902 KAR 20:300. Operation and services; nursing facilities.

RELATES TO: KRS 216B.010-216B.130, 216B.990
STATUTORY AUTHORITY: KRS 216B.042 and 216B.105
NECESSITY, FUNCTION, AND CONFORMITY: KRS 216B.042 and 216B.105 mandate that the Kentucky Cabinet for Human Resources regulate health facilities and health services. This administrative regulation provides licensure standards for the operation and services of a nursing facility.

Section 1. Definitions. (1) "Facility" means a nursing facility licensed pursuant to this administrative regulation and 902 KAR 20:008.

(2) "Nurse aide" means any unlicensed individual providing nursing or nursing related services, employed by the facility, to residents in a facility except unpaid volunteers.

(3) "Licensure agency" means the Division for Licensing and Regulation in the Office of Inspector General, Cabinet for Human Resources.

Section 2. Scope of Operations. (1) A nursing facility shall be subject to the provisions of Kentucky's nursing home reform laws, KRS Chapter 216.

(2) A nursing facility shall have written policies which assure the reporting of cases of abuse, neglect or exploitation of adults and children to the cabinet pursuant to KRS Chapters 209 and 620.

(3 Tuberculosis testing. All employees and patients shall be tested for tuberculosis in accordance with the provisions of 902 KAR 20:200, Tuberculosis testing in long-term care facilities.

Section 3. 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:

(1) Exercise of rights.

(a) The resident shall have 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 shall have the right to be free of interference, coercion, discrimination, or 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 shall be exercised by the person appointed under state law to act on the resident's behalf.

(2) Notice of rights and services.

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

(b) The resident shall have the right to inspect and purchase photocopies of all records pertaining to the resident, upon written request and forty-eight (48) hours notice to the facility;

(c) The resident shall have 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 shall have the right to refuse treatment, and to refuse to participate in experimental research; and

(e) The facility shall 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 by third party payors or the facility's per diem rate.

(f) The facility shall furnish a written description of legal rights which includes:

1. A description of the manner of protecting personal funds, under paragraph (3) of this section; and

2. A statement that the resident may file a complaint with the licensure agency concerning resident abuse, neglect, and misappropriation of resident property in the facility.

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

(h) The facility shall have available a manual and contact person to provide residents and potential residents oral and written information about how to apply for and use third party benefits, and how to receive refunds for previous payments covered by such benefits.

(i) Notification of changes.

1. Except in a medical emergency or when a resident is incompetent, a facility shall consult with the resident immediately and notify the resident's physician, and if known, the resident's legal representative or interested family member within twenty-four (24) hours when there is:

a. An accident involving the resident which results in injury;

b. A significant change in the resident's physical, mental, or psychosocial status;

c. A need to alter treatment significantly; or

d. A decision to transfer or discharge the resident from the facility as specified in Section 4(1) of this administrative regulation.

2. The facility shall also promptly notify the resident and, if known, the resident's legal representative or interested family member when there is:

a. A change in room or roommate assignment as specified in Section 6(5)(b) of this administrative regulation; or

b. A change in resident rights under federal or state law or administrative regulations as specified in subsection (2)(a) of this section.

3. The facility shall record and periodically update the address and phone number of the resident's legal representative or interested family member.

(3) Protection of resident funds.

(a) The resident shall have the right to manage his or her financial affairs and the facility shall not require residents to deposit their personal funds with the facility.

(b) Management of personal funds. Upon written authorization of a resident, the facility shall hold, safeguard, manage and account for the personal funds of the resident deposited with the facility, as specified in paragraphs (c) through (g) of this subsection.

(c) Deposit of funds.

1. Funds in excess of fifty (50) dollars. The facility shall deposit any resident's personal funds in excess of fifty (50) dollars 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 the resident's account to his or her account.

2. Funds less than fifty (50) dollars. The facility shall maintain a resident's personal funds that do not exceed fifty (50) dollars in a noninterest bearing account or petty cash fund.

(d) Accounting and records. The facility shall 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 shall preclude any commingling of resident funds with facility funds or with the funds of any person other than another resident.

2. The individual financial record shall be available on request to the resident or his or her legal representative.

(e) Conveyance upon death. Upon the death of a resident with a personal fund deposited with the facility, the facility shall convey promptly the resident's funds, and a final accounting of those funds, to the individual administering the resident's estate.

(f) Assurance of financial security. The facility shall purchase a surety bond, or provide self-insurance to assure the security of all personal funds of residents deposited with the facility.

(g) Limitation on charges to personal funds. The facility shall not impose a charge against the personal funds of a resident for any item or service for which payment is made by a third party payor.

(4) Free choice. The resident shall have the right to:

(a) Choose a personal attending physician;

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

(c) 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.

(5) Privacy and confidentiality of personal and clinical records. The resident shall have the right to personal privacy and confidentiality of his personal and clinical records.

(a) 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;

(b) Except as provided in paragraph (c) of this subsection, the resident may approve or refuse the release of personal and clinical records to any individual outside the facility;

(c) The resident's right to refuse release of personal and clinical records shall not apply when:

1. The resident is transferred to another health care institution; or

2. Record release is required by law or third-party payment contract.

(6) Grievances. A resident shall have the right to:

(a) Voice grievances with respect to treatment or care that is, or fails to be furnished, without discrimination or reprisal for voicing the grievances; and

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

(7) Examination of survey results. A resident shall have the right to:

(a) 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. The results shall be posted by the facility in a place readily accessible to residents; and

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

(8) Work. The resident shall have the right to:

(a) Refuse to perform services for the facility;

(b) Perform services for the facility, if he or she chooses, when:

1. The facility documents the need or desire for work in the plan of care;

2. The plan specifies the nature of the services performed and whether the services are voluntary or paid;

3. Compensation for paid services is at or above prevailing rates; and

4. The resident agrees to the work arrangements described in the plan of care.

(9) The resident shall have the right to privacy in written communications, including the right to:

(a) Send and receive mail promptly that is unopened; and

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

(10) Access and visitation rights.

(a) The resident shall have the right and the facility shall provide immediate access to any resident by the following:

1. Any representative of the federal government;

2. Any representative of the state;

3. The resident's individual physician;

4. Any representative of the Kentucky long-term care ombudsman program;

5. The agency responsible for the protection and advocacy system for developmentally disabled individuals and for mentally ill individuals;

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.

(b) The facility shall 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.

(c) The facility shall allow representatives of the ombudsman, described in paragraph (a)4 of this subsection, to examine a resident's clinical records with the permission of the resident or the resident's legal representative, and consistent with state law.

(11) Telephone. The resident shall have the right to have regular access to the private use of a telephone.

(12) Personal property. The resident shall have 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.

(13) Married couples. The resident shall have 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.

Section 4. Admission, Transfer and Discharge Rights. (1) Transfer and discharge.

(a) Transfer and discharge requirements. The facility shall 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 immediately endangered;

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

5. The resident has failed, after reasonable and appropriate notice, to pay for a stay at the facility; or

6. The facility ceases to operate.

(b) Documentation. When the facility transfers or discharges a resident under any of the circumstances specified in paragraphs (a)1 through 5 of this subsection, 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 (a)1 or 2 of this subsection; and

2. A physician when transfer or discharge is necessary under paragraph (a)4 of this subsection.

(c) Notice before transfer. Before a facility transfers or discharges a resident, the facility shall:

1. Notify the resident and, if known, a family member or legal representative of the resident of the transfer or discharge and the reasons;

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

3. Include in the notice the items described in paragraph (e) of this subsection.

(d) Timing of the notice. Except when specified in paragraph (d)2 of this subsection, the notice of transfer or discharge required under paragraph (c) of this subsection must be made by the facility at least thirty (30) days before the resident is transferred or discharged.

2. Notice may be made as soon as practicable before transfer or discharge when:

a. The safety of individuals in the facility would be endangered, under paragraph (a)3 of this sub-

section;

b. The health of individuals in the facility would be endangered, under paragraph (a)4 of this subsection;

c. The resident's health improves sufficiently to allow a more immediate transfer or discharge, under paragraph (a)2 of this subsection;

d. An immediate transfer or discharge is required by the resident's urgent medical needs, under paragraph (a)1 of this subsection;

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

(e) Contents of the notice. For nursing facilities, the written notice specified in paragraph (c) of this subsection shall include the following:

1. A statement that the resident has the right to appeal the action to the state agency designated by the state for such appeals.

2. The name, address and telephone number of the state long-term care ombudsman;

3. For nursing facility residents with developmental disabilities, the mailing address and telephone number of the agency responsible for the protection and advocacy of developmentally disabled individuals;

4. For nursing facility residents who are mentally ill, the mailing address and telephone number of the agency responsible for the protection and advocacy of mentally ill individuals;

5. The reason for the transfer or discharge;

6. The effective date of transfer or discharge; and

7. The location to which the resident is transferred or discharged.

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

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

(a) Notice before transfer. Before a facility transfers a resident to a hospital or allows a resident to go on therapeutic leave, the facility shall provide written information to the resident and family member or legal representative that specifies the duration of the bed-hold policy if any, during which the resident is permitted to return and resume residence in the facility; and

(b) Notice upon transfer. At the time of transfer of a resident to a hospital or for therapeutic leave, a nursing facility shall provide written notice to the resident and a family member or legal representative, which specifies the duration of the bed-hold policy described in paragraph (a) of this subsection.

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

1. Requires the services provided by the facility; and

2. Is eligible for nursing facility services.

(3) Equal access to quality care. A facility shall establish and maintain identical policies and practices regarding transfer, discharge, and the provision of services for all individuals regardless of source of payment;

(4) Admissions policy.

(a) The facility shall:

1. 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;

2. Not charge, solicit, accept, or receive, in addition to any amount otherwise required to be paid for services, any gift, money, donation or other consideration as a precondition of admission, expedited admission or continued stay in the facility.

(b) A facility shall:

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

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.

(c) A facility may require an individual who has legal access to a resident's income or resources available to pay for facility care, to sign a contract, without incurring personal financial liability, to provide facility payment from the resident's income or resources.

(d) A nursing facility may charge a resident for items and services the resident has requested and received, and that are not covered in the facility's basic per diem rate.

(e) A nursing facility may solicit, accept or receive a charitable, religious or philanthropic contribution from an organization or from a person unrelated to the 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.

Section 5. Resident Behavior and Facility Practices. (1) Restraints. The resident shall have the right to be free from any physical restraints imposed or psychoactive drug administered for purposes of discipline or convenience, and not required to treat the resident's medical symptoms.

(2) Abuse. The resident shall have the right to be free from verbal sexual, physical or mental abuse, corporal punishment, and involuntary seclusion.

(3) Staff treatment of residents. The facility shall develop and implement written policies and procedures that prohibit mistreatment, neglect or abuse of residents.

(a) The facility shall:

1. Not use verbal, mental, sexual, or physical abuse, including corporal punishment, or involuntary seclusion; and

2. Not employ individuals who have been convicted of abusing, neglecting or mistreating individuals.

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

(c) The results of all investigations shall be reported to the administrator or his designated representative within five (5) working days or to other officials in accordance with applicable provisions of KRS Chapter 209 or 620, if the alleged violation is verified appropriate corrective action is taken.

(d) The facility shall document alleged violations involving mistreatment, neglect, or abuse, including injuries of unknown source, are reported immediately to the administrator of the facility or to other officials in accordance with KRS Chapters 209 and 620.

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

Section 6. Quality of Life. A facility shall care for its residents in a manner and in an environment that promotes maintenance or enhancement of each resident's quality of life.

(1) Dignity. The facility shall 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.

(2) Self-determination and participation. The resident shall have the right to:

(a) Choose activities, schedules, and health care consistent with his or her interests, assessments and plans of care:

(b) Interact with members of the community both inside and outside the facility; and

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

(3) Participation in resident and family groups.

(a) A resident shall have the right to organize and participate in resident groups in the facility;

(b) A resident's family shall have the right to meet in the facility with the families of other residents in the facility;

(c) The facility shall provide a resident or family group, if one exists, with private space;

(d) Staff or visitors may attend meetings at the group's invitation;

(e) The facility shall provide a designated staff person responsible for providing assistance and responding to written requests that result from group meetings;

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

(4) Accommodation of needs. A resident shall have the right to:

(a) Reside and receive services in the facility with reasonable accommodation of individual needs and preferences, except when the health or safety of the individual or other residents would be endangered; and

(b) Receive notice before the resident's room or roommate in the facility is changed.

(5) Activities.

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

(b) The activities program shall be directed by a qualified therapeutic recreation specialist who is:

1. Eligible for certification as a therapeutic recreation specialist by a recognized accrediting body; or

2. Has two (2) years of experience in a social or recreational program within the last five (5) years, one (1) of which was full time in a patient activities program in a health care setting; or

3. Is a qualified occupational therapist or occupational therapy assistant; or

4. Has completed a training course approved by the state.

(6) Social services.

(a) The facility shall provide medically- related social services to attain or maintain the highest practicable physical, mental or psychosocial well-being of each resident.

(b) A facility with more than 120 beds shall employ a full-time qualified social worker, or an individual with a bachelor's degree in a related field.

(c) Qualifications of social worker. A qualified social worker is an individual who is licensed pursuant to KRS 335.090, or a degree in a related field.

(7) Environment.

(a) The facility shall 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; comfortable and safe temperature levels.

6. For the maintenance of comfortable sound levels.

(b) Infection control and communicable diseases.

1. The facility shall establish policies which are consistent with the Center for Disease Control guidelines, and address the prevention of disease transmission to and from patients, visitors and employees, including:

a. Universal blood and body fluid precautions;

b. Precautions for infections which can be transmitted by the airborne route; and

c. Work restrictions for employees with infectious diseases.

d. The cleaning, disinfection, and sterilization methods used for equipment and the environment.

2. The facility shall establish an infection control program which:

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

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

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

d. Addresses the prevention of the spread of infection.

(i) When the infection control program determines that a resident needs isolation to prevent the spread of infection, the facility shall isolate the resident.

(ii)The facility shall 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.

(iii) The facility shall require staff to wash their hands after each direct resident contact for which handwashing is indicated by accepted professional practice.

3. The facility shall provide in-service education programs on the cause, effect, transmission, prevention and elimination of infections for all personnel responsible for direct patient care.

4. Sharp wastes.

a. Sharp wastes, including needles, scalpels, razors, or other sharp instruments used for patient care procedures, shall be segregated from other wastes and placed in puncture resistant containers immediately after use.

b. Needles shall not be recapped by hand, purposely bent or broken, or otherwise manipulated by hand.

c. The containers of sharp wastes shall either be incinerated on or off site, or be rendered non-hazardous by a technology of equal or superior efficacy, which is approved by both the Cabinet for Human Resources and the Natural Resources and Environmental Protection Cabinet.

5. Disposable waste.

a. All disposable waste shall be placed in suitable bags or closed containers so as to prevent leakage or spillage, and shall be handled, stored, and disposed of in such a way as to minimize direct exposure of personnel to waste materials.

b. The facility shall establish specific written policies regarding handling and disposal of all wastes.

c. The following wastes shall be disposed of by incineration, autoclaved before disposal, or carefully poured down a drain connected to a sanitary sewer: blood, blood specimens, used blood tubes, or blood products.

d. Any wastes conveyed to a sanitary sewer shall comply with applicable federal, state, and local pretreatment regulations pursuant to 40 CFR 403 and 401 KAR 5:055, Section 9.

6. Patients infected with the following diseases shall not be admitted to the facility: anthrax, campylobacteriosis, cholera, diphtheria, hepatitis A, measles, pertussis, plague, poliomyelitis, rabies (human), rubella, salmonellosis, shigellosis, typhoid fever, yersiniosis, brucellosis, giardiasis, leprosy, psittacosis, Q fever, tularemia, and typhus.

7. A facility may admit a (noninfectious) tuberculosis patient under continuing medical supervision for his tuberculosis disease.

8. Patients with active tuberculosis may be admitted to the facility whose isolation facilities and procedures have been specifically approved by the cabinet.

9. If, after admission, a patient is suspected of having a communicable disease that would endanger the health and welfare of other patients, the administrator shall assure that a physician is contacted and that appropriate measures are taken on behalf of the patient with the communicable disease and the other patients.

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

Section 7. Resident Assessment. The facility shall conduct initially and periodically a comprehensive, accurate, standardized, reproducible assessment of each resident's functional capacity.

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

(2) Comprehensive assessments.

(a) The facility shall make a comprehensive assessment of a resident's needs, which describes the resident's capability to perform daily life functions and significant impairments in functional capacity.

(b) The comprehensive assessment shall include at least the following information:

1. Medically defined conditions and prior medical history;
2. Medical status measurement;
3. Functional status;
4. Sensory and physical impairments;
5. Nutritional status and requirements;
6. Special treatments or procedures;
7. Psychosocial status;
8. Discharge potential;
9. Dental condition;
10. Activities potential;
11. Rehabilitation potential;
12. Cognitive status; and
13. Drug therapy.

(c) Frequency. Assessments shall be conducted:

1. No later than fourteen (14) days after the date of admission;
2. For current residents of a facility, not later than October 1, 1991;
3. Promptly after a significant change in the resident's physical or mental condition; and
4. In no case less often than once every twelve (12) months.

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

(e) Use. The results of the assessment are used to develop, review, and revise the resident's comprehensive plan of care, under subsection (4) of this section.

(f) Coordination. The facility shall coordinate assessments with the Kentucky required preadmission screening and annual review program to the maximum extent practicable to avoid duplicative testing and effort.

(3) Accuracy of assessments.

(a) Coordination. Each assessment shall be conducted or coordinated by a registered nurse who signs and certifies the completion of the assessment with the appropriate participation of health professionals.

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

(4) Comprehensive care plans.

(a) The facility shall develop a comprehensive care plan for each resident that includes measurable objectives and timetables to meet a resident's medical, nursing and psychosocial needs that are identified in the comprehensive assessment.

(b) A comprehensive care plan shall be:

1. Developed within seven (7) days after completion of the comprehensive assessment;
2. 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 with the participation of the resident, the resident's family or legal representative, to the extent practicable; and

3. Periodically reviewed and revised by a team of qualified persons after each assessment.

(c) The services provided or arranged by the facility shall:

1. Meet professional standards of quality; and

2. Be provided by qualified persons in accordance with each resident's written plan of care.

(5) Discharge summary. When the facility anticipates discharge, a resident shall 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 subsection (2)(b) of this section, at the time of the discharge that shall be available for release to authorized persons and agencies, with the consent of the resident or legal representative; and

(c) A postdischarge plan of care that 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.

(6) Preadmission screening for mentally ill individuals and individuals with mental retardation. A nursing facility shall not admit any new resident in conflict with the Kentucky preadmission screening and annual review program.

Section 8. Quality of Care. Each resident shall receive the necessary nursing, medical and psychosocial services to attain and maintain the highest possible mental and physical functional status, as defined by the comprehensive assessment and plan of care. Each resident shall receive services 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.

(1) Activities of daily living. Based on the comprehensive assessment of a resident, the facility shall ensure:

(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. To 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 (a) of this subsection; 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 and oral hygiene.

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

(a) In making appointments; and

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

(3) Pressure sores. Based on the comprehensive assessment of a resident, the facility shall 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.

(4) Urinary incontinence. Based on the resident's comprehensive assessment, the facility shall

ensure that:

(a) A resident who is incontinent of bladder receives the appropriate treatment and services to restore as much normal bladder functioning as possible;

(b) A resident who enters the facility without an in-dwelling catheter is not catheterized unless the resident's clinical condition demonstrates that catheterization was necessary; and

(c) 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.

(5) Range of motion. Based on the comprehensive assessment of a resident, the facility shall 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 and/or receives appropriate treatment and services to increase range of motion to prevent further decrease in range of motion.

(6) Psychosocial functioning. Based on the comprehensive assessment of a resident, the facility shall ensure that:

(a) A resident who displays psychosocial adjustment difficulty, receives appropriate treatment and services to achieve as much remotivation and reorientation as possible; and

(b) A resident whose assessment did not reveal a 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.

(7) Accidents. The facility shall ensure that:

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

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

(8) Nutrition. Based on a resident's comprehensive assessment, the facility shall ensure that a resident:

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

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

(9) Special needs. The facility shall 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) Tracheostomy care;

(e) Tracheal suctioning;

(f) Respiratory care;

(g) Podiatric care; and

(h) Prostheses.

(10) Drug therapy.

(a) Unnecessary drugs. Each resident's drug regimen shall be free from unnecessary drugs.

(b) Antipsychotic drugs. Based on a comprehensive assessment of a resident, the facility shall ensure that:

1. Residents who have not used antipsychotic drugs and are not given these drugs unless antipsychotic drug therapy is necessary to treat a specific condition; and

2. Residents who use antipsychotic drugs receive gradual dose reductions, drug holidays or behavioral programming, unless clinically contraindicated in an effort to discontinue these drugs.

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

(12) Naso-gastric tubes. Based on the comprehensive assessment of a resident, the facility shall ensure that:

(a) A resident who has been able to eat enough alone or with assistance is not fed by naso-gastric tube unless the resident's 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.

(c) Medication errors. The facility shall ensure that:

1. It is free of significant medication error rates; and

2. Residents are free of any significant medication errors.

Section 9. Nursing Services. The facility shall 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.

(1) Sufficient staff.

(a) The facility shall provide services by sufficient numbers of each of the following types of personnel on a twenty-four (24) hour basis to provide nursing care to all residents in accordance with resident care plans:

1. Except when waived under subsection (3) of this section, licensed nurses; and

2. Other nursing personnel.

(b) Except when waived under subsection (3) of this section, the facility shall designate a licensed nurse to serve as a charge nurse on each tour of duty.

(2) Registered nurse.

(a) Except when waived under subsection (3) or (4) of this section, the facility shall use the services of a registered nurse for at least eight (8) consecutive hours a day, seven (7) days a week.

(b) Except when waived under subsection (3) or (4) of this section, 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 sixty (60) or fewer residents.

(3) Licensed nurse waiver. Waiver of requirement to provide licensed nurses on a twenty-four (24) hour basis. A facility may request a waiver from the requirement that a nursing facility provide a registered nurse for at least eight (8) consecutive hours a day, seven (7) days a week, as specified in subsection (2) of this section, and the requirement that a nursing facility provide licensed nurses on a twenty-four (24) hour basis, including a charge nurse as specified in subsection (1) of this section, if the following conditions are met:

(a) The facility demonstrates to the satisfaction of the cabinet that the facility has been unable, despite diligent efforts (including offering wages at the community prevailing rate for nursing facilities), to recruit appropriate personnel;

(b) The cabinet determines that a waiver of the requirement will not endanger the health or safety of individuals staying in the facility;

(c) A waiver granted under the conditions listed in this subsection is subject to revocation if the cabinet finds that the health and safety of the residents is threatened.

(d) In granting or renewing a waiver, a facility may be required by the cabinet to use other qualified, licensed personnel.

(e) The facility shall have an on-call system which provides for an immediate response by a registered nurse or a physician for those times when licensed nursing services are not available.

(4) Registered nurse waiver. Wavier of the requirement to provide services of a registered nurse for more than forty (40) hours a week, including a director of nursing specified in subsection (2) of

this section, may be granted if the cabinet finds that the facility:

(a) Is located in a rural area and the supply of skilled nursing facility services in the area is not sufficient to meet the needs of individuals residing in the area;

(b) Has one (1) full-time registered nurse who is regularly on duty at the facility forty (40) hours a week; and

(c) Either:

1. Has only patients whose physicians have indicated (through physicians' orders or admission notes) that they do not require the services of a registered nurse or a physician for a forty-eight (48) hour period; or

2. Has made arrangements for a registered nurse or a physician to spend time at the facility, as determined necessary by the physician, to provide necessary skilled nursing services on days when the regular full-time registered nurse is not on duty.

(d) A waiver of the registered nurse requirement under paragraph (a) of this subsection is subject to revocation if the cabinet finds that the health and safety of the residents is threatened.

(5) When a waiver is granted a facility shall inform the residents, their legal representatives, and members of their immediate family.

Section 10. Dietary service in the facility shall provide each resident with a nourishing, palatable, well-balanced diet that meets the daily nutritional and special dietary needs of each resident.

(1) Staffing. The facility shall employ a qualified dietician either full time, part time, or on a consultant basis.

(a) If a qualified dietician is not employed full time, the facility shall designate a person to serve as the director of food service.

(b) Qualified dietician means a person who has earned at least a baccalaureate degree from a college or university which is accredited by the Southern Association of Colleges and Universities, or an accrediting agency recognized by the Southern Association of Colleges and Universities or a successor to the powers of both; and

1. Successfully completed minimum academic requirements established by the Commission on Dietetic Registration, an affiliate of the National Commission for Health Certifying Agencies; or

2. Successfully completed one (1) of the accredited experience options established by the Commission on Dietetic Registration, which includes but is not limited to, completion of an accredited coordinated undergraduate program, an accredited dietetic internship, and approved three (3) preplanned work experience, or a master's degree in nutrition or a related area with six (6) months of full-time or equivalent qualifying experience.

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

(3) Menus and nutritional adequacy. Menus shall:

(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;

(c) Be followed;

(d) Be posted at least one (1) week in advance, with changes recorded on the menu, and kept on file for at least thirty (30) days.

(4) Food. Each resident shall receive and the facility shall provide:

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

(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.

(6) Frequency of meals.

(a) Each resident shall receive and the facility shall provide at least three (3) meals daily, at regular times comparable to normal mealtimes in the community.

(b) There shall be no more than fourteen (14) hours between a substantial evening meal and breakfast the following day, except as provided in paragraph (d) of this subsection.

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

(d) When a nourishing snack is provided at bedtime, up to sixteen (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 shall provide special eating equipment and utensils for residents who need them.

(8) Sanitary conditions. The facility shall:

(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.

Section 11. Physician Services. A physician shall personally approve a recommendation that an individual be admitted to a facility. Each resident shall remain under the care of a physician.

(1) Physician supervision. The facility shall 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.

(2) Physician visits. The physician shall:

(a) Review the resident's total program of care, including medications and treatments, at each visit required by subsection (3) of this section;

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

(c) Sign all orders.

(3) Frequency of physician visits. The resident shall be seen by a physician at least once every thirty (30) days for the first ninety (90) days after initial admission, and at least once every ninety (90) days thereafter.

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

(b) Except as provided in paragraph (c) of this subsection, all required physician visits shall be made by the physician personally.

(c) At the option of the physician, required visits after the initial visit may alternate between personal visits by the physician and visits by a physician assistant or nurse practitioner in accordance with subsection (5) of this section.

(4) Availability of physicians for emergency care. The facility shall provide or arrange for the provision of physician services twenty-four (24) hours a day, in case of an emergency.

(5) Physician delegation of tasks.

(a) Except as specified in paragraph (b) of this subsection, a physician may delegate tasks to a physician assistant or nurse practitioner who is acting within the scope of practice as defined by state law, and is under the supervision of the physician.

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

Section 12. Specialized Rehabilitative Services. A facility shall provide or obtain rehabilitative services, such as physical therapy, speech-language pathology, and occupational therapy, to every resident it admits, as indicated by the resident's comprehensive assessment.

(1) Provision of services. If specialized rehabilitative services are required in the resident's comprehensive plan of care, the facility shall:

(a) Provide the required services; or

(b) Obtain the required services from an outside resource in accordance with Section 15(6)(a) and (b) of this administrative regulation, 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.

Section 13. Dental Services. The facility shall assist residents in obtaining routine and twenty-four (24) hour emergency dental care. The facility shall provide or obtain from an outside resource, in accordance with Section 15(6)(a) and (b) of this administrative regulation following dental services to meet the needs of each resident:

(1) Routine dental services; and

(2) Emergency dental services.

Section 14. Pharmacy Services. The facility shall provide routine and emergency drugs and biologicals to its residents, or obtain them under an agreement described in Section 15(6)(a) and (b) of this administrative regulation.

(1) Procedures.

(a) A facility shall 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) Administration of medications. All medications shall be administered by licensed medical or nursing personnel in accordance with the Medical Practice Act (KRS 311.530 to 311.620) and Nurse Practice Act (KRS Chapter 314) or by personnel who have completed a state approved training program from a state approved provider. The administration of oral and topical medicines by certified medicine technicians shall be under the supervision of licensed medical or nursing personnel. Intramuscular injections shall be administered by a licensed or registered nurse, or a physician. If intravenous injections are necessary they shall be administered by a licensed physician, registered nurse, or properly trained licensed practical nurse. Each dose administered shall be recorded in the medical record.

(2) Service consultation. The facility shall employ or obtain the services of a pharmacist licensed pursuant to KRS Chapter 315 who:

(a) Provides consultation on all aspects of the provision of pharmacy services in the facility;

(b) Establishes a system of records of receipt and disposition of all drugs in sufficient detail to enable an accurate reconciliation; and

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

(3) Drug regimen review.

(a) The drug regimen of each resident shall be reviewed at least once a month by a licensed pharmacist.

(b) The pharmacist shall report any irregularities to the attending physician or the director of nursing, or both, and these reports shall be acted upon.

(4) Labeling of drugs and biologicals. The facility shall label drugs and biologicals in accordance with currently accepted professional principles, and include the appropriate accessory and cautionary instructions, and the expiration date.

(5) Storage of drugs and biologicals. In accordance with state and federal laws, the facility shall store all drugs and biologicals in locked compartments under proper temperature controls, and permit only authorized personnel to have access to the keys.

(6) The facility shall 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 1970 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.

Section 15. Administration. A facility shall 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.

(1) Compliance with federal, state and local laws and professional standards. The facility shall 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 a facility.

(2) Governing body.

(a) The facility shall 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

(b) The governing body appoints the administrator who shall be:

1. Licensed as a nursing home administrator pursuant to KRS 216A.080; and

2. Responsible for management of the facility.

(3) Required training of nurse aides.

(a) General rules. A facility shall not use any individual working in the facility as a nurse aide for more than four (4) months, on a full-time, temporary, per diem, or other basis, unless:

1. That individual is listed on the Kentucky Nurse Aide Registry; and

2. That individual is competent to provide nursing and nursing related services.

(b) Competency. A facility shall permit an individual to serve as a nurse aide or provide services of a type for which the individual has not demonstrated competence only when:

1. The individual is currently enrolled and participating in the Kentucky Medicaid Nurse Aide Training Program; or

2. The facility has asked and not yet received a reply from the Kentucky Nurse Aide Registry for information concerning the individual.

(c) Regular in-service education. The facility shall provide regular performance review and regular in-service education to ensure that individuals used as nurse aides are competent to perform services as nurse aides. In-service education must include training for individuals providing nursing and nursing related services to residents with cognitive impairments.

(4) Proficiency of nurse aides. The facility shall 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.

(5) Staff qualifications.

(a) The facility shall employ on a full-time, part-time, or consultant basis those professionals necessary to carry out the provisions of this administrative regulation.

(b) Professional staff shall be licensed, certified or registered in accordance with applicable state statutes.

(6) Use of outside resources.

(a) If the facility does not employ a qualified professional person to furnish a specific service to be provided by the facility, the facility shall have that service furnished to residents by a person or agency outside the facility.

(b) Arrangements or agreements pertaining to services furnished by outside resources shall specify in writing that the facility assumes responsibility for:

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

2. The timeliness of the services.

(7) Medical director.

(a) The facility shall designate a physician to serve as medical director.

(b) The medical director shall be responsible for:

1. Implementation of resident care policies; and

2. The coordination of medical care in the facility.

(8) Laboratory services.

(a) The facility shall provide or obtain clinical laboratory services to meet the needs of its residents. The facility shall be responsible for the quality and timeliness of the services.

1. If the facility provides its own laboratory services, the services shall meet the applicable state statutes and administrative regulations pursuant to KRS Chapter 333, or laboratory requirements for hospitals for those distinct part units within licensed hospitals.

2. If the facility provides blood bank and transfusion services, it must meet the applicable conditions for:

a. Independent laboratories licensed pursuant to KRS Chapter 333; or

b. Hospitals licensed pursuant to 902 KAR 20:016;

3. If the laboratory chooses to refer specimens for testing to another laboratory, the referral laboratory must be licensed in accordance with KRS Chapter 333, or meet the laboratory standards in 902 KAR 20:016 for hospitals.

4. If the facility does not provide laboratory services on site, it shall have an agreement to obtain these services only from a laboratory that is licensed pursuant to KRS Chapter 333 as an independent laboratory, or in accordance with 902 KAR 20:016 for hospital laboratories.

(b) The facility shall:

1. Provide or obtain laboratory services only when ordered by the attending physician;

2. Promptly notify the attending physician of the findings;

3. Assist the resident in making transportation arrangements to and from the source of service, if the resident needs assistance.

4. File in the resident's clinical record signed and dated reports of clinical laboratory services.

(9) Radiology and other diagnostic services.

(a) The nursing facility shall 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.

1. If the facility provides its own diagnostic services, the services must meet the standards established in 902 KAR 20:016, Section 4(6).

2. If the facility does not provide diagnostic services, it shall have an agreement to obtain these services from a provider or supplier that is licensed or registered pursuant to KRS 211.842 through KRS 211.852.

(b) The facility shall:

1. Provide or obtain radiology and other diagnostic services only when ordered by the attending physician;

2. Promptly notify the attending physician of the findings;

3. Assist the resident in making transportation arrangements to and from the source of service, if the resident needs assistance; and

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

(10) Clinical records.

(a) The facility shall maintain clinical records on each resident in accordance with accepted professional standards and practices that are:

1. Complete;
2. Accurately documented;
3. Readily accessible; and
4. Systematically organized.

(b) Retention of records. After resident's death or discharge the completed medical record shall be placed in an inactive file and retained for five (5) years or in case of a minor, three (3) years after the patient reaches the age of majority under state law, whichever is the longest.

(c) The facility shall safeguard clinical record information against loss, destruction, or unauthorized use;

(d) The facility shall 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:

1. Transfer to another health care institution;
2. Law;
3. Third-party payment contract; or
4. The resident.

(e) The facility shall:

1. Permit each resident to inspect his or her records on request; and
2. Provide copies of the records to each resident no later than forty-eight (48) hours after a written request from a resident, at a photocopying cost not to exceed the amount customarily charged in the community.

(f) The clinical record shall contain:

1. Sufficient information to identify the resident;
2. A record of the resident's assessments;
3. The plan of care and services provided; and
4. The results of any preadmission screening conducted by the state; and
5. Progress notes.

(11) Disaster and emergency preparedness.

(a) The facility shall have detailed written plans and procedures to meet all potential emergencies and disasters, such as fire, severe weather, and missing residents.

(b) The facility shall train all employees in emergency procedures when they begin to work in the facility, periodically review the procedures with existing staff, and carry out staff drills using those procedures.

(12) Transfer agreement.

(a) The facility shall have in effect a written transfer agreement with one (1) or more licensed hospitals that reasonably assures that:

1. Residents shall 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
2. 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.

(b) The facility shall be 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.

(13) Quality assessment and assurance.

(a) A facility shall maintain a quality assessment and assurance committee consisting of:

1. The director of nursing services;

2. A physician designated by the facility; and

3. At least three (3) other members of the facility's staff.

(b) The quality assessment and assurance committee:

1. Meets at least quarterly to identify issues with respect to which quality assessment and assurance activities are necessary; and

2. Develops and implements appropriate plans of action to correct identified quality deficiencies. (17 Ky.R. 2319; Am. 2730; 3121; eff. 5-3-91.)