

Rules and Regulations for the Licensure of Nursing Facilities

12 VAC 5-371-10. Definitions.

The following words and terms, when used in this chapter, shall have the following meaning unless the context clearly indicates otherwise:

"Abuse" means the willful infliction of injury, unreasonable confinement, intimidation, or punishment with resulting physical harm, pain or mental anguish, or deprivation by an individual, including caretaker, of goods or services that are necessary to attain or maintain physical, mental, and psychosocial well-being. This includes verbal, sexual, physical or mental abuse.

"Administrator" means the individual licensed by the Virginia Board of ~~[Nursing Home Long Term Care]~~ Administrators and who has the necessary authority and responsibility for management of the nursing facility.

"Admission" means the process of acceptance into a nursing facility, including orientation, rules and requirements, and assignment to appropriate staff. Admission does not include readmission to the facility after a temporary absence.

"Advance directive" means (i) a witnessed written document, voluntarily executed by the declarant in accordance with the requirements of § 54.1-2983 of the Code of Virginia, or (ii) a witnessed oral statement, made by the declarant subsequent to the time he is diagnosed as suffering from a terminal condition and in accordance with the provision of § 54.1-2983 of the Code of Virginia.

"Assessment" means the process of evaluating a resident for the purpose of developing a profile on which to base services. Assessment includes information gathering, both initially and on an ongoing basis, designed to assist the multi-disciplinary staff in determining the resident's need for care, and the collection and review of resident-specific data.

"Attending physician" means a physician currently licensed by the Virginia Board of Medicine and identified by the resident, or legal representative, as having the primary responsibility in determining the delivery of the resident's medical care.

"Board" means the Board of Health.

~~"Center" means the Center for Quality Health Care Services and Consumer Protection of the Virginia Department of Health.~~

Rules and Regulations for the Licensure of Nursing Facilities

"Certified nurse aide" means the title that can only be used by individuals who have met the requirements to be certified, as defined by the Virginia Board of Nursing, and who are listed in the nurse aide registry.

"Chemical restraint" means a psychopharmacologic drug (a drug prescribed to control mood, mental status, or behavior) that is used for discipline or convenience and not required to treat medical symptoms or symptoms from mental illness or mental retardation that prohibit an individual from reaching his highest level of functioning.

"Clinical record" means the documentation of health care services, whether physical or mental, rendered by direct or indirect resident-provider interactions. An account compiled by physicians and other health care professionals of a variety of resident health information, such as assessments and care details, including testing results, medicines, and progress notes.

"Commissioner" means the State Health Commissioner.

"Complaint" means any allegation received by the Department of Health other than an incident reported by the facility staff. Such allegations include, but are not limited to, abuse, neglect, exploitation, or violation of state or federal laws or regulations.

"Comprehensive plan of care" means a written action plan, based on assessment data, that identifies a resident's clinical and psychosocial needs, the interventions to meet those needs, treatment goals that are measurable and that documents the resident's progress toward meeting the stated goals.

"Construction" means the building of a new nursing facility or the expansion, remodeling, or alteration of an existing nursing facility and includes the initial and subsequent equipping of the facility.

"Department" means the Virginia Department of Health.

"Dignity" means staff, in their interactions with residents, carry out activities which assist a resident in maintaining and enhancing the resident's self-esteem and self-worth.

"Discharge" means the process by which the resident's services, delivered by the nursing facility, are terminated.

"Discharge summary" means the final written summary of the services delivered, goals achieved and post-discharge plan or final disposition at the time of discharge from the nursing facility. The discharge summary becomes a part of the clinical record.

Rules and Regulations for the Licensure of Nursing Facilities

"Drug" means (i) articles or substances recognized in the official United States "Drug" Pharmacopoeia National Formulary or official Homeopathic Pharmacopoeia of the United States, or any supplement to any of them; (ii) articles or substances intended for the use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animal; (iii) articles or substances, other than food, intended to affect the structure or any function of the body of man or other animal; (iv) articles or substances intended for use as a component of any article specified in clause (i), (ii), or (iii). This does not include devices or their components, parts or accessories.

"Emergency preparedness plan" means a component of a nursing facility's safety management program designed to manage the consequences of natural disasters or other emergencies that disrupt the nursing facility's ability to provide care.

"Employee" means a person who performs a specific job function for financial remuneration on a full or part-time basis.

"Full-time" means a minimum of 35 hours or more worked per week in the nursing facility.

"Guardian" means a person legally invested with the authority and charged with the duty of taking care of the resident, managing his property and protecting the rights of the resident who has been declared by the circuit court to be incapacitated and incapable of administering his own affairs. The powers and duties of the guardian are defined by the court and are limited to matters within the areas where the resident in need of a guardian has been determined to be incapacitated.

"Medication" means any substance, whether prescription or over-the-counter drug, that is taken orally or injected, inserted, topically applied, or otherwise administered.

"Neglect" means a failure to provide timely and consistent services, treatment or care to a resident or residents which are necessary to obtain or maintain the resident or residents' health, safety or comfort; or a failure to provide timely and consistent goods and services necessary to avoid physical harm, mental anguish, or mental illness.

"Nursing facility" means any institution or any identifiable component of any institution, as defined in § 32.1-123 of the Code of Virginia, with permanent facilities that include inpatient beds, whose primary function is the provision, on a continuing basis, of nursing and health related services for the treatment of individuals who may require various types of long-term care, including facilities known by varying nomenclature or designation such as convalescent homes, nursing homes, nursing or nursing care facilities, skilled nursing or skilled care facilities, intermediate care facilities or extended care facilities.

Rules and Regulations for the Licensure of Nursing Facilities

“OLC” means the Office of Licensure and Certification of the Virginia Department of Health.

"Person" means any individual, corporation, partnership, association, trust, or other legal entity, whether governmental or private, owning, managing, or operating a nursing facility.

"Physical restraint" means any manual method or physical or mechanical device, material, or equipment attached or adjacent to the resident's body that the individual cannot remove easily which restricts freedom of movement or normal access to one's own body.

"Policy" means a written statement ~~which~~ that describes the principles and guides and governs the activities, procedures and operations of the nursing facility.

"Procedures" means a series of activities designed to implement program goals or policy, which may or may not be written, depending upon the specific requirements within this chapter. For inspection purposes, there must be evidence that procedures are actually implemented.

"Progress note" means a written statement, signed and dated by the person delivering the care, consisting of a pertinent, chronological report of the resident's care. A progress note is a component of the clinical record.

“Qualified” means meeting current legal requirements of licensure, registration or certification in Virginia; having appropriate training and experience commensurate with assigned responsibilities; or if referring to a professional, possessing an appropriate degree or having documented equivalent education, training or experience.

"Quality assurance" means systematic activities performed to determine the extent to which clinical practice meets specified standards and values with regard to such things as appropriateness of service assignment and duration, appropriateness of facilities and resources utilized, adequacy and clinical soundness of care given. Such activities should also assure changes in practice that do not meet accepted standards. Examples of quality assurance activities include: the establishment of facility-wide goals for resident care; the assessment of the procedures used to achieve the goals; and the proposal of solutions to problems in attaining those goals.

"Readmission" means a planned return to the nursing facility following a temporary absence for hospitalization, off-site visit or therapeutic leave, or a return stay or confinement following a formal discharge terminating a previous admission.

"Resident" means the primary service recipient, admitted to the nursing facility, whether that person is referred to as a client, consumer, patient, or other term.

Rules and Regulations for the Licensure of Nursing Facilities

"Responsible person or party" means an individual authorized by the resident to act for him as an official delegate or agent. The responsible person may be a guardian, payee, family member or any other individual who has arranged for the care of the resident and assumed this responsibility. The responsible person or party may or may not be related to the resident. A responsible person or party is not a guardian unless so appointed by the court.

"Supervision" means the ongoing process of monitoring the skills, competencies and performance of the individual supervised and providing regular, face-to-face guidance and instruction.

"Volunteer" means a person who, without financial remuneration, provides services to the nursing facility.

12 VAC 5-371-20. ~~Responsibility of the department~~ Repealed.

~~A. The Department of Health is charged with the responsibility for ensuring that licensed nursing facilities provide residents with at least a minimum level of care according to standards prescribed by the Board of Health and any additional requirements that may be specified by the Code of Virginia.~~

~~B. The Center for Quality Health Care Services and Consumer Protection (center) acts as agent for the Department of Health in administering the licensing program. In addition, the center also investigates complaints made by the public against nursing facilities.~~

~~C. Center licensing representatives are available to answer questions and provide technical assistance throughout the licensing and inspection process.~~

~~D. The Code of Virginia requires the Board of Health to adopt standards and regulations for the licensure of nursing facilities. The Department of Health is the authorized agent for the Board of Health.~~

~~E. In developing or revising standards for licensed nursing facilities, the Department adheres to the requirements of the Administrative Process Act (§ 9-6.14:1 of the Code of Virginia) and the public participation process.~~

~~F. The department solicits input from licensees, associations of licensees, experts in related fields, advocacy organizations, consumers and the general public in the development or revision of licensing standards through informal and formal comment periods and public hearings.~~

12 VAC 5-371-30. License.

Rules and Regulations for the Licensure of Nursing Facilities

- A. A license to operate a facility is issued to a person or organization. An organization may be a partnership, association, corporation, or public entity.
- B. Each license and renewal thereof shall be issued for one year. A nursing facility shall operate within the terms of its license, which include the:
1. Name of the facility;
 2. Name of the operator;
 3. Physical location of the nursing facility;
 4. Maximum number of beds allowed; and
 5. Date the license expires.
- C. A separate license shall be required for nursing facilities maintained on separate premises, even though they are owned or are operated under the same management.
- D. Every nursing facility shall be designated by a permanent and appropriate name. The name shall not be changed without first notifying the ~~center~~ OLC.
- E. The number of resident beds allowed in a nursing facility shall be determined by the department. Requests to increase beds must be made in writing and must include an approved Certificate of Public Need.
- F. Nursing facility units located in and operated by hospitals shall be licensed under Rules and Regulations for the Licensure of Hospitals (12 VAC 5-410-10 et seq.). Approval for such units shall be included on the annual license issued to each hospital.
- G. Any person establishing, conducting, maintaining, or operating a nursing facility without a license shall be guilty of a Class 6 felony.

12 VAC 5-371-40. Licensing process.

- A. Upon request, the ~~center~~ OLC will provide consultation to any person seeking information about obtaining a license. The purpose of such consultation is to:
1. Explain the standards and the licensing process;
 2. Provide assistance in locating other sources of information;
 3. Review the potential applicant's proposed program plans, forms, and other documents, as they relate to standards; and
 4. Alert the potential applicant regarding the need to meet other state and local ordinances, such as fire and building codes and environmental health standards, where applicable.
- B. Upon request, the ~~center~~ OLC will provide an application form for a license to operate a nursing facility.

Rules and Regulations for the Licensure of Nursing Facilities

C. The ~~center~~ OLC shall consider the application complete when all requested information and the application fee is submitted with the form required. If the ~~center~~OLC finds the application incomplete, the applicant will be notified of receipt of the incomplete application.

D. The applicant shall complete and submit the initial application to the ~~center~~ OLC at least 30 days prior to a planned opening date to allow the ~~center~~ OLC time to act on the application. An application for a license may be withdrawn at any time.

E. Application for initial license of a nursing facility shall include a statement of any agreement made with the commissioner as a condition for Certificate of Public Need approval to provide a level of care at a reduced rate to indigents or accept patients requiring specialized care.

Any initial license issued to any nursing facility that made such agreement as a condition of its Certificate of Public Need approval shall not be renewed without demonstrating prior to or at the time of applying for renewal that it is substantially complying with its agreement.

F. The renewal of a nursing facility license shall be conditioned upon the up-to-date payment of any civil penalties owed as a result of willful refusal, failure, or neglect to honor certain conditions established in their award of a Certificate of Public need pursuant to § 32.1-102.4 F of the Code of Virginia.

G. Prior to changes in operation which would affect the terms of the license, the licensee must secure a modification to the terms of the license from the ~~center~~OLC.

H. Requests to modify a license must be submitted in writing, 30 working days in advance of any proposed changes, to the Director of the ~~Center for Quality Health Care Services and Consumer Protection~~ Office of Licensure and Certification.

I. The license shall be returned to the ~~center~~ OLC following a correction or reissuance when there has been a change in:

1. Address;
2. Operator;
3. Name; or
4. Bed capacity.

J. The ~~center~~ OLC will evaluate written information about any planned changes in operation which would affect either the terms of the license or the continuing eligibility for a license. A licensing representative may visit the facility during the process of evaluating a proposed modification.

Rules and Regulations for the Licensure of Nursing Facilities

K. If a modification can be granted, the ~~center~~ OLC shall respond in writing with a modified license. In the event a new application is needed, the licensee will receive written notification. When the modification cannot be granted, the licensee shall be advised by letter.

L. The department shall send an application for renewal of the license to the licensee prior to the expiration date of the current license.

M. The licensee shall submit the completed renewal application form along with any required attachments and the application fee by the date indicated in the cover letter.

N. It is the licensee's responsibility to complete and return the application to assure timely processing. Should a current license expire before a new license is issued, the current license shall remain in effect provided the complete and accurate application was filed on time.

12 VAC 5-371-50. ~~Functional design features~~ Repealed.

~~A. In order to avoid costly errors and unnecessary redesign, applicants or licensees are required to present their building plans to the center after acceptance of the final plan layout by the owner. Precontract document approval of the plan ensures acceptance of the basic architectural footprint and serves as the basis for approval of "fast track" construction for nursing facilities pursuing this approach.~~

~~The applicant or licensees shall notify the center of deviations in the contract documents from the approved preliminary plans. Contract documents containing deviations from approved preliminary plans are required to comply with these regulations and will be reviewed again to ensure compliance. Variances for out of compliance conditions as a result of deviations from the approved preliminary documents will not be granted.~~

~~B. When an application is for licensure of a building which has not previously been used for a nursing facility, or when renovations are made to an existing building, the center shall approve the functional design features of the building according to applicable regulations.~~

~~C. Prior to beginning construction or renovation, the applicant or licensee shall submit to the center for approval floor plans which clearly indicate the use of space and other plans for compliance with all requirements for the physical environment contained in the regulations. In addition, the transmittal letter shall contain the estimate of construction start, finish, and the desired occupancy date. Construction shall not begin without approval from the center.~~

~~D. The center will notify the applicant or licensee of the receipt of the contract documents.~~

Rules and Regulations for the Licensure of Nursing Facilities

~~E. Upon completion of the review, the center will issue a letter indicating approval or disapproval of the plan, citing the regulation determining the "out of compliance" condition.~~

~~F. A valid Certificate of Use and Occupancy and Certificate of Public Need are prerequisites for licensure.~~

12 VAC 5-371-60. On-site inspections.

A. The licensing representative shall make unannounced on-site inspections of the nursing facility. The licensee shall be responsible for correcting any deficiencies found during any on-site inspection. Compliance with all standards will be determined by the ~~center~~ OLC.

B. The licensee shall make available to the licensing representative any necessary records.

C. The licensee shall also allow the licensing representative to interview the agents, employees, residents, family members, and any person under its custody, control, direction or supervision.

D. After the on-site inspection, the licensing representative shall discuss the findings of the inspection with the administrator of record or designee.

E. As applicable, the administrator of record shall submit an acceptable plan for correcting any deficiencies found during an on-site inspection.

F. The administrator of record will be notified whenever any item in the plan of correction is determined to be unacceptable.

G. The administrator of record shall be responsible for assuring the plan of correction is implemented and monitored so that compliance is maintained.

12 VAC 5-371-70. Complaint investigation.

A. The ~~center~~ OLC has the responsibility to investigate any complaints regarding alleged violations of the standards or statutes and complaints of the abuse or neglect of persons in care. The Department of Social Services and the State Ombudsman are notified of complaints received.

B. Complaints may be received in written or oral form and may be anonymous.

C. When the investigation is complete, the licensee and the complainant, if known will be notified of the findings of the investigation.

Rules and Regulations for the Licensure of Nursing Facilities

- D. As applicable, the facility's administrator of record shall submit an acceptable plan for correcting any deficiencies found during a complaint investigation.
- E. The administrator of record will be notified whenever any item in the plan of correction is determined to be unacceptable.
- F. The administrator of record shall be responsible for assuring the plan of correction is implemented and monitored so that compliance is maintained.

12 VAC 5-371-80. Variances.

- A. The ~~center~~ OLC can authorize variances only to its own licensing standards, not to regulations of another agency or to any requirements in federal, state, or local laws.
- B. A nursing facility may request a variance to a particular standard or requirement contained in this chapter when the standard or requirement poses a special hardship and when a variance to it would not endanger the safety or well-being of residents, employees, or the public.
- C. Upon finding that the enforcement of one or more of the standards would be clearly impractical, the ~~center~~ OLC shall have the authority to waive, either temporarily or permanently, the enforcement of one or more of these standards, provided safety, resident care and services are not adversely affected.
- D. The ~~center~~ OLC may rescind or modify a variance if: (i) conditions change; (ii) additional information becomes known which alters the basis for the original decision; (iii) the facility fails to meet any conditions attached to the variance; (iv) or results of the variance jeopardize the safety, comfort, or well-being of residents, employees and the public.
- E. Consideration of a variance is initiated when a written request is submitted to the Director, ~~Center for Quality Health Care Services and Consumer Protection~~ Office of Licensure and Certification. The ~~center~~ OLC may provide consultation in the development of the written request and throughout the variance process.
- F. The request for a variance must describe the special hardship to the existing program or to a planned innovative or pilot program caused by the enforcement of the requirements. When possible, the request should include proposed alternatives to meet the purpose of the requirements which will ensure the protection and well-being of residents, employees, and the public.

Rules and Regulations for the Licensure of Nursing Facilities

G. The ~~center~~ OLC shall notify the facility of the receipt of the request for a variance. The ~~center~~ OLC may attach conditions to the granting of the variance in order to protect persons in care.

H. When the decision is to deny a request for a variance, the reason shall be provided in writing to the licensee.

I. When a variance is denied, expires, or is rescinded, routine enforcement of the standard or portion of the standard shall be resumed. The nursing facility may at any time withdraw a request for a variance.

12 VAC 5-371-90. Administrative sanctions.

A. Nothing in this part shall prohibit the department from exercising its responsibility and authority to enforce the regulation, including proceeding directly to imposition of administrative sanctions, when the quality of care or the quality of life has been severely compromised.

B. The commissioner may impose such administrative sanctions or take such actions as are appropriate for violation of any of the standards or statutes or for abuse or neglect of persons in care. Such sanctions include:

1. Restricting or prohibiting new admissions to any nursing facility;
2. Petitioning the court to impose a civil penalty or to appoint a receiver, or both; or
3. Revoking or suspending the license of a nursing facility.

C. The following reasons may be considered by the department for the imposition of administrative sanctions or the imposition of civil penalties:

1. Failure to demonstrate or maintain compliance with applicable standards or for violations of the provisions of the Code of Virginia;
2. Permitting, aiding, or abetting the commission of any illegal act in the nursing facility; or
3. Deviating significantly from the program or services for which a license was issued without obtaining prior written approval from the ~~center~~ OLC, or failure to correct such deviations within a specified time.

D. Violations which in the judgment of the ~~center~~ OLC jeopardize the health and safety of residents shall be sufficient cause for immediate imposition of this section.

E. The licensee will receive a notice of the department's intent to impose sanctions. The notice shall describe the reasons for imposing the sanction.

Rules and Regulations for the Licensure of Nursing Facilities

F. Upon receipt of the notice to impose a sanction, the licensee has the right and the opportunity to appeal according to the Administrative Process Act (§ ~~9-6-14:1~~ 2.2-4000) of the Code of Virginia). The procedures for filing an appeal shall be outlined in the notice.

12 VAC 5-371-100. Surrender of a license.

A. Upon revocation or suspension of a license, the licensee must surrender its license to a representative of the ~~center~~ OLC.

B. If a license is revoked, a new license may be issued by the commissioner after satisfactory evidence is submitted that the conditions upon which revocation was based have been corrected and after proper inspection has been made and compliance with this chapter and applicable state and federal law has been obtained.

C. Suspension of a license shall in all cases be for an indefinite time. The commissioner may completely or partially restore a suspended license when he determines that the conditions upon which suspension was based have been completely or partially corrected and that the interests of the public will not be jeopardized by resumption of operation.

D. Other circumstances under which a license must be surrendered include transfer of ownership and discontinuation of services. The licensee must notify the ~~center~~ OLC, in writing, 30 days before discontinuing services.

12 VAC 5-371-110. Management and administration.

A. No person shall own, establish, conduct, maintain, manage, or operate any nursing facility, as defined in § 32.1-123 of the Code of Virginia, without having obtained a license.

B. The nursing facility must comply with:

1. These regulations (12 VAC 5-371-10);
2. Other applicable federal, state or local laws and regulations; and
3. Its own policies and procedures.

C. The nursing facility shall submit, or make available, reports and information necessary to establish compliance with these regulations and applicable statutes.

D. The nursing facility shall submit, in a timely manner as determined by the ~~center~~ OLC, and implement a written plan of action to correct any noncompliance with these regulations identified during an inspection. The plan shall include:

1. Description of the corrective action or actions to be taken;
2. Date of completion for each action; and

Rules and Regulations for the Licensure of Nursing Facilities

3. Signature of the person responsible for the operation.
- E. The nursing facility shall permit representatives from the ~~center~~ OLC to conduct inspections to:
1. Verify application information;
 2. Determine compliance with this chapter;
 3. Review necessary records; and
 4. Investigate complaints.
- F. The current license from the department shall be posted in a place clearly visible to the general public.
- G. The nursing facility shall not operate more resident beds than the number for which it is licensed.
- H. The nursing facility shall fully disclose its admission policies, including any preferences given, to applicants for admission.
- I. The nursing facility shall identify its operating elements and programs, the internal relationship among these elements and programs, and the management or leadership structure.
- J. The facility shall provide, or arrange for, the administration to its resident of an annual influenza vaccination and a pneumonia vaccination according to the most recent recommendations for “Prevention and Control of Influenza” (www.cdc.gov/mmwr/preview/mmwrhtml/rr5306al.htm), MMWR 53 (RR06), and “Guidelines for Preventing Health Care-Associated Pneumonia, 2003” (www.cdc.gov/mmwr/preview/mmwrhtml/rr5303al.htm), MMWR 53 (RR03), of the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention, unless the vaccination is medically contraindicated or the resident declines the vaccination offer.

12 VAC 5-371-120. Governing body.

- A. The nursing facility shall have a governing body that is legally responsible for the management of the operation.
- B. The governing body shall adopt written bylaws that describe the organizational structure and establish authority and responsibility in accordance with applicable laws, including a:
1. Statement of purpose;
 2. Description of the functions of the governing body members, officers and committees;
 3. Description of the method of adoption, implementation, and periodic review of policies and procedures; and
 4. Description of the methods to be utilized to assure compliance with this chapter.

Rules and Regulations for the Licensure of Nursing Facilities

C. The governing body shall disclose the names and addresses of any individual or entity that holds 5% or more ownership interest in the operation of the nursing facility.

D. When the governing body is not the owner of the physical plant, the governing body shall disclose the name and address of the individual or entity responsible for the alterations, modifications, maintenance and repairs to the building.

E. The governing body shall notify the ~~center~~ OLC in writing 30 days in advance of changes affecting the accuracy of the license. Changes affecting the accuracy of the license are:

1. Any proposed change in management contract or lease agreement to operate the nursing facility;
2. Implementing any proposed addition, deletion, or change in nursing facility services whether or not licensure is required;
3. Selling the facility; or
4. A change in ownership.

12 VAC 5-371-130. Administrator.

A. The governing body shall appoint an individual, on a full time basis, to serve as its onsite agent, responsible for the day-to-day administration and management.

B. The governing body shall provide the ~~center~~ OLC with evidence that the individual appointed as administrator is:

1. Currently licensed by the Virginia Board of [~~Nursing Home Long Term Care~~] Administrators; or
2. Holds a current administrator's license in another state and has filed an application for license with the Virginia Board of [~~Nursing Home Long Term Care~~] Administrators.

C. Within five working days of the effective date of termination of the administrator's employment, the governing body shall notify the ~~center~~ OLC, in writing, of the name and qualifications of the replacement administrator of record or the acting administrator.

D. The governing body shall appoint a qualified administrator within 90 days of the effective date of the termination of the previously qualified administrator, and shall provide the ~~center~~ OLC with written notification of the administrator's name, license number, and effective date of employment.

Rules and Regulations for the Licensure of Nursing Facilities

An additional 30-day extension may be granted if a written request provides documentation that the individual designated as administrator is awaiting the final licensing decision of the Virginia Board of ~~[Nursing Home Long Term Care]~~ Administrators.

Rules and Regulations for the Licensure of Nursing Facilities

E. The governing body shall assure that administrative direction is provided at all times. The governing body, the administrator, or the chief executive officer shall designate, in writing, a qualified individual to act as the alternate nursing home administrator in the absence of the administrator of record.

12 VAC 5-371-150. Resident rights.

A. The nursing facility shall develop and implement policies and procedures that ensure resident's rights as defined in § 32.1-138 and 32.1-138.1 of the Code of Virginia.

B. The procedures shall:

1. Not restrict any right a resident has under law;
2. Provide staff training to implement resident's rights; and
3. Include grievance procedures.

C. The name and telephone number of the complaint coordinator of the ~~center~~ OLC, the Adult Protective Services toll-free telephone number, and the toll-free telephone number for the State Ombudsman shall be conspicuously posted in a public place.

D. Copies of resident rights shall be given to residents upon admittance to the facility and made available to residents currently in residence, to any guardians, next of kin, or sponsoring agency or agencies, and to the public.

E. The nursing facility shall have a plan to review resident rights with each resident annually, or with the responsible family member or responsible agent at least annually, and have a plan to advise each staff member at least annually.

F. The nursing facility shall certify, in writing, that it is in compliance with the provisions of § 32.1-138 and 32.1-138.1 of the Code of Virginia, relative to resident rights, as a condition of license issuance or renewal.

12 VAC 5-371-160. Financial controls and resident funds.

A. All financial records, including resident funds, shall be kept according to generally accepted accounting principles (GAAP).

B. Nursing facilities choosing to handle resident funds shall:

1. Comply with ~~§ 32.1-138 A-6~~ § 32.1-138 A7 of the Code of Virginia regarding resident funds;
2. Purchase a surety bond or otherwise provide assurance for the security of all personal funds deposited with the facility; and

Rules and Regulations for the Licensure of Nursing Facilities

3. Provide for separate accounting for resident funds.

C. In the event the facility is sold, the nursing facility shall provide written verification that all resident funds have been transferred and shall obtain a signed receipt from the new owner. Upon receipt, the new owner shall provide an accounting of resident funds.

D. In the event of a resident's death or discharge with funds deposited with the facility, the nursing facility shall, within 30 days, give a final accounting of those funds to the individual administering the resident's estate, and if appropriate, refund any monies due.

12 VAC 5-371-190. Safety and emergency procedures.

A. A written emergency preparedness plan shall be developed, reviewed, and implemented when needed. The plan shall address responses to natural disasters, as well as fire or other emergency which disrupts the normal course of operations. The plan shall address provisions for relocating residents and also address staff responsibilities for:

1. Alerting emergency personnel and sounding alarms;
2. Implementing evacuation procedures including the evacuation of residents with special needs;
3. Using, maintaining and operating emergency equipment;
4. Accessing resident emergency medical information; and
5. Utilizing community support services.

B. All staff shall participate in periodic emergency preparedness training.

C. Staff shall have documented knowledge of, and be prepared to implement, the emergency preparedness plan in the event of an emergency.

D. At least one telephone shall be available in each area to which residents are admitted and additional telephones or extensions as are necessary to ensure availability in case of need.

E. In the event of a disaster, fire, emergency or any other condition that may jeopardize the health, safety and well-being of residents, the organization shall notify the ~~center~~ OLC of the conditions and status of the residents and the licensed facility as soon as possible.

F. The nursing facility shall have a policy on smoking.

12 VAC 5-371-200. Director of nursing.

Rules and Regulations for the Licensure of Nursing Facilities

A. Each nursing facility shall employ a full-time director of nursing to supervise the delivery of nursing services. The individual hired shall be a registered nurse licensed by the Virginia Board of Nursing.

B. The duties and responsibilities of the director of nursing shall include, but are not limited to:

1. Developing and maintaining: (i) nursing service objectives, (ii) standards of practice, (iii) policy and procedure manuals, and (iv) job descriptions for each level of nursing personnel;
2. Recommending to the administrator the resources needed to carry out nursing service, including but not limited to, equipment and supplies and the number and level of nursing personnel to be employed;
3. Participating in the employment of nursing personnel, including: (i) recruitment, (ii) selection, (iii) position assignment, (iv) orientation, (v) in-service education, (vi) supervision, (vii) evaluation, and (viii) termination;
4. Participating with the medical director in developing and implementing policies for resident care;
5. Assuring that the comprehensive plan of care is maintained in conjunction with other disciplines;
6. Coordinating nursing services with other services such as medical, rehabilitative, and social services and the resident activity program;
7. Participating in quality assurance committee meetings to identify issues and to develop and implement appropriate plans of action to correct identified problems;
8. Making daily rounds on resident floors, unless this duty has been delegated to another licensed nurse; and
9. Recommending and coordinating the training needs of nursing staff with the individual responsible for in-service training.

C. A registered nurse, designated in writing by the administrator, shall serve in the temporary absence of the director of nursing so there is the equivalent of a full-time director of nursing on duty for a minimum of five days a week.

D. The director of nursing shall not function as a nursing supervisor in facilities with 60 or more beds.

E. The nursing facility shall notify the ~~center~~ OLC, in writing, within five days of a vacancy in the director of nursing position. The written notice shall give the name and Virginia license number of the individual appointed to serve as director of nursing, and whether the appointment is permanent or temporary.

F. The director of nursing position shall not be held by a temporary designate for more than 90 days. Temporary agency personnel shall not be utilized to fill the director of nursing position.

Rules and Regulations for the Licensure of Nursing Facilities

G. Written notification, giving the name and license number of the individual, shall be sent to the ~~center~~ OLC when a permanent appointment is made.

H. A license for a new nursing facility or an increase in bed size in an existing nursing facility shall not be issued if the director of nursing position is vacant.

12 VAC 5-371-400. Unique design solutions.

A. All unique design solutions shall be described with outcome measures. This shall be reviewed in cooperation with the ~~center~~ OLC.

B. The description and outcome measures shall be a part of the material used to review the design solution at the time of the facility survey.

C. All unique design solutions, unless specifically excluded by contract, shall comply with Parts II (12 VAC 5-371-110 et seq.) and III (12 VAC 5-371-200 et seq.) of this chapter.

12 VAC 5-371-410. Architectural plans and specifications.

A. All construction of new buildings and additions, renovations or alterations of existing buildings for occupancy as a nursing facility shall conform to state and local codes, zoning and building ordinances, and the Uniform Statewide Building Code.

In addition, nursing facilities shall be designed and constructed according to ~~sections 1 through 6 and 8~~ Part 1 (1.1 through 1.6-2) and sections 4.1-1 through 4.1-10 of Part 4 of the 2004 2006 Guidelines for Design and Construction of ~~Hospital and~~ Health Care Facilities of the American Institute of Architects. However, the requirements of the Uniform Statewide Building Code and local zoning and building ordinances shall take precedence.

B. Architectural drawings and specifications for all new construction or for additions, alterations or renovations to any existing building, shall be dated, stamped with licensure seal and signed by the architect. The architect shall certify that the drawings and specifications were prepared to conform to building code requirements.

C. Additional approval may include a Certificate of Public Need.

D. Upon completion of the construction, the nursing facility shall maintain a complete set of legible "as built" drawings showing all construction, fixed equipment, and mechanical and electrical systems, as installed or built.

Rules and Regulations for the Licensure of Nursing Facilities

FORMS

~~Application for License Renewal: Nursing Homes for Year Ending December 31, 1997.~~

~~Annual Survey of Nursing Homes: 1996.~~

~~Application for [Initial] License [Renewal: Nursing Homes Mid Year, Initial and Changes]:
Hospitals and Nursing Homes.~~

DOCUMENTS INCORPORATED BY REFERENCE

~~Guidelines for Design and Construction of Hospital and Health Care Facilities, The American Institute of Architects Academy of Architecture for Health, 2001 2006 Edition.~~

~~Dietary Manager Credentialing Exam, Information and Application, Certifying Board for Dietary Manager, 1996.~~

~~The American Dietetic Association Knowledge and Performance Requirements for Entry Level Dietitians, EDT 9/94.~~

~~Guidelines for Preventing Health Care-Associated Pneumonia, 2003 (MMWR 53 (RR03), Advisory Committee on Immunization Practices, Centers for Disease Control and Prevention.~~

~~Prevention and Control of Influenza, MMWR 53 (RR06), Advisory Committee on Immunization Practices, Centers for Disease Control and Prevention.~~