefits.

(k) Notification of changes. A facility must immediately inform the resident; consult with the resident's physician; and if known, notify the resident's legal representative or an interested family member when there is:

1. An accident involving the resident which results in injury and has the potential for requiring physician intervention;

2. A significant change in the resident's physical, mental, or psychosocial status (i.e., a deterioration in health, mental, or psychosocial status in either life-threatening conditions or clinical complications);

3. A need to alter treatment significantly (i.e., a need to discontinue an existing form of treatment due to adverse consequences, or to commence a new form of treatment); or

4. A decision to transfer or discharge the resident from the facility as specified in Section 420-5-10-.06.

(l) The facility must also promptly notify the resident and, if known, the resident's legal representative or interested family member where there is:

1. A change in room or roommate assignment; or

2. A change in resident rights under Federal or State law or regulations.

(m) The facility must record and periodically update the address and phone number of the resident's legal representative or interested family member.

(n) Protection of Resident Funds. The resident has the right to manage his or her financial affairs, and the facility may not require residents to deposit their personal funds with the facility.

(o) Management of personal funds. Upon written authorization of a resident, the facility must hold, safeguard, manage, and account for the personal funds of the resident deposited with the facility.

(p) Deposit of funds.

1. Funds in excess of $50. The facility must deposit any resident's 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 residents funds to that account. (In pooled accounts, there must be a separate accounting for each resident's share).

2. Funds less than $50. The facility must maintain a residents personal funds that do not exceed $50 in a non-interest bearing account, interest-bearing account, or petty cash fund.

(q) Accounting and records. The facility must establish and maintain a system that assures a full and complete and separate accounting, according to generally accepted accounting principles, of each resident's personal funds entrusted to the facility on the resident's behalf.

1. The system must preclude any co-mingling of resident funds with facility funds or with the funds of any person other than another resident.

2. The individual financial records must be available through quarterly statements and on request to the resident or his or her legal representative.

(r) Notice of certain balances. The facility must notify each resident that receives Medicaid benefits:

1. When the amount in the resident's account reaches $200 less than the SSI resource limit for one person; and

2. That, if the amount in the account, in addition to the value of the resident's other nonexempt resources, reaches the SSI resource limit for one person, the resident may lose eligibility for Medicaid or SSI.

(s) Conveyance upon death. Upon the death of a resident with a personal fund deposited with the facility, the facility must 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.

(t) Assurance of financial security. The facility must purchase a surety bond, or otherwise provide assurance satisfactory to the Secretary, to assure the security of all personal funds of residents deposited with the facility.

(u) Limitation on charges to personal funds. The facility may not impose a charge against the personal funds of a resident for any item or service for which payment is made under Medicaid and Medicare.

(v) Free choice. The resident has the right to:

1. Choose a personal attending physician;

2. Be fully informed in advance about care and treatment and of any changes in that care or treatment that may affect the resident's well-being; and

3. Unless adjudged incompetent or otherwise found to be incapacitated under the laws of the State, participate in planning care and treatment or changes in care and treatment.

(w) Privacy and confidentiality. The resident has the right to personal privacy and confidentiality of his or her personal and clinical records.

1. Personal privacy includes accommodations, medical treatment, written and telephone communications, personal care, visits, and meetings of family and resident groups, but this does not require the facility to provide a private room for each resident;

2. Except as provided in paragraph (i)(ii) below, the resident may approve or refuse the release of personal and clinical records to any individual outside the facility;

3. The resident's right to refuse release of personal and clinical records does not apply when:

(i) The resident is transferred to another health care institution; or

(ii) Record release is required by law.

(x) Grievances. A resident has the right to:

1. Voice grievances without discrimination or reprisal. Such grievances include those with respect to treatment which has been furnished as well as that which has not been furnished; and

2. Prompt efforts by the facility to resolve grievances the resident may have, including those with respect to the behavior of other residents.

(y) Examination of survey results. A resident has the right to:

1. Examine the results of the most recent survey of the facility conducted by Federal or State surveyors and any plan of correction in effect with respect to the facility.

2. In a place readily accessible to residents, the facility must make the results available for examination and must post either the results themselves or a notice of their availability; and

3. Receive information from agencies acting as client advocates, and be afforded the opportunity to contact these agencies.

(z) Work. The resident has the right to:

1. Refuse to perform services for the facility;

2. Perform services for the facility, if he or she chooses, when:

(i) The facility has documented the need or desire for work in the plan of care;

(ii) The plan specifies the nature of the services performed and whether the services are voluntary or paid;

(iii) Compensation for paid services is at or above prevailing rates; and

(iv) The resident agrees to the work arrangement described in the plan of care.

(aa) Mail. The resident has the right to privacy in written communications, including the right to:

1. Send and promptly receive mail that is unopened; and

2. Have access to stationery, postage, and writing implements at the resident's own expense.

(bb) Access and visitation reports. The resident has the right and the facility must provide immediate access to any resident by the following:

1. Any representative of the Secretary;

2. Any representative of the State;

3. The resident's individual physician;

4. The State long term care ombudsman (established under Section 712 of the Older Americans Act of 1965 as amended);

5, The Alabama Developmental Disabilities Advocacy Program (ADDAP) at the University of Alabama School of Law.

6. Subject to the resident's right to deny or withdraw consent at any time, immediate family or other relatives of the resident; and

7. Subject to reasonable restrictions and the resident's right to deny or withdraw consent at any time, others who are visiting with the consent of the resident.

(cc) The facility must provide reasonable access to any resident by any entity or individual that provides health, social, legal, or other services to the resident, subject to the resident's right to deny or withdraw consent at any time.

(dd) The facility must allow representatives of the State Ombudsman, described in paragraph (bb)4 above of this section, to examine a resident's clinical records with the permission of the resident or the resident's legal representative, and consistent with State law.

(ee) Telephone. The resident has the right to have reasonable access to the use of a telephone where calls can be made without being overheard.

(ff) Personal property. The resident has the right to retain and use personal possessions, including some furnishings, and appropriate clothing, as space permits, unless to do so would infringe upon the rights or health and safety of other residents.

(gg) Married couples. The resident has the right to share a room with his or her spouse when married residents live in the same facility and both spouses consent to the arrangement.

(hh) Self-Administration of Drugs. An individual resident may self-administer drugs if the interdisciplinary team, has determined that this practice is safe.

(ii) Refusal of Certain Transfers. An individual has the right to refuse a transfer to another room within the facility, if the purpose of the transfer is to relocate.
Author: Patricia E. Ivie
Statutory Authority: Code of Ala. 1975, §§22-21-20, et seq.
History: Repealed and Replaced: Filed July 19, 1996; effective August 23, 1996.

420-5-10-.06 Admission, Transfer, Transport And Discharge Rights.

(1) Admissions, transfers, transport and discharge.

(a) Transfer and discharge includes movement of a resident to a bed outside of the certified facility whether that bed is in the same physical plant or not. Transfer and discharge does not refer to movement of a resident to a bed within the same certified facility.

(b) The facility must permit each resident to remain in the facility, and not transfer or discharge the resident from the facility unless--

1. The transfer or discharge is necessary for the resident's welfare and the resident's needs cannot be met in the facility;

2. The transfer or discharge is appropriate because the resident's health has improved sufficiently so the resident no longer needs the services provided by the facility;

3. The safety of individuals in the facility is endangered;

4. The health of individuals in the facility would otherwise be endangered;

5. The resident has failed, after reasonable and appropriate notice, to pay for (or to have paid under Medicare or

Medicaid) a stay at the facility. For a resident who becomes eligible for Medicaid after admission to a nursing facility, the nursing facility may charge a resident only allowable charges under Medicaid; or

6. The facility ceases to operate.

(c) Documentation. When the facility transfers or discharges a resident under any of the circumstances specified in this section, the resident's clinical record must be documented. The documentation must be made by--

1. The resident's physician when transfer or discharge is necessary under paragraph (1)(b)1 or paragraph (1)(b)2 of this section; and

2. A physician when transfer or discharge is necessary under paragraph (1)(b)4 of this section.

(d) Notice before transfer. Before a facility transfers or discharges a resident, the facility must--

1. Notify the resident and, if known, a family members or legal representative of the resident of the transfer or discharge and the reasons for the move in writing and in a language and manner they understand.

2. Record the reasons in the resident's clinical record; and

3. Include in the notice the items described in paragraph (f)1 of this section.

(e) Timing of the notice. Except when specified in paragraph (e)1 of this section, the notice of transfer or discharge required under paragraph (d) 1 of this section must be made by the facility at least 30 days before the resident is transferred or discharged.

1. Notice may be made as soon as practicable before transfer or discharge when--

(i) The safety of individuals in the facility would be endangered, under paragraph (1) (b)3 of this section.

(ii) The health of individuals in the facility would be endangered, under (1)(b)4 of this section.

(iii) The resident's health improves sufficiently to allow a more immediate transfer or discharge, under paragraph (1)(b)2 of this section;

(iv) An immediate transfer or discharge is required by the resident's urgent medical needs, under paragraph (1)(b)1 of this section; or

(v) A resident has not resided in the facility for 30 days.

(f) Contents of the notice. The written notice specified in paragraph (d) of this section must include the following:

1. The reason for transfer or discharge;

2. The effective date of transfer or discharge;

3. The location to which the resident is transferred or discharged;

4. A statement that the resident has the right to appeal the action to the State;

5. The name, address and telephone number of the State long term care ombudsman;

6. For nursing facility residents with developmental disabilities, or are mentally ill, the mailing address and telephone number of the Alabama Developmental Disabilities Advocacy Program (ADDAP) at the University of Alabama School of Law; and

(g) Orientation for transfer or discharge. A facility must provide sufficient preparation and orientation to residents to ensure safe and orderly transfer or discharge from the facility.

(h) Resident Transport. If a resident is unable to ride in an upright position or if such resident's condition is such that he or she needs observation or treatment by Emergency Medical Services personnel, or if the resident requires transportation on a stretcher, gurney or cot, the facility shall arrange or request transportation services only from providers who are ambulance service operators licensed by the Alabama State Board of Health. If such resident is being transported to or from a health care facility in another state, transportation services may be arranged with a transport provider licensed as an ambulance service operator in that state. For the purposes of

this rule, and upright position means no more than 20 degrees from vertical.

(2) Notice of bed-hold policy and readmission--

(a) Notice before transfer. Before a nursing facility transfers a resident to a hospital or allows a resident to go on therapeutic leave, the nursing facility must provide written information to the resident and a family member or legal representative that specifies--

1. The duration of the bed-hold policy under the State plan, if any, during which the resident is permitted to return and resume residence in the nursing facility; and

2. The nursing facility's policies regarding bed-hold periods, which must be consistent with paragraph (2)(c) of this section, permitting a resident to return.

(b) Bed-hold notice upon transfer. At the time of a transfer of a resident for hospitalization or therapeutic leave, a nursing facility must provide to the resident and a family member or legal representative written notice which specifies the duration of the bed hold policy described in paragraph (2)(a)1 and 2 of this section.

(c) Permitting resident to return to facility. A nursing facility must establish and follow a written policy under which a resident whose hospitalization or therapeutic leave exceeds the bed-hold period under the State plan, is readmitted to the facility immediately upon the first availability of a bed in a semi-private room if the resident--

1. Requires the services provided by the facility; and

2. Is eligible for Medicaid nursing facility services.

(3) Equal access to quality care.

(a) A facility must establish and maintain identical policies and practices regarding transfer, discharge, and the provision of services under the State plan for all individuals regardless of source of payment;

(b) The facility may charge any amount for services furnished to non-Medicaid residents consistent with the notice

requirement in 420-5-10.05(3)(a)(e) and (f) describing the charges; and

(c) The State is not required to offer additional services on behalf of a resident other than services provided in the State plan.

(4) Admissions policy.

(a) The facility must--

1. Not require residents or potential residents to waive their rights to Medicare or Medicaid; and

2. Not require oral or written assurance that residents or potential residents are not eligible for, or will not apply for, Medicare or Medicaid benefits.

(b) Medicare/Medicaid facilities must not require a third party guarantee of payment to the facility as a condition of admission or expedited admission, or continued stay in the facility. However, the 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, without incurring personal financial liability, to provide facility payment from the resident's income or resources.

(c) In the case of a person eligible for Medicaid, a nursing facility must not charge, solicit, accept, or receive, in addition to any amount otherwise required to be paid under the State plan, any gift, money, donation, or other consideration as a precondition of admission, expedited admission or continued stay in the facility. However,--

1. A nursing facility may charge a resident who is eligible for Medicaid for items and services the resident has requested and received, and that are not specified in the State plan as included in the term "nursing facility services" so long as the facility gives proper notice of the availability and cost of these services to residents and does not condition the resident's admission or continued stay on the request for and receipt of such additional services; and

2. A nursing facility may solicit, accept, or receive a charitable, religious, or philanthropic contribution from an organization or from a person unrelated to a Medicaid eligible resident or potential resident, but only to the extent that the contribution is not a condition of admission, expedited admission, or continued stay in the facility for a Medicaid eligible resident.

(d) States or political subdivisions may apply stricter admissions standards under State or local laws than are specified in this section, to prohibit discrimination against individuals entitled to Medicaid.
Author: Rick Harris
Statutory Authority: Code of Ala. 1975, §§22-21-20, et seq.
History: Repealed and Replaced: Filed July 19, 1996; effective August 23, 1996. **Amended:** Filed July 20, 1998; effective August 25, 1998. **Amended:** Filed June 23, 2004; effective July 28, 2004.

420-5-10-.07 Resident Behavior And Facility Practices.

(1) Resident behavior and facility practices.

(a) Restraints. 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.

(b) Abuse. The resident has the right to be free from verbal, sexual, physical, and mental abuse, corporal punishment, and involuntary seclusion.

(c) Staff treatment of residents. The facility must develop and implement written policies and procedures that prohibit mistreatment, neglect, and abuse of residents and misappropriation of resident property.

1. The facility must--

(i) Not use verbal, mental, sexual, or physical abuse, corporal punishment, or involuntary seclusion;

(ii) Not employ individuals who have been--

(I) Found guilty of abusing, neglecting, or mistreating residents by a court of law; or

(II) Have has a finding entered into the State nurse aide registry concerning abuse, neglect, mistreatment of residents or misappropriation of their property; and

(III) Report any knowledge it has of actions by a court of law against an employee, which would indicate unfitness for

service as a nurse aide or other facility staff to the State nurse aide registry or licensing authorities.

(d) The facility must ensure that all alleged violations involving mistreatment, neglect, or abuse, including injuries unknown source and misappropriation of resident property are reported immediately to the administrator of the facility and to other officials in accordance with State law through established procedures (including to the State survey and certification agency).

(e) The facility must have evidence that all alleged violations are thoroughly investigated, and must prevent further potential abuse while the investigation is in progress.

(f) The results of all investigations must be reported to the administrator or his designated representative and to other officials in accordance with State law (including to the State survey and certification agency) within 5 working days of the incident, and if the alleged violation is verified appropriate corrective action must be taken.

Author: Patricia E. Ivie
Statutory Authority: Code of Ala. 1975, §§22-21-20, et seq.
History: Repealed and Replaced: Filed July 19, 1996; effective August 23, 1996.

420-5-10-.08 Quality Of Life.

(1) Quality of Life. A facility must care for its residents in a manner and in an environment that promotes maintenance or enhancement of each resident's quality of life.

(a) Dignity. The facility must promote care for residents in a manner and in an environment that maintains or enhances each resident's dignity and respect in full recognition of his or her individuality.

(b) Self-determination and participation. The resident has the right to

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

2. Interact with members of the community both inside and outside the facility; and

3. Make choices about aspects of his or her life in the facility that are significant to the resident.

(c) Participation in resident and family groups.

1. A resident has the right to organize and participate in resident groups in the facility;

2. A resident's family has the right to meet in the facility with the families of other residents in the facility;

3. The facility must provide a resident or family group, if one exists, with private space;

4. Staff or visitors may attend meetings at the group's invitation;

5. The facility must provide a designated staff person responsible for providing assistance and responding to written requests that result from group meetings;

6. When a resident or family group exists, the facility must listen to the views and act upon the grievances and recommendations of residents and families concerning proposed policy and operational decisions affecting resident care and life in the facility.

(d) Participation in other activities. A resident has the right to participate in social, religious, and community activities that do not interfere with the rights of other residents in the facility.

(e) Accommodation of needs. A resident has the right to-

1. Reside and receive services in the facility with reasonable accommodations of individual needs and preferences, except when the health or safety of the individual or other residents would be endangered; and

2. Receive notice before the resident's room or roommate in the facility is changed.

(f) Activities.

1. The facility must provide for an ongoing program of activities designed to meet, in accordance with the comprehensive assessment, the interests and the physical, mental, and psychosocial well-being of each resident.

2. The activities program must be directed by a qualified professional who-

(i) Is a qualified therapeutic recreation specialist or an activities professional who--

(I) Is registered by the Alabama Department of Public Health; and

(II) Is eligible for certification as a therapeutic recreation specialist or as an activities professional by a recognized accrediting body on or after October 1, 1990; or

(III) Has 2 years of experience in a social or recreational program within the last 5 years, 1 of which was full-time in a resident activities program in a health care setting; or

(IV) Is a qualified occupational therapist or occupational therapy assistant; or

(V) Has completed a training course approved by the State.

(g) The program coordinator, if not qualified, must function under the supervision of a consultant to assure the Activity Program meets needs of residents until the coordinator is qualified.

1. Activities shall be planned at least one month in advance.

2. An activity calendar(s) shall be prominently displayed.

(i) If a pet therapy program is implemented, the following guidelines must be met:

(I) Pets chosen shall be free of contagious disease or sickness (diarrhea, ringworm, etc.). This includes pets residing at the facility.

(II) Pets shall be inoculated or vaccinated as required by law, with written verification of current inoculations for pets residing in facilities must be on file at the facility.

3. Participation records shall be maintained to reflect that activities have been conducted on a group and individual basis and by whom.

4. Participation records for bed-bound/bed-to-chair residents shall reflect the activities conducted, the response to those activities and who offered activities.

(h) Social Services.

1. The facility must provide medically-related social services to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident.

2. A facility with more than 120 beds must employ a qualified social worker on a full-time basis.

3. Qualifications of a social worker. A qualified social worker is an individual with--

(i) A Baccalaureate Degree or Masters Degree and is eligible for Licensure and has successfully made application for Licensure or is licensed in accordance with the Code of Ala. 1975; and

(ii) One year of supervised social work experience in a health care setting working directly with individuals.

(i) Environment. The facility must provide--

1. A safe, clean, comfortable, and homelike environment, allowing the resident to use his or her personal belongings to the extent possible;

2. Housekeeping and maintenance services necessary to maintain a sanitary, orderly, and comfortable interior;

3. Clean bed and bath linens that are in good condition;

4. Private closet space in each resident room;

5. Adequate and comfortable lighting levels in all areas;

6. Comfortable and safe temperature levels maintained at a range of 71-81° F; and

7. For the maintenance of comfortable sound levels.

(j) Facilities

1. Social Service personnel must be located in an area of the facility which:

(i) is easily accessible to residents, families, and staff,

(ii) is identified as the Social Service Office/Department and;

(iii) insures privacy for interviews.

Author: Patricia E. Ivie
Statutory Authority: Code of Ala. 1975, §§22-21-20, et seq.
History: **Repealed and Replaced:** Filed July 19, 1996; effective August 23, 1996. **Amended:** Filed November 18, 1999; effective December 23, 1999.

420-5-10-.09 Resident Assessment

(1) Resident assessment. The facility must conduct initially and periodically a comprehensive, accurate, standardized, reproducible assessment of each resident's functional capacity.

(2) Admission orders. At the time each resident is admitted, the facility must have physician orders for the resident's immediate care.

(3) Comprehensive assessments. The facility must make a comprehensive assessment of a resident's needs which-

(a) For Medicare/Medicaid certified facilities only, is based on a uniform data set specified by the Secretary and uses an instrument that is specified by the State and approved by the Secretary; and

(b) Describes the resident's capability to perform daily life functions and significant impairments in functional capacity.

(4) The comprehensive assessment must include at least the following information:

(a) Medically defined conditions and prior medical history;

(b) Medical status measurement;

(c) Physical and mental functional status;

(d) Sensory and physical impairments;

(e) Nutritional status and requirements;

(f) Special treatments or procedures;

(g) Mental and psychosocial status;

(h) Discharge potential;

(i) Dental condition;

(j) Activities potential;

(k) Rehabilitation potential;

(l) Cognitive status; and

(m) Drug therapy

(5) Frequency. Assessments must be conducted--

(a) No later than 14 days after the date of admission;

(b) Promptly after a significant change in the resident's physical or mental condition; and

(c) In no case less often than once every 12 months.

(6) Review of assessments. the nursing facility must examine each resident no less than once every 3 months, (quarterly) and as appropriate, revise the resident's assessment to assure the continued accuracy of the assessment.

(7) The results of the assessment are used to develop, review, and revise the resident's comprehensive plan of care.

(8) Coordination.

(a) Each assessment must be conducted or coordinated by a registered nurse who signs and certifies the completion of the assessment.

(9) Certification. Each individual who completes a portion of the assessment must sign and certify the accuracy of that portion of the assessment.

(a) Penalty for Falsification. An individual who willfully and knowingly certifies (or causes another individual to certify) a material and false statement in a resident

assessment is subject to civil money penalties, as specified by the Enforcement Regulations for SNFs and NFs as published in the Federal Register on November 10, 1994, and become effective on July 1, 1995.

(b) Use of independent assessors. If a State determines, under a survey or otherwise, that there has been a knowing and willful certification of false statements under paragraph 9(a) of this section, the State may require (for a period specified by the State) that resident assessments under this paragraph be conducted and certified by individuals who are independent of the facility and who are approved by the State.

(10) Comprehensive care plans. The facility must develop a comprehensive care plan for each resident that includes measurable objectives and timetables to meet a resident's medical, nursing, and mental and psychosocial needs that are identified in the comprehensive assessment. The plan of care must deal with the relationship of items or services ordered to be provided (or withheld) to the facility's responsibility for fulfilling other requirements in these regulations.

(11) A comprehensive care plan must be--

(a) Developed within 7 days after the completion of the comprehensive assessment;

(b) Prepared by an interdisciplinary team, that includes the attending physician, a registered nurse with responsibility for the resident, and other appropriate staff in disciplines as determined by the resident's needs, and, to the extent practicable, the participation of the resident, the resident's family of the resident's legal representative; and

(c) Periodically reviewed and revised by a team of qualified persons after each assessment.

(12) The services provided or arranged by the facility must--

(a) Meet professional standards of quality; and

(b) Be provided by qualified persons in accordance with each resident' written plan of care.

(13) Discharge summary. When the facility anticipates discharge, a resident must have a discharge summary that includes--

(a) A recapitulation of the resident's stay;

(b) A final summary of the resident's status to include items in paragraph (4)(a) through (m) of this section, at the time of the discharge that is available for release to authorized persons and agencies, with the consent of the resident or legal representative; and

(c) A post-discharge plan of care that is developed with the participation of the resident and his or her family, which will assist the resident to adjust to his or her new living environment.

(14) Pre-admission screening for mentally ill individuals and individuals with mental retardation. A nursing facility must not admit any new resident with-

(a) Mental illness as defined in paragraph (c)(1) of this section, unless the State mental health authority has determined, based on an independent physical and mental evaluation performed by a person or entity other than the State mental health authority, prior to admission,

1. That, because of the physical and mental condition of the individual, the individual requires the level of services provided by a nursing facility; and

2. If the individual requires such level of services, whether the individual requires specialized services for mental illness; or

(b) Mental retardation, as defined in paragraph (c)(2) of this section, unless the State mental retardation or developmental disability authority has determined prior to admission--

1. That, because of the physical and mental condition of the individual, the individual requires the level of services provided by a nursing facility; and

2. If the individual requires such level of services, whether the individual requires specialized services for mental retardation.

(c) Definition. for purposes of this section--

1. An individual is considered to have "mental illness" if the individual has a serious mental illness as defined at 483.102(b)(1), of Title 42 Code of Federal Regulations revised 10/1/93.

2. An individual is considered to be "mentally retarded" if the individual is mentally retarded as defined in 483.102(b)(3) of Title 42 Code of Federal Regulations revised 10/1/93, or is a person with a related condition as described in 435.1009 of Title 42 Code of Federal Regulations revised 10/1/93.
Author: Patricia E. Ivie
Statutory Authority: Code of Ala. 1975, §§22-21-20, et seq.
History: Repealed and Replaced: Filed July 19, 1996; effective August 23, 1996.

420-5-10-.10 Quality Of Care.

(1) Each resident must receive and the facility must provide the necessary care and services to attain or maintain the highest practicable physical, mental, and psychosocial well-being, in accordance with the comprehensive assessment and plan of care.

(2) Activities of daily living. Based on the comprehensive assessment of a resident, the facility must ensure that-

(a) A resident's abilities in activities of daily living do not diminish unless circumstances of the individual's clinical condition demonstrate that diminution was unavoidable. this includes the resident's ability to-

1. Bathe, dress, and groom;

2. Transfer and ambulate;

3. Toilet;

4. Eat; and

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

(b) A resident is given the appropriate treatment and services to maintain or improve his or her abilities specified in paragraph (2)a above; and

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

(3) Vision and hearing. To ensure that residents receive proper treatment and assistive devices to maintain vision and hearing abilities, the facility must, if necessary, assist the resident-

(a) In making appointments, and

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

(4) Pressure sores. Based on the comprehensive assessment of a resident, the facility must ensure that-

(a) A resident who enters the facility without pressure sores does not develop pressure sores unless the individual's clinical condition demonstrates that they were unavoidable; and

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

(5) Urinary Incontinence. Based on the resident's comprehensive assessment, the facility must ensure that-

(a) A resident who enters the facility without an indwelling catheter is not catheterized unless the resident's clinical condition demonstrates that catherization was necessary; and

(b) A resident who is incontinent of bladder receives appropriate treatment and services to prevent urinary tract infections and to restore as much normal bladder function as possible.

(6) Range of motion. Based on the comprehensive assessment of a resident, the facility must ensure that-

(a) A resident who enters the facility without a limited range of motion does not experience reduction in range of motion unless the resident's clinical condition demonstrates that a reduction in range of motion is unavoidable; and

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

(7) Mental and Psychosocial functioning. Based on the comprehensive assessment of a resident, the facility must ensure that--

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

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

(8) Naso-gastric tubes. Based on the comprehensive assessment of a resident, the facility must ensure that--

(a) A resident who has been able to eat enough alone or with assistance is not fed by a naso-gastric tube unless the resident' clinical condition demonstrates that use of a naso-gastric tube was unavoidable; and

(b) A resident who is fed by a naso-gastric or gastrostomy tube receives the appropriate treatment and services to prevent aspiration pneumonia, diarrhea, vomiting, dehydration, metabolic abnormalities, and nasal-pharyngeal ulcers and to restore, if possible, normal feeding function.

(9) Accidents. The facility must ensure that--

(a) The resident environment remains as free of accident hazards as is possible; and

(b) Each resident receives adequate supervision and assistance devices to prevent accidents.

(10) Nutrition. Based on a resident's comprehensive assessment, the facility must ensure that a resident -

(a) Maintains acceptable parameters of nutritional status, such as body weight and protein, unless the resident's clinical condition demonstrates that this is not possible; and

(b) Receives a therapeutic diet when there is a nutritional problem.

(11) Hydration. The facility must provide each resident with sufficient fluid intake to maintain proper hydration and health.

(12) Special needs. The facility must ensure that residents receive proper treatment and care for the following special services:

(a) Injections;

(b) Parenteral and enteral fluids;

(c) Colostomy, ureterostomy, or ileostomy care;

(d) Tracheotomy care;

(e) Tracheal suctioning;

(f) Respiratory care;

(g) Foot care; and

(h) Prostheses.

(13) Unnecessary drugs.

(a) General. Each resident's drug regimen must be free from unnecessary drugs. An unnecessary drug is any drug when used:

1. in excessive dose (including duplicate therapy); or

2. for excessive duration; or

3. without adequate monitoring; or

4. without adequate indications for its use; or

5. in the presence of adverse consequences which indicate the dose should be reduced or discontinued; or

6. any combination of the reason above.

(b) Antipsychotic Drugs. Based on a comprehensive assessment of a resident, the facility must ensure that--

1. Residents who have not used antipsychotic drugs are not given these drugs unless antipsychotic drug therapy is

necessary to treat a specific condition as diagnosed and documented in the clinical record; and

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

(14) Medication Errors. The facility must ensure that-

(a) It is free of medication error rates of five percent or greater; and

(b) Residents are free of any significant medication errors.

Author: Patricia E. Ivie
Statutory Authority: Code of Ala. 1975, §§22-21-20, et seq.
History: Repealed and Replaced: Filed July 19, 1996; effective August 23, 1996.

420-5-10-.11 Nursing Services.

(1) The facility must have sufficient nursing staff to provide nursing and related services to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident, as determined by resident assessments and individual plans of care.

(2) Sufficient staff. The facility must provide services by sufficient numbers of licensed nurses and other nursing personnel on a 24-hour basis to provide nursing care to all residents in accordance with resident care plans:

(a) The facility must use the services of a registered nurse for at least 8 consecutive hours a day, 7 days a week.

(b) The facility must designate a registered nurse to serve as the director of nursing on a full time basis.

(c) The director of nursing may serve as a charge nurse only when the facility has an average daily occupancy of 60 or fewer residents.

Author: Patricia E. Ivie
Statutory Authority: Code of Ala. 1975, §§22-21-20, et seq.
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ALABAMA STATE BOARD OF HEALTH
DIVISION OF LICENSURE AND CERTIFICATION
ADMINISTRATIVE CODE

CHAPTER 420-5-10
NURSING FACILITIES

420-5-10-.12 Dietary Services.

(1) The facility must provide each resident with a nourishing, palatable, well balanced diet that meets the daily nutritional and special dietary needs of each resident.

(a) Staffing. The facility must employ a qualified dietitian either full-time, part-time, or on a consultant basis.

1. If a qualified dietitian is not employed full-time, the facility must designate a person to serve as the director of food service who receives frequently scheduled consultation from a qualified dietitian.

2. "Qualified Dietitian" - means one who is currently licensed in the State of Alabama in accordance with the provisions contained in current state statutes as governed by the Alabama Board of Examiners for Dietetic/ Nutrition Practice.

(2) **Sufficient staff.** The facility must employ sufficient support personnel competent to carry out the functions of the dietary service.

(3) **Menus and nutritional adequacy.** Menus must:

(a) Meet the nutritional needs of residents in accordance with the recommended dietary allowances of the Food and Nutrition Board of the National Research Council, National Academy of Sciences;

(b) Be prepared in advance; and

(c) Be followed.

(4) **Food.** Each resident receives and the facility provides:

(a) Food prepared by methods that conserve nutritive value, flavor and appearance;

(b) Food that is palatable, attractive, and at the proper temperature;

(c) Food prepared in a form designed to meet individual needs; and

(d) Substitutes offered of similar nutritive value to residents who refuse food served.

(5) **Therapeutic diets.** Therapeutic diets must be prescribed by the attending physician or by a dietitian licensed by the Alabama Board of Examiners for Dietetics and Nutritionists as authorized by the medical director.

(6) **Frequency of meals.**

(a) Each resident receives and the facility provides at least three meals daily, at regular times comparable to normal mealtimes in the community.

(b) There must be no more than 14 hours between a substantial evening meal and breakfast the following day, except as provided in (d) below.

(c) The facility must offer snacks at bedtime daily.

(d) When a nourishing snack is provided at bedtime, up to 16 hours may elapse between a substantial evening meal, and breakfast the following day, if a resident group agrees to this meal span, and a nourishing snack is served.

(7) **Assistive devices.** The facility must provide special eating equipment and utensils for residents who need them.

(8) **Sanitary conditions.** The facility must:

(a) Procure food from sources approved or considered satisfactory by Federal, State or local authorities;

(b) Store, prepare, distribute, and serve food under sanitary conditions; and

(c) Dispose of garbage and refuse properly.

(9) **Feeding Assistant Program Requirements.**

(a) Facility staff who are not health care personnel, (the facility administrator, activity staff, clerical staff, laundry and housekeeping staff, or other), can be used as feeding assistants upon successful completion of an approved training program.

(1) Volunteers and family members may assist residents with feeding and drinking, without completing an approved training program. A feeding assistant shall only assist residents to eat or drink who have no complicated feeding

problems and who have no known behaviors at meal time. If a resident is determined, by the facility, to meet the criteria of having a feeding assistant, then the facility must specify that the resident will be assisted by a feeding assistant on the care plan.

(b) Examples of complicated feeding problems include: difficulty swallowing, recurrent lung aspirations, and tube or parenteral/IV feedings. Residents with a clinical condition, such as the conditions listed above, require the employee providing feeding or hydration services to be a licensed health care professional or certified nurse aide.

(c) The facility must base resident selection on the charge nurse's assessment and the resident's atest assessment and plan of care. A feeding assistant must work under the direct supervision of a registered nurse or licensed practical nurse in a dining room or other common area.

(d) The feeding assistant is not permitted to perform other nursing or nursing-related duties (for example, measuring or recording output, transferring, and toileting). In an emergency, a feeding assistant must immediately call a supervisory nurse on the resident call system, or other appropriate means of emergency notification.

(e) **Feeding Assistant Definition.** Paid feeding assistant means a person who does not meet the definition of health care personnel and who is paid by a nursing home, to assist residents who have no feeding complications with the activities of eating and drinking. The feeding assistant is not permitted to provide any other nursing or nursing related service. Paid feeding assistants must be at least 16 years old. A feeding assistant must work under the direct supervision of a registered nurse or licensed practical nurse in a dining room or other common area.

1. Nurse aides who are on the nurse aide abuse registry and who have been disqualified from working as a nurse aide may not work as a feeding assistant. A feeding assistant does not include a person who is a:

(i) Licensed health professional or registered dietitian;

(ii) Volunteers without money compensation; or families

(iii) Certified nurse aide.

(f) **Feeding Assistant Training Requirements.**

1. Feeding assistant training programs must require enrolled individuals to successfully complete an approved training program, which includes the following federally-mandated topics, covered during 9 hours of classroom instruction and hands on training.

(i) Feeding techniques.

(ii) Assistance with feeding and hydration.

(iii) Communication and interpersonal skills.

(iv) Appropriate responses to resident behavior.

(v) Safety and emergency procedures, including the Heimlich maneuver.

(vi) Infection control.

(vii) Resident rights.

(viii) Recognizing changes in residents that are inconsistent with their normal behaviors and the importance of reporting these changes to the supervisory nurse.

(ix) Abuse, neglect and misappropriation of resident property including reporting requirements.

(x) Dementia.

2. Training must include an experienced staff member demonstrating the correct way to feed a resident who requires minimal assistance with feeding, including appropriate cueing, moderate assistance with feeding, and a resident who requires total assistance with feeding.

3. The feeding assistant training program must also provide instruction on the following topics:

(i) The resident population who will be served by the feeding assistant in a facility-based program. The facility based training program curriculum must include training specific to the identified population type(s). This training must include, but is not limited to:

I. Characteristics of the population, such as the population member's physical, social and mental health needs, and specific medications or treatment needed by the residents.

II. Meeting the needs of persons with a dual diagnosis (co-occurrences of mental health disorders and alcohol and/or drug dependence or abuse), and maintaining or increasing his or her social participation.

4. Feeding assistants who have been trained by another facility's training program, must be trained for the specific needs of a facility's population.

5. Programs may choose to add increased training requirements.

6. Training programs must stress the only direct, hands-on duty a feeding assistant is permitted to perform is assisting residents to eat or drink who have no complicated feeding problems and who has no known behaviors at meal time.

7. Feeding assistant training programs must use a training curriculum, which has been pre-approved by the department and determined to comply with the federal requirements. Entities are allowed to choose one of the following pre-approved, standardized curriculum models:

Assisting with Nutrition and Hydration in Long-Term Care. Hartman Publishing Inc. 2004.

Assisted Dining: The Role and Skills of Feeding Assistants. Walker, Bonnie L and Cole, Claire S. American Health Care Association. 2004.

8. In addition to the pre-approved, standardized curriculum models facilities must also utilize the following Dementia Education Training Act Care Series videotapes:

Tape 1 - Understanding Dementia

Tape 2 - Staff Communication

Tape 4 - Feeding Techniques and Nutrition

Tape 5 - Assuring Proper Hydration

Tape 11 - Recognizing Changes in Health Status

Tape 12 - Keeping Dementia Residents Within the Safety of the Facility

9. Although the pre-approved standardized training curriculums include additional skill information (e.g., output, special care needs for resident with dysphagia,

etc.), the instructor must stress the feeding assistant will not be permitted to perform any other hands-on duty, beyond assisting residents to eat and drink who have no complicated feeding problems and who have no known behaviors at meals.

10. An individual may not provide hands-on assistance with feeding or hydrating residents unless the individual has successfully completed the following:

(i) A state-approved training program for feeding assistants, including additional instruction on any selected resident population.

(ii) After completing the training course, the individual must pass a State-approved standardized written quiz with a minimum score of 80 percent. The individual may request the quiz to be administered orally. Instructors should consider the needs of persons who have limited English proficiency or reading difficulties

(iii) Successfully completing demonstration of 1) feeding residents with minimal assistance/moderate assistance with cueing and total feeding of resident; 2) Heimlich maneuver; and 3) appropriate hand washing techniques

11. Programs may choose to add increased testing requirements.

12. Students who do not successfully pass the initial competency evaluation will be allowed the opportunity to review the training materials and retake the test a maximum of 2 additional times. Therefore, the student may only take the test a total of 3 times. The program must document the failure, opportunity for review, and subsequent retake testing date.

g. **Feeding Assistant Instructor Requirements.** Only the following licensed health care professionals can serve as lead instructors: R.N., L.P.N., R.D., S.T., O.T. These individuals must have experience in long term care with 6 months experience in the management of persons with dementia. Experienced Certified Nursing Assistants CNAs and other individuals may assist with the training and feeding demonstrations, if appropriately supervised.

(h) **Records.** Feeding assistants must receive an annual inservice on relevant feeding assistant topics (any topic area included in the curriculum is appropriate). In addition, feeding assistants must be evaluated on a yearly basis to

document that skill performance and feeding competence is satisfactory.

1. Feeding assistant training programs must maintain the following records:

(i) For a minimum of 3 years, all students' written examinations, (skills checklists) and other relevant training records

(ii) Documentation of the training conducted and identification of the instructor conducting the training.

(iii) Record of all individuals who have successfully completed the feeding assistant training and competency testing program.

2. Training programs must maintain the security of the test materials to ensure disclosure or forgery does not occur.

3. Facilities employing feeding assistants must maintain the following records:

(i) Feeding assistants must have in their personnel file evidence of the following:

I. Evidence of having successfully completed an approved feeding assistant training and competency testing program.

II. Evidence of annual inservice sessions(s), relating to feeding assistant duties.

III. Evidence of an annual evaluation, determining a feeding assistant's continued competence in feeding residents.

(ii) Feeding assistant roster, recording all individuals employed by the facility as feeding assistants who successfully completed the feeding assistant training and competency evaluation.

(iii) The selected resident's medical record, documenting no complicated feeding condition exists.

(i) **Approval Process of Feeding Assistant Training Programs.** A facility must submit to the Division of Health Care Facilities (DHCF) in writing the curriculum the facility will utilize in their feeding assistant training program.

Author: Rick Harris, Dana Billingsley

Statutory Authority: Code of Ala. 1975, §§22-21-20, et seq. **History: Repealed and Replaced:** Filed July 19, 1996; effective August 23, 1996. **Amended:** Filed April 20, 2005; effective May 25, 2005. **Amended:** Published March 31, 2022; effective May 15, 2022.

History: Repealed and Replaced: Filed July 19, 1996; effective August 23, 1996. **Amended:** Filed April 20, 2005; effective May 25, 2005.

420-5-10-.13 Physician Services.

(1) A physician must personally approve in writing a recommendation that an individual be admitted to a facility. Each resident must remain under the care of a physician.

(2) Physician supervision. The facility must ensure that--

(a) The medical care of each resident is supervised by a physician; and

(b) Another physician supervises the medical care of residents when their attending physician is unavailable.

(3) Physician visits. The physician must--

(a) Review the resident's total program of care, including medications and treatments, at each visit required by paragraph (4)(a) of this section;

(b) Write, sign, and date progress notes at each visit; and

(c) Sign and date all orders.

(4) Frequency of physician visits.

(a) The resident must be seen by a physician at least once every 30 days for the first 90 days after admission, and at least once every 60 days thereafter.

(b) A physician visit is considered timely if it occurs not later than 10 days after the date the visit was required.

(c) Except as provided in paragraphs (4)(d) of this section, all required physician visits must be made by the physician personally.

(d) At the option of the physician, required visit, may alternate between personal visits by the physician and visits by a physician assistant, nurse practitioner or clinical nurse

specialist in accordance with paragraph (5)(a)1, 2, and 3 of this section.

(5) Availability of physicians for emergency care. The facility must provide or arrange for the provision of physician services 24 hours a day, in case of an emergency.

(a) Except as specified in paragraph (5)(b) of this section, a physician may delegate tasks to a physician assistant, nurse practitioner, or clinical nurse specialist who--

1. Agrees to and has signed specific Protocols established by the facility and the physician and is on file in the facility;

2. Is acting within the scope of practice as defined by State law; and

3. Is under the supervision of the physician.

(b) A physician may not delegate a task when the regulations specify that the physician must perform it personally, or when the delegation is prohibited under State law or by the facility's own policies.

Author: Patricia E. Ivie
Statutory Authority: Code of Ala. 1975, §§22-21-20, et seq.
History: Repealed and Replaced: Filed July 19, 1996; effective August 23, 1996.

420-5-10-.14 Specialized Rehabilitative Services.

(1) Provision of services. If specialized rehabilitative services such as, but not limited to, physical therapy, speech-language pathology, occupational therapy, and health rehabilitative services for mental illness and mental retardation are required in the resident's comprehensive plan of care, the facility must:

(a) Provide the required services; or

(b) Obtain the required services from an outside resource (in accordance with Section 483.75(h) of Title 42 Code of Federal Regulation revised 10/1/93) from a provider of specialized rehabilitative services.

(2) Qualifications. Specialized rehabilitative services must be provided under the written order of a physician by qualified personnel.

Author: Patricia E. Ivie

Statutory Authority: Code of Ala. 1975, §§22-21-20, et seq.

History: Repealed and Replaced: Filed July 19, 1996; effective August 23, 1996.

420-5-10-.15 Dental Services.

(1) The facility must assist residents in obtaining routine and 24-hour emergency dental care.

(a) Skilled nursing facilities. A facility:

1. Must provide or obtain from an outside resources, in accordance with Section 483.75(h) of Title 42 Code of Federal Regulations revised 10/1/93, routine and emergency dental services to meet the needs of each resident;

2. May charge a Medicare resident an additional amount for routine and emergency dental services;

3. Must, if necessary, assist the resident:

(i) In making appointments; and

(ii) By arranging for transportation to and from the dentist's office; and

(iii) Promptly refer residents with lost or damaged dentures to a dentist.

(b) Nursing Facilities. The facility:

1. Must provide or obtain from an outside resource the following dental services to meet the needs of each resident:

(i) Routine dental services (to the extent covered under the State plan); and

(ii) Emergency dental services;

2. Must, if necessary, assist the resident-

(i) In making appointments; and

(ii) By arranging for transportation to and from the dentist's office; and

(iii) Promptly refer residents with lost or damaged dentures to a dentist.

Author: Patricia E. Ivie
Statutory Authority: Code of Ala. 1975, §§22-21-20, et seq.
History: Repealed and Replaced: Filed July 19, 1996; effective August 23, 1996.

420-5-10-.16 Pharmacy Services.

(1) The facility must provide routine and emergency drugs and biologicals to its residents, or obtain them under an agreement described in §483.75(h) of Title 42 Code of Federal Regulations revised 10/1/93.

(a) Procedures. A facility must provide pharmaceutical services (including procedures that assure the accurate acquiring, receiving, dispensing, and administering of all drugs and biologicals) to meet the needs of each resident.

(b) Service consultation. The facility must employ or obtain the services of a licensed pharmacist who-

1. Provides consultation on all aspects of the provision of pharmacy services in the facility;

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

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

(c) Drug regimen review.

1. The drug regimen of each resident must be reviewed at least once a month by a licensed pharmacist.

2. The pharmacist must report any irregularities to the attending physician and the director of nursing, and these reports must be acted upon.

(d) Storage of drugs and biologicals.

1. In accordance with State and Federal laws, the facility must store all drugs and biologicals in locked compartments under proper temperature controls and permit only authorized personnel to have access to the keys.

2. The facility must provide separately locked, permanently affixed compartments for storage of controlled drugs listed in Schedule II of the Comprehensive Drug Abuse Prevention and Control Act of 1976 and other drugs subject to abuse, except when the facility uses single unit package drug distribution systems in which the quantity stored is minimal and a missing dose can be readily detected.

3. The facility must maintain readily traceable records of receipt and disposition of all controlled drugs.

(e) Destruction of Drugs.

1. The nursing facility develops policies and procedures for the destruction of drugs and biologicals.

2. Controlled substances and legend drugs dispensed to residents, that are unused because the medication is discontinued, or because the resident dies shall be destroyed within 30 days, except unused legend drugs may be donated to a charitable clinic pursuant to Alabama Administrative Code Chapter 420-11-11, et. seq.

3. Medications of residents transferred to a hospital may be retained until the resident is returned to the facility. Upon return of the resident to the facility, the physician's order will dictate whether or not the resident is to continue the same drug regimen as previously ordered. Medications not reordered by the physician must be destroyed.

4. Medications ordered to be used on an "as needed" basis shall be destroyed after 90 days if they have not been used during that period of time. Medications shall be destroyed upon expiration of the drug.

5. Both controlled substances and non-controlled substances may be destroyed on the premises or may be picked up by an environmental agency that provides such service. Drugs to be destroyed shall not be returned to the drug store for destruction.

6. Records must be completed and maintained by the facility that include:

(i) Name and address of the facility

(ii) Date of destruction/date drugs picked up

(iii) Method used in destruction (If picked up by an environmental agency, the record/receipt must indicate the proposed date and method of destruction.

(iv) Prescription number, name of drug store from which the medicine was dispensed, resident's name, name and strength of drug destroyed, amount destroyed and reason for destruction.

7. The pharmacist will verity that the list of drugs to be destroyed is accurate and with a Registered Nurse, will carry out destruction. Both will sign the destruction form indicating amounts listed are correct and have been destroyed. For destruction of controlled substances there shall be a third witness who may be a law enforcement official, management or supervisory personnel, i.e., administrator, LPN charge nurse, etc. If medications are to be picked up and destroyed by an environmental agency, the RN should verify the list of drugs to be destroyed and should obtain a signed copy of the destruction form as a receipt.

8. If records of destruction are maintained in resident's medical record, they must be retained for as long as the medical record is kept. If a separate file of destruction records is to be maintained, they must be retained for a period of not less than two years.

(f) Labeling of Drugs and Biologicals.

1. All containers of medicines and drugs shall be properly and plainly labeled, including name and strength of drug, resident's name, ordering physician, date of filling, directions for administration, prescription number, expiration date, number of tablets or capsules sent and any necessary auxiliary labels. The prescription label shall conform with any additional federal, state and local requirements.

2. Use of and labeling of generic drugs shall comply with State Board of Pharmacy requirements.

3. When authorized substitution of a drug takes place, there will be established policies and procedures to provide accurate identification.

4. Over-the-counter (non-prescription) medicines shall be plainly labeled with the name and strength of the drug. Additional labeling information may be at the discretion of the facility as related in its policies and procedures except that

manufacturer's labeling information must be present in the absence of prescription labeling.

5. The contents of all individual prescriptions shall be kept in the original dispensed container bearing the original prescription label.

6. Procedures shall be developed to assure proper control and labeling for medications provided a resident upon leaving the facility on a temporary absence.

7. Unit dose medications shall be packaged according to an acceptable format to include product name, strength, control number, and expiration date. Procedures for utilization of the system used are developed and approved by administration, nursing and pharmacy personnel and must comply with federal and state regulations.

(g) Emergency medication kits will be kept in accordance with Chapter 680-x-2 of the Alabama State Board of Pharmacy Rules and Regulations governing institutional pharmacies.

1. Emergency kits may contain controlled substances utilizing the following conditions:

(i) The source from which a long term care facility may obtain controlled substances must be a DEA registered pharmacy or practitioner.

(ii) There shall be a maximum three day supply of any controlled substance stocked in the emergency kit.

(iii) The responsibility for proper control and accountability of the emergency kit shall rest with both the nursing facility and the DEA registrant providing the drug. The facility and the drug provider shall maintain complete and accurate records of the controlled substances placed in the emergency kit including receipt and disposition of the drugs as well as destruction of unused or outdated drugs where appropriate.

(iv) Adequate security measures shall be provided for the emergency kit (if the controlled drugs are to be maintained within the kit) or the drugs (if they are to be maintained in a separate area) to include double locks. Access to emergency drugs shall be limited to those with an actual need, i.e., medication nurse and/or director of nurses and the pharmacist.

(v) Controlled drugs maintained for emergency use may be used only upon the written or telephone orders of the attending physician, who must sign a telephone order as soon as possible after giving it.

(vi) Violations in these rules and regulations may result in the revocation, denial or suspension of the privilege of maintaining controlled substance drugs in the emergency kit.

(h) "Stat" Medicine Cabinets

1. Each nursing facility may maintain one "stat" medicine cabinet for the purpose of keeping a minimum amount of stock medications that may be needed quickly or after regular duty hours. If a facility wants more than one "stat" medicine cabinet, it must be approved by the State Board of Health. The following rules apply to such a cabinet:

(i) There shall be a minimum number of doses of any medication in the "stat" cabinet based upon the established needs of the facility.

(ii) There must be a list of contents, approved by the nursing facility, giving the name and strength of the drug and the quantity of each.

(iii) There shall be records available to show amount received, name of resident and amount used, prescribing physician, time of administration, name of individual removing and using the medication and the balance on hand.

(iv) There shall be written procedures for utilization of the "stat" medicine cabinet with provisions for prompt replacement of used items.

(v) The pharmacist shall inspect the "stat" medicine cabinet at least monthly replacing outdated drugs and reconciliation of its prior usage. Information obtained shall be included in a monthly report.

Author: Patricia E. Ivie
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420-5-10-.17 Infection Control.

(1) The facility must establish and maintain an infection control program designed to provide a safe, sanitary, and comfortable environment and to help prevent the development and transmission of disease and infection.

(a) Infection control program. The facility must establish an infection control program under which it--

1. Investigates, controls, and prevents infections in the facility;

2. Decides what procedures, such as isolation should be applied to an individual resident; and

3. Maintains a record of incidents and corrective actions related to infections.

(b) Preventing spread of infection.

1. When the infection control program determines that a resident needs isolation to prevent the spread of infection, the facility must isolate the resident.

2. The facility must prohibit employees with a communicable disease or infected skin lesions from direct contact with residents or their food, if direct contact will transmit the disease.

3. The facility must require staff to wash their hands after each direct resident contact for which handwashing is indicated by accepted professional practice.

(c) Linens. Personnel must handle, store, process, and transport linens so as to prevent the spread of infection.

(2) Tuberculosis (TB) Screening:

(a) Resident Screening

1. As part of the resident admission procedure, a two-step tuberculin (PPD-Mantoux) skin test shall be administered prior or upon admission to all new residents unless there is documentation of a previous positive reaction. The two-step method should detect the boosting phenomenon that might be misinterpreted as a skin test conversion. Testing administered prior to admission shall be within 30 days of admission date. Results shall be recorded in the permanent records of the facility.

2. History of Bacille Calmetta Guerin (BCG) vaccination does not preclude an initial screening test, and a reaction of 10 mm or more induration shall be managed as a tuberculous infection.

3. At the time of admission any resident found to have a significant tuberculin skin test reaction (10 mm or greater) or with symptoms suggestive of TB shall be evaluated for active TB disease by clinical examination and chest roentgenogram. Sputum specimen, if obtainable, shall be collected and sent to the State Health Department Laboratory for smear and culture studies. Routine chest roentgenogram at admission remains an option at the discretion of the nursing facility. In the absence of clinical symptoms, annual chest roentgenograms are not recommended.

4. Sputum of acid-fast smear and mycobacerial culture shall be obtained promptly on any tuberculin reactor who develops a persistent cough or fever, or manifests an abnormal chest roentgenogram compatible with TB. Any resident, regardless of skin test results, with a persistent cough or fever or other symptoms suggestive of TB shall first have sputum collected and submitted immediately to the State Health Department Laboratory for smear and culture studies, followed by a clinical examination and chest roentgenogram.

5. Residents who have a documented history of a positive (greater than 10 mm induration) PPD tuberculin test, adequate treatment for disease, or adequate preventive therapy for infection shall be exempt from further screening unless they develop signs or symptoms suggestive of TB.

6. Routine annual TB skin testing of residents is not recommended for every nursing facility. The Infection Control Plan for each facility shall establish the need and frequency of repeat or annual TB skin testing based upon the risk of transmission of TB infection in that facility and the surrounding community.

7. All residents with a documented negative tuberculin test shall be retested within seven working days after notice of exposure to a suspected or diagnosed case, using the single-step Mantoux method. Contacts having a tuberculin skin test with a 5 mm or greater induration, and tuberculin converters should have follow-up examinations including a chest roentgenogram and clinical evaluation. Converters are defined as newly infected persons, without documented exposure information, whose tuberculin skin test increases as follows:

(i) for persons under age 35 the skin test must increase by at least 10 mm from most recent test results.

(ii) for persons aged 35 and older the skin test must increase by at least 15 mm from most recent test results.

(b) Employee Screening

1. As part of the pre-employment procedure, a two step tuberculin (PPD-Mantoux) skin test shall be administered to all new employees as soon as employment begins unless there is documentation of a previous positive reaction or documentation of a negative skin test within the past 12 months. A single-step skin test is sufficient for new employees with documented negative test within the previous 12 months. The two-step tuberculin skin testing should detect the boosting phenomenon that might be misinterpreted as a skin test conversion. Results shall be recorded in the permanent records of the facility.

2. A history of BCG vaccination does not preclude an initial screening test, and a reaction of 10 mm or more induration shall be managed as a TB infection.

3. Any health care worker (HCW), at the time of employment, found to have a significant tuberculin skin test reaction (10 mm or greater) or with symptoms suggestive of TB shall be evaluated by clinical examination and chest roentgenogram. Sputum specimen, if obtainable, shall be collected and sent to the State Health Department Laboratory for smear and culture.

4. HCWs who have a documented history of a positive PPD test, adequate treatment for disease, or adequate preventive therapy for infection shall be exempt from further screening unless they develop signs or symptoms suggestive of TB.

5. Routine annual TB skin testing of HCWs is not recommended for every nursing facility. PPD-negative HCWs shall undergo repeat PPD testing at regular intervals as determined by the nursing facility's risk assessment. The Infection Control Plan for each facility should establish the need and frequency of repeat or annual TB skin testing based upon the risk of transmission of TB in that facility and surrounding community.

6. All HCWs with documented negative tuberculin test shall be retested using the single step Mantoux method within seven working days after notice of exposure to a suspected or diagnosed case of TB if appropriate precautions were not in place at the time of exposure. All HCWs with newly recognized positive PPD test results shall be evaluated promptly for active TB.

Contacts having a tuberculin skin test with a 5 mm or greater induration, and tuberculin converters shall have follow-up examinations including a chest roentgenogram and clinical evaluation. Sputum specimen, if obtainable, should be sent to the State Health Department Laboratory for smear and culture. Converters are defined as newly infected persons, without documented exposure information, whose tuberculin test increases as follows:

(i) for persons under age 35 the test must increase by a least 10 mm within the past two years

(ii) for persons aged 35 and older the skin test must increase by at lease 15 mm within the past two years.

(7) Routine chest radiographs are not required for asymptomatic, PPD-negative HCWs. HCWs with positive PPD test results shall have chest radiographs as part of the initial evaluation of their PPD test; if negative, repeat chest radiographs are not needed unless symptoms develop that could be attributed to TB. However, more frequent monitoring for symptoms of TB may be considered for recent converters and other PPD-positive HCWs who are at increased risk for developing active TB (e.g., HIV-infected or otherwise severely immunocompromised HCWs).

(c) Treatment of Latent Infection

1. Infected employees and residents with no current disease, who are 34 years of age and under, shall be offered preventive therapy (isoniazid) in accordance with the American Thoracic Society, Center for Disease Control, American College of Chest Physicians and the Alabama State TB Control Program Guidelines. Employees and residents aged 35 and over who have significant skin tests may be offered preventive therapy depending upon each individual's complete evaluation.

(d) Role of the Health Department

1. Any employee or resident with suspected or diagnosed TB disease must be reported to the local health department immediately.

2. Epidemiologic investigation will be performed by trained health department staff on all employees and residents with diagnosed or suspected disease.

3. Further information regarding TB screening of employees and residents may be obtained by contacting the local

county health department or the Division of TB Control of the State Health Department.

(e) Two-Step Testing

1. Nursing homes may choose to use either of the methods outlined below when administering the two-step (test-retest) tuberculin skin test. The Infection Control Plan for each facility shall designate which method is more appropriate for the facility and that method must be consistently utilized. The use of the two-step tuberculin skin test should detect the boosting phenomenon that might be misinterpreted as a skin test conversion. The process is particularly important when repeat testing is likely.

Method 1:

Apply first test
Read result in 7 days
If result is positive (greater than 10 mm of induration), follow recommendation for appropriate follow-up of positive skin test
If result is negative (0-9 mm of induration), apply second test (same day)
Read result of second test 48-72 hours later
Use result of second test as baseline

Method 2:

Apply first test
Read test in 48-72 hours
If result is positive (greater than 10 mm of induration), follow recommendation for appropriate follow-up of positive skin test
If result is negative (0-9 mm of induration), apply second test
1-3 weeks later
Read result of second test 48-72 hours later
Use result of second test as baseline

Authors: Patricia E. Ivie, Jimmy D. Prince
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420-5-10-.18 Physical Plant.

(1) Location.

(a) The nursing facility site shall provide space to accommodate staff and visitor parking, service access, emergency access, outdoor resident activity space and other areas required to provide for the care and proper operation of the facility.

(b) The location and construction of all nursing facilities shall comply with local zoning, building, and fire ordinances. Evidence to this effect, signed by local fire, building, and zoning officials shall be furnished to the Alabama Department of Public Health.

(c) Nursing facilities shall be located on streets or roads which are kept passable at all times. Facilities constructed after the effective date of these rules shall be located on paved roads.

(2) Submission of Plans and Specifications.

(a) When construction is contemplated, either for new buildings, conversions, additions, or alterations to existing buildings coming within the scope of these rules, plans and specifications shall be submitted for review and approval to the Alabama Department of Public Health, in accordance with Alabama Administrative Code Rule 420-5-22, "Submission of Plans and Specifications for Health Care Facilities."

(b) Minor alterations and remodeling which do not affect the structural integrity of the building, which does not change functional operation, which does not affect fire safety, and which does not add beds over those for which the facility is licensed, need not be submitted for approval. Documentation shall be maintained for interior wall covering finishes.

(c) The renovation area of an existing nursing facility shall comply with the current requirements for new construction to the extent possible.

(3) Inspections. The Alabama Department of Public Health and its authorized representative shall have access to the site for inspection.

(4) General Requirements - The provisions of this section shall apply to all nursing facilities.

(a) Codes.

1. Nursing facilities in existence at the time of current code adoption shall comply with the code requirements for an existing building.

2. New nursing facilities, additions or alterations shall comply with the currently adopted code requirement for a new building.

(b) Renovations within an existing facility shall comply with the applicable codes and requirements for new work.

(c) The building shall be structurally sound, free from leaks and excessive moisture, in good repair, and painted at sufficient intervals inside and out.

(d) The interior and exterior of the building shall be kept clean and orderly.

(e) Maintain an effective pest control program so that the facility is free of pests and rodents.

(f) There shall be a minimum of twenty feet of clear space measured perpendicularly between a resident bedroom window and any structure outside the window. A peripheral view of the exterior shall be provided from newly constructed bedrooms.

(g) All water is to be obtained from a public water supply. If it is impossible to connect to a public water system, the private water system shall be approved by the Alabama Department of Public Health or its appropriate designated agency.

1. Water under pressure of not less than 15 lbs. per square inch is piped within the building to all sinks, toilets, lavatories, tubs and other fixtures requiring water.

2. An adequate supply of hot water for resident and service uses is available at all times. Temperature of hot water used by residents is automatically regulated by tempering valves and shall not exceed 110 degrees Fahrenheit.

3. In the laundry, provision shall be made to increase the water temperature to 160 degrees Fahrenheit unless manufacturer documentation can be provided for the chemical being used at a lower temperature.

4. There shall be procedures established to ensure that water can be provided for all essential services in the event of loss of the normal water supply.

(h) All liquid and human waste, including floor wash water and liquid waste from refrigerators, is disposed of through trapped drains into a public sanitary sewer system in localities where such system is available. In localities where a public sanitary sewer system is not available, liquid and human waste shall be disposed of through trapped drains and in a manner approved by the Alabama Department of Public Health or its appropriate designated agency.

1. Plumbing is so sized, installed and maintained to carry adequate quantities of water to required locations throughout the facility, to prevent contamination of the water supply, and to properly convey sewage and liquid wastes from the establishment to the sewerage or sewage disposal system, in such a manner and so that it does not constitute a source of contamination or create an unsanitary condition or nuisance.

2. Solid, non-infectious wastes are kept in leak proof, non-absorbent containers which shall be kept covered with tight fitting lids, and are disposed of in a manner approved by the Alabama Department of Public Health or its appropriate designated agency.

3. Solid wastes which are potentially infectious shall be burned on the premises in an incinerator approved by the Alabama Department of Public Health or disposed of in a manner approved by the Alabama Department of Public Health or its appropriate designated agency.

(i) Lighting shall meet the following requirements:

1. Lighting in nursing facilities shall meet the requirement as in the *Illuminating Engineers Society (IES) Lighting Handbook Application* volume.

2. Night lights shall be provided in bedrooms, hallways, toilet rooms and bathrooms. Glowing toggle switches are acceptable in toilet rooms and bathrooms.

(j) Screens shall be provided for all operable windows.

(k) All floors shall be smooth and free from cracks and finished so that they can be easily cleaned.

(l) Walls and ceilings shall be of sound construction and maintained in good repair.

(m) Each room occupied by residents shall have a ceiling height of eight feet or more (does not include furred area).

(n) Doors.

1. Hardware on all toilet and bathroom doors shall be operable from outside the room.

2. Bedroom doors shall not be equipped with hardware that will permit a resident to lock himself within the room.

3. Bedroom doors shall open into the bedroom.

4. To avoid danger of a resident falling and blocking the swing of a door, all doors to residents' central baths and toilets shall swing out or be double-acting and equipped with an emergency stop release.

(o) Panic hardware shall be installed on each required exit door, as well as doors to and from exit stairs.

(p) All differences in floor levels within the building shall be accomplished by steps of not less than three, six-inch risers or ramps. Either shall be equipped with handrails on both sides. (See Ramps.)

(q) The nursing facility shall be well ventilated at all times.

1. Resident bedrooms shall be ventilated in such a manner as to supply fresh air and to prevent accumulation of objectionable odors.

2. All service areas shall be ventilated as permitted by codes.

(r) All facilities shall have access to public fire hydrant protection, or the equivalent approved by the local fire department or State Fire Marshal.

(s) Handrails shall be installed on both sides of all corridors normally used by residents except for areas between doors of 24 inches or less.

(t) A corridor smoke detection system shall be provided and consist of listed devices connected to the facility's fire alarm system. When the nursing facility is not totally sprinkled, smoke detectors shall be installed in

living/recreation rooms, barber/beauty shops, examination rooms and hazardous areas.

(u) When heat detectors are installed in any area, they shall be listed self-restoring type, and electrically connected to the fire alarm system.

(v) Nurse Call System.

1. Existing nursing facilities shall have an electrical nurse call system at the side of each bed which will provide an initial audible signal and a visual signal on an annunciator panel at the nurses' station until deactivated. (Nursing facilities licensed after the effective date of theses rules, both audible and visual signals must function until deactivated in the resident room.)

2. Nursing facilities licensed after December 26, 1988, shall have an electrical nurse call station at each bed and a light over the door to the bedrooms on the corridor.

3. An electrical nurse call system shall be provided in each resident toilet and bathroom and in additions to existing buildings and in remodeling after the effective date of these rules. This signal shall be distinct from the regular nurse call signal and turned off only at the emergency calling station.

4. On new call systems, additional visible signals shall be installed at corridor intersections or in main corridor area where rooms are recessed if patient room call lights are not visible from the nurses' station area.

(w) Trash chutes are prohibited in nursing facilities.

(x) Elevators.

1. New facilities with residents on one or more floors above the first floor shall be equipped with at least one automatic elevator of a size sufficient to carry a resident on a stretcher.

2. If an elevator is not installed in the existing nursing facility due to exits on each floor, each floor shall have a dining room, living room, and sunroom.

3. Annual inspections shall be made of elevators by qualified inspection service personnel and inspection documents maintained in the facility.

(y) Sufficient general storage space shall be provided for the storage of equipment, supplies, etc., to prevent the need for storage in hallways or other non-storage areas of the facility and be adequately ventilated.

(z) Facilities for Physically Handicapped.

1. Necessary accommodations shall be made to meet the needs of persons with semi-ambulatory disabilities, sight and hearing disabilities, disabilities of coordination, as well as other disabilities in accordance with the American National Standard Institute (ANSI), A117.1 - 1992, *American National Standard for Buildings and Facilities - Providing Accessibility and Usability for Physically Handicapped People*.

2. In nursing facilities existing prior to these rules, provisions shall be made to accommodate the handicapped.

(aa) Ramps and inclines, where installed, shall not exceed a rise of one foot in twelve feet of run, shall be finished with a non-slip surface and provided with handrails on both sides.

(bb) Open fire escapes are permitted in institutions licensed prior to October 9, 1957, provided such fire escapes meet the following requirements:

1. Must be of non-combustible material.

2. Must have a railing or guard at least four feet high on each unenclosed side.

3. Wall openings adjacent to fire escapes are protected with fire resistive doors and protected windows.

4. Doors leading to fire escapes shall open in the direction of exit and be provided with panic hardware.

(cc) Emergency Power.

1. Nursing facilities and additions to nursing facilities constructed after October 20, 1967, shall have an emergency generator.

2. Nursing facilities and additions to nursing facilities constructed prior to October 20, 1967, may have an automatic battery-powered system which will provide the emergency power required for at least 1½ hours. An emergency generator shall be provided if life support equipment systems are used.

3. As a minimum, emergency power shall be provided to the following:

(i) Corridor Illumination.

(ii) Exit and Directional Signs.

(iii) Stair Illumination.

(iv) Nurse's Station Illumination.

(v) Medicine Preparation Rooms/Medicine Cart Storage Room.

(vi) Recreational Areas such as living rooms, dining rooms, day rooms, and chapels - in facilities built and renovated after December 28, 1988.

(vii) Electrical Equipment Room, Generator Room and Boiler Room - in facilities built and renovated after December 28, 1988. Electricity may be switch controlled in these rooms.

(viii) An Exterior Light at Each Exit.

(ix) Fire/Smoke Alarm System.

(x) Sprinkler pump system, if provided, and sprinkler riser room lighting.

(xi) Telephone and paging system.

(xii) Nurse call system and

(xiii) Refrigerator for storage of drugs, if provided.

(dd) Mechanical, electrical, plumbing, heating, air conditioning, and water systems shall be installed to meet the requirements of local codes and ordinances and the applicable regulations of the State Board of Health at the time of construction.

(ee) All essential mechanical, electrical and resident care equipment shall be maintained in safe operating condition. The facility shall establish a written preventive maintenance program to ensure that all equipment is operative.

(ff) The use of portable heaters of any kind is prohibited except during emergency situations caused by severe weather that disables the normal heating system.

(gg) When life support systems are used, emergency electrical service shall comply with *NFPA 99* and shall be provided by an emergency electrical generator located on the premises.

(hh) Fire alarm systems shall be tested monthly by an alarm initiating device to verify proper functioning of the alarm system. Documentation of the testing shall be maintained, noting the proper functioning of notification devices, releasing of door holders and locks, operation of smoke dampers, and air handling unit shutdown.

(5) New Construction Requirements.

(a) The provisions of this section, in addition to the provisions of Chapter 420-5-10-.18(4), (6) & (7), shall apply to all new nursing facilities or additions or renovations to nursing facilities initially licensed after the effective date of these rules or to any existing nursing facility which meets or can readily be improved to meet these requirements.

(b) Facilities initially licensed, as well as additions or alterations to existing facilities, constructed after the effective date of these rules shall be classified as Health Care Occupancy, and shall comply, at the time of plan approval, with codes and standards adopted by the State Board of Health. See Alabama Administrative Code, Rule 420-5-22, for listing of adopted codes and standards.

(c) Doors.

1. All doors in line of exit travel shall be hinged and shall swing in the line of travel.

2. All exit doors serving residents including doors to stairs shall be as a minimum 44 inches wide.

3. Doors to toilets used by residents in additions or new facilities shall be at least 34 inches wide.

4. Where rated doors are required by code, a permanent label from an independent testing laboratory shall be attached to the door.

(d) Corridors in resident areas shall be at least eight feet wide, except as permitted by code.

(e) Exit passageways other than corridors in resident areas shall not be less than four feet wide.

(f) Corridors and passageways shall be unobstructed and shall not lead through any room or space used for a purpose that may obstruct free passage.

(g) Handrails shall be installed on both sides of all corridors normally used by residents except between doors in spaces 24 inches or less.

1. The handrails shall have a circular grip, a clearance of 1½ inch from the wall and be mounted 30-34 inches from the floor to the top of the rail.

2. Handrails shall return to the wall at all terminations.

3. Handrails may be omitted where service corridors are not part of a required exit from resident areas, the corridor is not a path of circulation from one resident area to another and cross corridor doors are installed. These doors shall separate resident corridors from service corridors and shall normally remain closed.

(h) Each tub or shower shall be in an individual room or enclosure with space for the private use of the bathing fixture, for drying and dressing. A separate toilet shall be available for each central bathing area without requiring entry into the general corridor.

(i) If a facility chooses to admit or retain residents requiring life support equipment, essential electrical distribution systems shall conform to a Type II System as required in *NFPA 99*. As a minimum, life support systems shall be provided in 10% of the bedrooms and receptacles every 50 feet on alternating walls in the corridor.

(6) Rooms, Spaces and Equipment - New and Existing Facilities.

(a) Nursing Unit. A nursing unit consists of the number of beds served from one nurses' station and includes all of the necessary support areas required to provide care to the residents.

1. Each nursing unit shall have:

(i) Nurses station.

(ii) Clean utility room.

(iii) Medicine preparation room.

(iv) Soiled utility room or soiled holding room.

(v) Clean linen storage room.

(vi) Wheelchair and stretcher storage areas.

(vii) Janitor's closet with mop sink or floor receptor and storage shelving.

(viii) Nourishment room.

(ix) Staff restroom.

2. On a nursing unit, no residents' bedroom door shall be more than 150 feet from the nurses' station.

(b) Bedrooms.

1. All bedrooms shall have window(s) with the windowsills not more than three feet above the floor. Windows shall not be below grade.

2. The window area shall not be less than one-tenth of the floor area.

3. Residents' bedrooms shall be located so as to minimize the entrance of odors, noise and other nuisances.

4. Residents' bedrooms shall be directly accessible from the main corridor of the nursing unit. Existing resident bedrooms may be accessible from any public space other than the dining room. In no case shall a resident's bedroom be used for access to another resident's room.

5. The capacity of any new room shall not exceed two residents, and the capacity of existing rooms shall not exceed four residents.

6. The minimum floor area of bedrooms, exclusive of toilets, closets, wardrobes, alcoves, or vestibules in facilities and additions to existing facilities constructed after October 20, 1967, shall be as follows:

Private Room 100 Square Feet

Multi-Resident Room 80 Square Feet Per Resident

7. There shall be sufficient space to permit nursing procedures to be performed and to permit the placing of beds at least three feet apart, and three feet from the wall at the foot of the bed. Sides of beds shall maintain a minimum clearance of 12 inches from electrical outlets in walls, unless electrical outlet and plug protection is maintained.

(c) Provisions for privacy. Each multi-resident room shall have permanently installed cubicle curtain tracks to permit enclosing each bed with curtains to allow for the privacy of each resident without obstructing the passage of other residents either to the corridor, closet, or to the toilet/lavatory adjacent to the resident room.

(d) Accommodations for Residents. The minimum accommodations for residents shall include the following:

1. Residents shall be provided with a standard or adjustable bed.

2. Chair and bedside table.

3. Storage space for clothing, toilet articles and personal belongings.

4. Bedside electrical call system for summoning aid.

5. Waste paper receptacle.

6. A headwall bed light must be mounted so that it is operable by the resident from the bed.

7. Nursing facilities or additions to nursing facilities constructed after November 16, 1988, shall provide hand washing lavatory in each bedroom. It may be omitted from bedroom when a lavatory is provided in an adjoining toilet or bathroom.

(e) Isolation Room.

1. Isolation rooms shall be provided at the rate of not less than one private bedroom per 50 beds or major fraction thereof for the isolation of residents suffering from infectious diseases as defined by the Centers for Disease Control (CDC). The bedroom shall meet all of the requirements for bedrooms as previously stated in these regulations. Isolation bedrooms may be used to provide for the special care of residents who develop acute illnesses, have personality problems, or residents in terminal phases of illness. If central heating/cooling is

provided, the air from the room shall be exhausted directly to the outside.

2. Isolation rooms in nursing facilities shall have a lavatory within the room or within a private toilet.

(f) Nurses' Station. The nurses' station for each nursing unit shall include as a minimum the following:

1. Annunciator board for receiving residents' calls.

2. Cabinet space.

3. Storage space for current residents' charts.

4. Working space and accommodations for recording and charting purposes by facility staff.

5. Medicine preparation room. The room at each nurses' station shall have, as a minimum, 80 square feet of floor space with an additional square foot for each bed in excess of 50 beds per unit. This requirement pertains to any construction or renovation after November 16, 1988. If medication carts are utilized, sufficient storage space for the carts and over-the-counter stock medications must be provided in lieu of a medication preparation room.

(g) Utility Rooms. In new nursing facilities and in additions to existing nursing facilities after December 26, 1988, a separate clean and soiled utility room shall be provided for each nursing unit.

1. The clean utility room shall contain as a minimum:

(i) Wall and base cabinets.

(ii) Counter space.

(iii) Counter top sink.

(iv) Paper towel dispenser.

(v) Soap dispenser.

2. The soiled utility room shall contain as a minimum:

(i) Paper towel and soap dispensers.

(ii) Shelves.

(iii) Cabinets for storage of poisonous substances; i.e., cleaning supplies, urine test products, etc.

(iv) Counter top.

(v) Large single compartment counter or freestanding service sink for chemical sterilization of bedpans, urinals and commode pails.

(vi) Wall mounted or counter top hand washing lavatory, separate from the service sink.

(vii) Soiled linen hamper(s).

(viii) Clinical sink or equivalent flushing-rim fixture unless toilet with bedpan lug and bedpan washer are provided in adjoining toilets to all bedrooms in the nursing unit.

3. In nursing facilities constructed prior to December 26, 1988, each nursing unit shall have at least a clean/soiled utility room, but it is recommended that a separate clean and soiled utility room be provided.

(h) Toilet and Bathing Facilities.

1. For all resident bedrooms, which do not have adjoining toilet and bath facilities, plumbing fixtures shall be provided within the nursing unit, according to the following ratio:

Bathtubs or Showers	1 per 25 Beds
Lavatories	1 per 6 Beds
Toilets (water closets)	1 per 6 Beds

2. Non-skid mats, or equivalent and grab bars shall be provided at tubs and showers. Grab handles on soap dishes are not acceptable for grab bars.

3. Grab bars shall be provided at each water closet.

(i) Nourishment Room.

1. Nursing units in facilities and additions to facilities constructed after August 23, 1996, shall have a nourishment room containing a work counter, refrigerator, storage cabinet, and a sink for serving nourishments between meals. Ice for residents' consumption shall be provided by icemaker units. The nourishment room shall include space for trays and dishes used in non-scheduled meal service.

2. Existing facilities shall provide a nourishment room in accordance with the above paragraph when the nursing unit is remodeled or expanded.

3. Nourishment room shall be separated from corridor by wall and door.

(j) Dining/Recreation/Sitting. In new nursing facilities or additions to nursing facilities, there shall be resident dining, and recreation/sitting areas in accordance with the following:

1. The total area set aside for these purposes shall be at least 20 square feet per bed for new facilities and for expanded facilities.

(i) Dining Room. The dining room shall be capable of seating 50% of the bed capacity.

(ii) Recreation/sitting area. These areas shall not include exterior porches and lobby/waiting room.

2. As a minimum, facility shall include two separate recreation/sitting areas and a dining area.

3. Each nursing unit shall contain at least one recreation/sitting area.

4. A minimum of at least one porch and/or glass enclosed sun parlor shall be provided for the use of residents.

(k) Physical Therapy. Physical therapy areas, if provided, shall be in a specifically designated area and shall include equipment and areas as needed to meet specific resident requirements and shall also include storage space for linens, supplies, and equipment, a counter top or wall hung handwash lavatory and a service sink in a counter or freestanding.

(l) Laundry.

1. The existing laundry room, or storage and counting area shall be located so that soiled linens are not carried through the food service area.

2. Laundries built, renovated, or added to after August 23, 1996, shall provide the following rooms and shall comply with the additional requirements:

(i) Adequate holding, and sorting room for control and distribution of soiled linen. Discharge from soiled linen chutes may be received within this room or in a separate room (soiled linen room).

(ii) The laundry shall be vented so that odors do not enter the nursing facility. Air shall not be recirculated into a heating or cooling system serving other areas of the nursing facility.

(iii) Corridors shall not be used to store or hold soiled linen or clean linen carts at any time of the day. Adequate space shall be provided in the soiled linen room and laundry processing room to prevent this.

(m) Beauty/Barber Shop. Nursing facilities or additions to nursing facilities licensed after November 16, 1988, shall have space and equipment for resident hair care and grooming. The room shall open to a corridor.

(n) Administration. The administrative department and services shall be located in a specifically designated area and shall include the following:

1. Administrator's office.

2. Business office.

3. Public lobby or waiting room.

4. Public toilets.

5. For facilities constructed after August 23, 1996, or when existing lobbies are renovated, handicapped public toilets accessible from the lobby/waiting room shall be provided.

(o) Support Offices. Nursing facilities or additions to nursing facilities constructed after August 23, 1996, shall provide office space for all support staff.

(p) Nursing facilities and additions to nursing facilities constructed after August 23, 1996, shall provide adequate closet or locker storage space for staff's work related personal items.

(q) Maintenance. Each facility shall provide facilities/room(s) to accommodate routine maintenance appropriate to the needs.

(7) Dietary (applies to all facilities).

(a) Food service facilities shall be located in a designated area and shall include the following rooms and spaces: food production, food service, food storage, dishwashing, dining room, dietary manager's office, water heating equipment, and janitor closet (mops, brooms, mop sink) in all facilities built after August 23, 1996.

(b) The dietetic service area shall be of such size and dimensions as to permit orderly and sanitary handling and processing of food. Avoid overcrowding and congestion of operations.

(c) Hand washing facilities. Hand washing facilities shall be provided in all food production and serving areas. Sinks shall be equipped with a soap dispenser and adequate supply of soap, disposable towels, and hot and cold running water. The use of a common towel is prohibited. Hands must not be washed in sinks where food is prepared.

(d) Refrigeration. Where separate refrigeration can be provided, temperatures for storing perishable foods are: 32 to 38 degrees Fahrenheit for meats, 40 degrees Fahrenheit for dairy products, 45 to 50 degrees Fahrenheit for fruits and vegetables. If it is impractical to provide separate refrigeration, the temperature shall be maintained at 38 to 40 degrees Fahrenheit at all times. Frozen food shall be maintained at 0 degrees Fahrenheit or below.

(e) Dish and Utensils Washing, Disinfection and Storage. Facilities shall comply with current requirements of the Rules of Alabama State Board of Health for Food Establishment Sanitation, Alabama Administrative Code Chapter 420-3-22-.15 "Equipment and Utensil Cleaning and Sanitation," and Chapter 420-3-22-.16, "Equipment and Utensil Storage."

(8) Sprinkler Systems. Provisions of AAC Chapter 420-5-10-.18 notwithstanding:

(a) By January 1, 2006, all totally unsprinklered nursing facilities, and nursing facilities in multi-story buildings with sections of a nursing facility unsprinklered, shall be protected throughout by a fire sprinkler system. By July 1, 2005, completed sprinkler plans for these systems shall be submitted to Public Health for review and approval. Where means of egress passes through building areas outside of a nursing facility, those areas shall be separated from the nursing facility by a 2-hour rated wall or shall be protected by a fire sprinkler system.

(b) By September 1, 2006, all nursing facilities in one-story buildings with unsprinklered building areas shall be protected throughout by a fire sprinkler system. By March 1, 2006, completed sprinkler plans for these systems shall be submitted to Public Health for review and approval. Where means of egress passes through building areas outside of a nursing facility, those areas shall be separated from the nursing facility by a 2-hour rated wall or shall be protected by a fire sprinkler system.

(c) By February 1, 2007, all remaining nursing facilities (those having isolated unsprinklered rooms) shall be protected throughout by a fire sprinkler system. By August 1, 2006, completed sprinkler plans for these systems shall be submitted to Public Health for review and approval. Where means of egress passes through building areas outside of a nursing facility, those areas shall be separated from the nursing facility by a 2-hour rated wall or shall be protected by a fire sprinkler system.

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