Rhode Island Department of Health

PUBLIC NOTICE

The Director of the Rhode Island Department of Health has determined to amend the rules and regulations listed below to remove the specific dollar value of all fees for licensing, laboratory and administrative services provided by the Department of Health from the individual regulations and reference all such fees to a new consolidated fee regulation (to be promulgated separately). These amendments are proposed pursuant to the authority contained in Public Law 2012-241, enacted by the General Assembly on 15 June 2012, and the relevant sections of the respective professional practice and licensure acts.

The following seventy-five (75) regulations are proposed to be amended:

1. Food Code
2. Rules and Regulations Establishing Educational and Experience Requirements for Registration as a Sanitarian
3. Rules and Regulations for Asbestos Control
4. Rules and Regulations for Bottled Water
5. Rules and Regulations for Certifying Analytical Laboratories
6. Rules and Regulations for Determination of Need for New Health Care Equipment and New Institutional Health Services
7. Rules and Regulations for Lead Poisoning Prevention
8. Rules and Regulations for Licensing Assisted Living Residences
9. Rules and Regulations for Licensing Athletic Trainers
10. Rules and Regulations for Licensing Birth Centers
11. Rules and Regulations for Licensing Chemical Dependency Professionals
12. Rules and Regulations for Licensing Clinical Laboratories and Stations
13. Rules and Regulations for Licensing Clinical Social Workers and Independent Clinical Social Workers
14. Rules and Regulations for Licensing Doctors of Acupuncture and Acupuncture Assistants
15. Rules and Regulations for Licensing Home Nursing Care Providers and Home Care Providers
16. Rules and Regulations for Licensing Hospice Care
17. Rules and Regulations for Licensing Interpreters for the Deaf
18. Rules and Regulations for Licensing Kidney Disease Treatment Centers
19. Rules and Regulations for Licensing Massage Therapists
20. Rules and Regulations for Licensing Mental Health Counselors and Marriage and Family Therapists
21. Rules and Regulations for Licensing Occupational Therapists and Occupational Therapy Assistants
22. Rules and Regulations for Licensing of Hospitals
23. Rules and Regulations for Licensing of Midwives
24. Rules and Regulations for Licensing of Nursing Facilities
25. Rules and Regulations for Licensing of Nursing Home Administrators
26. Rules and Regulations for Licensing Physical Therapists and Physical Therapist Assistants
27. Rules and Regulations for Licensing Psychologists
28. Rules and Regulations for Licensing Rehabilitation Hospital Centers

29. Rules and Regulations for Licensing Respiratory Care Practitioners
30. Rules and Regulations for Licensing Speech Pathologists and Audiologists
31. Rules and Regulations for Licensing Swimming and Wading Pools, Hot Tubs, and Spas
32. Rules and Regulations for Licensure and Discipline of Chiropractic Physicians
33. Rules and Regulations for Limited Medical Registration
34. Rules and Regulations for Radon Control
35. Rules and Regulations for the Certification of Administrators of Assisted Living Residences
36. Rules and Regulations for the Certification of Health Plans
37. Rules and Regulations for the Control of Radiation
38. Rules and Regulations for the Licensing of Freestanding Ambulatory Surgical Centers
39. Rules and Regulations for the Licensing of Freestanding Emergency Care Facilities
40. Rules and Regulations for the Licensing of Nurses and Standards for the Approval of Basic Nursing Education Programs
41. Rules and Regulations for the Licensing of Nursing Service Agencies
42. Rules and Regulations for the Licensing of Organized Ambulatory Care Facilities
43. Rules and Regulations for the Licensing of Podiatrists
44. Rules and Regulations for the Licensing of Radiographers, Nuclear Medicine Technologists, Radiation Therapists and Radiologist Assistants
45. Rules and Regulations for the Licensure and Discipline of Physicians
46. Rules and Regulations for the Licensure of Barbers, Hairdressers/Cosmeticians, Manicurists, Estheticians, and Instructors
47. Rules and Regulations for the Licensure of Clinical Laboratory Science Practitioners
48. Rules and Regulations for the Licensure of Physician Ambulatory Surgery Centers and Podiatry Ambulatory Surgery Centers
49. Rules and Regulations for the Licensure of Physician Assistants
50. Rules and Regulations for the Licensure of Veterinarians
51. Rules and Regulations for the Registration of Body Piercing Technicians and Body Piercing Establishments
52. Rules and Regulations for the Registration of Distributors of Controlled Substances in Rhode Island
53. Rules and Regulations for the Registration of Tanning Facilities
54. Rules and Regulations for the Registration of Tattoo Artists and Tattoo Parlors
55. Rules and Regulations for the Utilization Review of Health Care Services
56. Rules and Regulations Governing Vital Statistics
57. Rules and Regulations Pertaining to Certification of Managers in Food Safety
58. Rules and Regulations Pertaining to Dentists, Dental Hygienists, and Dental Assistants
59. Rules and Regulations Pertaining to Embalmers, Funeral Directors, and Funeral Service Establishments
60. Rules and Regulations Pertaining to Opticians
61. Rules and Regulations Pertaining to Optometrists
62. Rules and Regulations Pertaining to Permits for Screening Programs
63. Rules and Regulations Pertaining to Pharmacists, Pharmacies and Manufacturers, Wholesalers, and Distributors
64. Rules and Regulations Pertaining to Public Drinking Water
65. Rules and Regulations Pertaining to Rhode Island Certificates of Registration for Nursing Assistants, Medication Aides, and the Approval of Nursing Assistant and Medication Aide Training Programs
66. Rules and Regulations Pertaining to the Certification of Public Drinking Water Supply Treatment and Public Water Supply Transmission and Distribution Operators

67. Rules and Regulations Pertaining to the Licensing of Dietitians/Nutritionists
68. Rules and Regulations Pertaining to the Medical Examiner System
69. Rules and Regulations Pertaining to the Newborn Metabolic, Endocrine, and Hemoglobinopathy Screening Program and the Newborn Hearing Loss Screening Program
70. Rules and Regulations Pertaining to the Processing and Distribution of Shellfish
71. Rules and Regulations Prescribing Minimum Standards for Processing, Storage and Transportation of Fish and Fishery Products
72. Rules and Regulations Related to the Licensure of Hearing Aid Dealers and Fitters
73. Rules and Regulations Related to the Medical Marijuana Program
74. Rules and Regulations Related to the Practice of Electrolysis
75. Rules and Regulations Relating to Emergency Medical Services

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Notice is hereby given in accordance with the provisions of §42-35-3(a)(2) of the Rhode Island General Laws, as amended, that the Director is affording all interested persons the opportunity to submit data, views, or arguments in writing on this matter. Opportunity for public hearing shall be granted if requested by twenty-five (25) persons, by a government subdivision or agency, or by an association having not less than twenty-five (25) members. *Otherwise, no hearing shall be convened*. Should a hearing be requested by twenty-five (25) persons, by a government subdivision or agency, or by an association having not less than twenty-five (25) members, *a hearing shall be scheduled only for the regulation(s) for which the request for hearing was received*. All regulations for which a public hearing is not requested will be filed with the Rhode Island Secretary of State pursuant to Chapter 42-35 of the Rhode Island General Laws, as amended, shortly after the 10 September 2012 deadline (as below).

Such input or requests for public hearing must be received in writing **no later than Monday, 10 September 2012**. Such input or requests should be addressed to: Michael Fine, M.D., Director, Rhode Island Department of Health, Three Capitol Hill, Room #401, Providence, Rhode Island 02908-5097.

In the development of these amendments, consideration was given to the following: (1) alternative approaches; and (2) overlap or duplication with other statutory and regulatory provisions. No alternative approach, duplication, or overlap was identified based upon available information.

Copies of all regulations are available for public inspection in the Cannon Building, Room #201, Rhode Island Department of Health, Three Capitol Hill, Providence, Rhode Island 02908-5097, on the Secretary of State's website: http://www.sos.ri.gov/rules/, by calling 401-222-7767, or by e-mail to Bill.Dundulis@health.ri.gov.

Signed this 3rd day of August 2012

Original signed by Michael Fine, MD

Michael Fine, M.D., Director of Health

RULES AND REGULATIONS FOR LICENSING OF NURSING FACILITIES

(R23-17-NF)

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

DEPARTMENT OF HEALTH

February 1977

As Amended:

December 1978
November 1979
March 1980
December 1980
February 1984 (E)
May 1984 (E)
February 1985
January 1987
May 1987
September 1987
October 1988
July 1989
July 1989 (E)
March 1990
August 1990
July 1991
March 1992
July 1992 (E)
December 1992
September 1993 (E)
January 1994
January 1994 (E)
May 1994
May 1994 (E)
September 1994
February 1996
May 1998
September 1998 (E)
January 1999 (E)
March 1999
May 1999 (E)
July 1999 (E)
September 1999 (E)
September 1999
January 2000
January 2002 (re-filing in accordance with the provisions of section 42-35-4.1 of the Rhode Island General laws, as amended)
July 2002
April 2003
March 2005
October 2006
January 2007 (re-filing in accordance with the provisions of section 42-35-4.1 of the Rhode Island General laws, as amended)
January 2012 (re-filing in accordance with the provisions of section 42-35-4.1 of the Rhode Island General laws, as amended)
August 2012 (Proposed)

COMPILER'S NOTES:
Proposed Additions: Underlined
Proposed Deletions: ~~Strikeouts~~

I*NTRODUCTION*

These *Rules and Regulations for Licensing of Nursing Facilities (R23-17-NF*) are promulgated pursuant to the authority conferred under section 23-17-10 of the General Laws of Rhode Island, as amended, and are established for the purpose of adopting minimum requirements for the licensure of nursing facilities in this state.

Pursuant to the provisions of section 42-35-3(c) of the General Laws of Rhode Island, as amended, consideration was given to the following: (1) alternative approaches to the regulations; and (2) duplication or overlap with other state regulations. Based on available information, no alternative approach, duplication or overlap was identified. The health and safety of the public overrides and economic impact. These rules and regulations are adopted in the best interest of the public health, safety and welfare.

These rules and regulations shall supersede all previous *Rules and Regulations For the Licensing of Nursing Facilities (R23-17-NF*) promulgated by the Rhode Island Department of Health and filed with the Secretary of State.

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PART I *Licensing Procedures and Definitions*

Section 1.0 *Definitions*

Wherever used in these rules and regulations the following terms shall be construed as follows:

1.1 ***"Abuse"*** means any assault as defined in Chapter 11-5, including, but not limited to hitting, kicking, pinching, slapping or the pulling of hair, provided however, unless such is required as an element of offense, it shall not be necessary to prove that the patient or resident was injured thereby, or any assault as defined in Chapter 11-37, or any offense under Chapter 11-10 of the General Laws; or

1.1.1 any conduct which harms or is likely to physically harm the resident except where the conduct is a part of the care and treatment, and in furtherance of the health and safety of the resident; or

1.1.2 intentionally engaging in a pattern of harassing conduct which causes or is likely to cause emotional or psychological harm to the resident, including but not limited to, ridiculing or demeaning a patient or resident, making derogatory remarks to a patient or resident or cursing directed towards a patient or resident, or threatening to inflict physical or emotional harm on a patient.

1.2 ***"Alzheimer Dementia Special Care Unit or Program"*** means a distinct living environment within a nursing facility that has been physically adapted to accommodate the particular needs and behaviors of those with dementia. Such unit provides increased staffing, therapeutic activities designed specifically for those with dementia and trains its staff on an ongoing basis on the effective management of the physical and behavioral problems of those with dementia. The residents of such a unit/program have had a standard medical diagnostic evaluation and have been determined to have a diagnosis of Alzheimer dementia or another dementia.

1.3 "The ***capacity*** of a facility" refers to the maximum potential number of beds which may be accommodated within a facility according to the dimensional limitations of section 44.0 herein.

1.4 ***"Change in operator"*** means a transfer by the governing body or operator of a nursing facility to any other person (excluding delegations of authority to the medical or administrative staff of the facility) of the governing body's authority to:

a) hire or fire the chief executive officer of the nursing facility;

b) maintain and control the books and records of the nursing facility;

c) dispose of assets and incur liabilities on behalf of the nursing facility; or

d) adopt and enforce policies regarding operation of the nursing facility.
(This definition is not applicable to circumstances wherein the governing body of a nursing facility retains the immediate authority and jurisdiction over the activities enumerated in subsections (a) through (d) herein.)

1.5 ***"Change in owner"*** means:

(1) in the case of a nursing facility which is a partnership, the removal, addition or substitution of a partner which results in a new partner acquiring a controlling interest in such partnership;

(2) in the case of a nursing facility which is an unincorporated solo proprietorship, the transfer of the title and property to another person;

(3) in the case of a nursing facility which is a corporation;

a) a sale, lease, exchange or other disposition of all, or substantially all of the property and assets of the corporation; or

b) a merger of the corporation into another corporation; or

c) the consolidation of two or more corporations, resulting in the creation of a new corporation; or

d) in the case of a nursing facility which is a business corporation, any transfer of corporate stock which results in a new person acquiring a controlling interest in such corporation; or

e) in the case of a nursing facility which is a non-business corporation, any change in membership which results in a new person acquiring a controlling vote in such corporation.

1.6 ***"Controlling person"*** means any person or entity in control of a nursing facility directly or indirectly, including:

a) in the case of a corporation or a limited liability company, or limited liability partnership, a person having a beneficial ownership interest of five percent (5%) or more in the corporation, limited liability company or limited liability partnership to which the facility is licensed;

b) in the case of a general partnership or limited partnership, any general partner;

c) in the case of a limited liability company, or limited liability partnership any member;

d) a legal entity that operates or contracts with another person for the operation of a nursing facility or an owner thereof;

e) each of the president, vice president, secretary and treasurer of a corporation that is not exempt from taxation under section 501(a) of the United States Internal Revenue Code as an organization described in section 501(c)(3) of such code; and

f) such other ownership interest or relationship as may be determined by the Director.

1.7 ***"Credentialing"*** means the administrative process for reviewing, verifying, and evaluating the qualifications and credentials of licensed physicians in accordance with criteria established by the nursing facility for the purpose of granting clinical privileges at the nursing facility.

1.8 *"**Department**"* means the Department of Health.

1.9 "***Direct care nursing staff***" means registered nurses, licensed practical nurses, and nursing assistants who are assigned to provide direct nursing care to residents.

1.10 ***"Director"*** means the Director of the Rhode Island Department of Health.

1.11 ***"Drug administration"*** means an act in which a single dose of a prescribed drug or biological is given to a resident by an authorized person in accordance with the regulations herein.

1.12 *"**Employee**"* means an individual employed, whether directly, by the contract with another entity or as an independent contractor, by a long-term care nursing facility on a part-time or full-time basis.

1.13 ***"Equity"*** means non-debt funds contributed towards the capital costs related to a change in owner or change in operator of a nursing facility which funds are free and clear of any repayment or liens against the assets of the proposed owner and/or licensee and that result in a like reduction in the portion of the capital cost that is required to be financed or mortgaged.

1.14 "***Family council***" means an organized group of the family members, friends, or representatives of facility residents who may meet in private without the presence of facility staff.

1.15 ***"Health care provider"*** means any person licensed by this state to provide or otherwise lawfully providing health care services, including, but not limited to, a physician, hospital, intermediate care facility or other health care facility, dentist, nurse, optometrist, podiatrist, physical therapist, psychiatric social worker, pharmacist, or psychologist, and any officer, employee or agent of that provider acting in the course and scope of his or her employment or agency related to or supportive of health services.

1.16 ***"High managerial agent"*** means an officer of a facility, the administrator and assistant administrator of the facility, the director and assistant director of nursing services, or any other agent in a position of comparable authority with respect to the formulation of policies of the facility or the supervision in a managerial capacity of subordinate employees.

1.17 *"**Immediate jeopardy**"* means a situation in which the nursing facility's noncompliance or alleged noncompliance with one or more state or federal requirements or conditions has caused, or is likely to cause serious injury, harm, impairment or death to a resident; or shall be defined in accordance with 42 CFR 489 or any subsequent applicable federal regulations.

1.18 "The ***licensed capacity*** of a facility" refers to the number of beds a facility is licensed to operate.

1.19 ***"Licensing agency"*** means the Rhode Island Department of Health.

1.20 ***"Lift team***" means health care facility employees specially trained to perform patient lifts, transfers, and repositioning in accordance with safe patient handling policy.

1.21 ***"Long-term care facility or facility"*** shall mean a health care facility as defined in Chapter 23-17, which provides long term health care.

1.22 ***"Medication technician",*** as used herein, means selected unlicensed personnel who have satisfactorily completed a state-approved course in drug administration who may administer oral or topical drugs (with the exception of Schedule II drugs) in accordance with the requirements of section 25.9 herein.

1.23 ***"Mistreatment"*** means the inappropriate use of medications, isolation, or use of physical or chemical restraints as punishment, for staff convenience, as a substitute for treatment or care, in conflict with a physician's order, or in quantities which inhibit effective care or treatment, which harms or is likely to harm the patient or resident.

1.24 ***"Musculoskeletal disorders"*** means conditions that involve the nerves, tendons, muscles, and supporting structures of the body.

1.25 ***"Neglect"*** means the intentional failure to provide treatment, care, goods and services necessary to maintain the health and safety of the patient or resident, or the intentional failure to carry out a plan of treatment or care prescribed by the physician of the patient or resident, or the intentional failure to report patient or resident health problems or changes in health conditions to an immediate supervisor or nurse, or the intentional lack of attention to the physical needs of a patient or resident including, but not limited to toileting, bathing, meals and safety. Provided, however, no person shall be considered to be neglected for the sole reason that he or she relies or is being furnished treatment in accordance with the tenets and teachings of a well recognized church or denomination by a duly-accredited practitioner thereof.

1.26 ***"Net operating revenue"*** means net patient revenue plus other operating revenue.

1.27 "***Nourishing snack"*** means a verbal offering of items, single or in combination, from the basic food groups.

1.28 ***"Nursing facility"*** means a place, however named, or an identifiable unit or distinct part thereof that provides 24 hour inresident nursing, therapeutic, restorative or preventive and supportive nursing care services for two (2) or more residents unrelated by blood or marriage whose condition requires continuous nursing care and supervision.

1.29 ***"Nursing service"*** means a service organized, staffed and equipped to provide nursing care to residents on a continuous basis.

1.30 "The ***occupancy level*** of a facility" refers to the number of beds a facility has in actual use, equal to or less than the licensed capacity.

1.31 ***"Person"*** means any individual, trust or estate, partnership, corporation (including associations, joint stock companies), limited liability company, state or political subdivision or instrumentality of a state.

1.32 ***"Physician"*** means a person licensed to practice allopathic or osteopathic medicine in this state, pursuant to the provisions of Chapter 5-37 of the General Laws of Rhode Island, as amended.

1.33 ***"Resident"*** means a person who resides in a nursing facility as defined in Chapter 17 of Title 23 and the regulations contained herein.

1.34 ***"Resident attendant"*** means an individual who is trained to assist residents in a nursing home with the activities of eating and drinking. A resident attendant shall not include an individual who:

a) is a licensed health professional, including but not limited to a nursing assistant, registered dietitian; or
b) volunteers without monetary compensation as authorized by the resident, or the resident's appropriate legal representative.

1.35 ***"Residential area"*** means a distinct living environment within a nursing facility that includes no more than 60 beds.

1.36 "***Safe patient handling"*** means the use of engineering controls, transfer aids, or assistive devices whenever feasible and appropriate instead of manual lifting to perform the acts of lifting, transferring, and/or repositioning health care patients and residents.

1.37 "***Safe patient handling policy***" means protocols established to implement safe patient handling.

1.38 "***Standing orders***" means orders to be automatically implemented for a class of patients without physician direction for an individual patient within the class.

1.39 ***"Substantial evening meal"*** means an offering of three (3) or more menu items at one time, one (1) of which includes a high-quality protein such as meat, fish, eggs, or cheese. The meal should represent no less than 20 percent (20%) of the day's total nutritional requirements.

1.40 "***Turnover rate***" means the total number of terminations in a given calendar year divided by the average number of personnel employed for the same calendar year and multiplied by 100 (for the percentage). (See calculation set forth in Appendix "F" herein).

Section 2.0 ***Certificate of Need Requirements***

2.1 Any person individually or jointly with any other person(s) who proposes to undertake any substantial construction shall be subject to the Rhode Island Department of Health, rules and regulations for construction of nursing or personal care homes.

2.2 A certificate of need is required as a precondition to the establishment of a new nursing facility in accordance with reference 5.

2.3 Any facility which has received a certificate of need as evidence by written approval of the Director of Health after review by the Health Services Council, shall submit plans and specifications for review, prior to signing a construction contract, to the Office of Facilities Regulation, Rhode Island Department of Health, to the Division of Fire Safety, Executive Department, and to the Office of Food Protection and Sanitation of the Rhode Island Department of Health in accordance with reference 6.

Section 3.0 ***General Requirements for Licensure***

3.1 No person or governmental unit acting severally or jointly with any other person or governmental

unit shall conduct, maintain or operate a or hold itself out as a nursing facility without a license in accordance with the requirements of reference 1.

3.2 The provisions of the rules and regulations herein, in addition to the provisions of reference 1, shall apply to all nursing facilities and to all residents housed therein, except that persons caring exclusively for relatives shall be exempted from the provisions of reference 1 and of the rules and regulations herein.

3.3 Facilities meeting the definition of nursing facilities by virtue of the residence therein of persons who are mentally, physically and/or emotionally dependent on others for fulfilling the requirements of daily life but which do not include primary medical and nursing components shall not be subject to the rules and regulations herein but shall be subject to the requirements of Chapter 23-17.4 of the General Laws of Rhode Island, as amended (see reference 3), and to the *Rules and Regulations For Licensing Assisted Living Residences (R23-17.4-ALR)* (see reference 4).

3.4 Any nursing facility that utilizes latex gloves shall do so in accordance with the provisions of the ***Rules and Regulations Pertaining to the Use of Latex Gloves by Health Care Workers, in Licensed Health Care Facilities, and by Other Persons, Firms, or Corporations Licensed or Registered by the Department*** promulgated by the Department of Health.

3.5 The nursing facility shall maintain sufficient financial resources to provide adequate staffing and supplies to care for the residents.

Safe Resident Handling

3.6 Each licensed nursing facility shall comply with the following as a condition of licensure:

3.6.1 Each licensed nursing facility shall establish a safe patient handling committee, which shall be chaired by a professional nurse or other appropriate licensed health care professional. A nursing facility may utilize any appropriately configured committee to perform the responsibilities of this section. At least half of the members of the committee shall be hourly, non-managerial employees who provide direct resident care.

3.6.2 By July 1, 2007, each licensed nursing facility shall develop a written safe patient handling program, with input from the safe patient handling committee, to prevent musculoskeletal disorders among health care workers and injuries to residents. As part of this program, each licensed nursing facility shall:

3.6.3 By July 1, 2008, implement a safe resident handling policy for all shifts and units of the facility that will achieve the maximum reasonable reduction of manual lifting, transferring, and repositioning of all or most of a resident's weight, except in emergency, life-threatening, or otherwise exceptional circumstances;

a) Conduct a resident handling hazard assessment. This assessment should consider such variables as patient-handling tasks, types of nursing units, resident populations, and the physical environment of resident care areas;

b) Develop a process to identify the appropriate use of the safe resident t handling policy based on the resident's physical and mental condition, the resident's choice, and the availability of lifting equipment or lift teams. The policy shall include a means to address circumstances under which it would be medically contraindicated to use lifting or transfer aids or assistive devices for particular residents;

c) Designate and train a registered nurse or other appropriate licensed health care professional to serve as an expert resource, and train all clinical staff on safe resident handling policies, equipment, and devices before implementation, and at least annually or as changes are made to the safe patient handling policies, equipment and/or devices being used;

d) Conduct an annual performance evaluation of the safe resident handling with the results of the evaluation reported to the safe resident handling committee or other appropriately designated committee. The evaluation shall determine the extent to which implementation of the program has resulted in a reduction in musculoskeletal disorder claims and days of lost work attributable to musculoskeletal disorder caused by resident handling, and include recommendations to increase the program's effectiveness; and

e) Submit an annual report to the safe resident handling committee of the facility, which shall be made available to the public upon request, on activities related to the identification, assessment, development, and evaluation of strategies to control risk of injury to patients, nurses, and other health care workers associated with the lifting, transferring, repositioning, or movement of a resident.

3.6.4 Nothing in this section precludes lift team members from performing other duties as assigned during their shift.

3.6.5 An employee may, in accordance with established facility protocols, report to the committee, as soon as possible, after being required to perform a resident handling activity that he/she believes in good faith exposed the resident and/or employee to an unacceptable risk of injury. Such employee reporting shall not be cause for discipline or be subject to other adverse consequences by his/her employer. These reportable incidents shall be included in the facility's annual performance evaluation.

Section 4.0 ***Application for License or for Changes in Owner, Operator, or Lessee***

4.1 Application for a license to conduct, maintain or operate a nursing facility shall be made in writing and submitted on forms provided by the licensing agency prior to the expiration date for license renewal or prior to the opening date for a new facility.

4.2 A notarized listing of names and addresses of direct and indirect owners whether individual, partnership, or corporation, with percentages of ownership designated, shall be provided with the application for licensure and shall be updated annually. If a corporation, the list shall include all officers, directors and other persons or any subsidiary corporation owning stock.

4.3 Application for changes in the owner, operator, or lessee of a nursing facility shall be made on forms provided by the licensing agency and shall contain but not be limited to information pertinent to the statutory purpose expressed in section 23-17-3 of Chapter 23-17 or to the considerations enumerated in section 5.6 herein. Twenty-five (25) copies of such applications are required to be provided.

4.3.1 Each application filed pursuant the provisions of this section shall be accompanied by a non-returnable, non-refundable application fee, ~~made payable to the Rhode Island General Treasurer, as follows: applicants shall submit a fee equal to two tenths of one percent (0.2%) of the projected annual facility net operating revenue contained in the application; provided, however, that the minimum fee shall be fifteen hundred dollars ($1,500) and the maximum fee shall not exceed twenty thousand dollars ($20,000).~~ as set forth in the *Rules and Regulations Pertaining to the Fee Structure for Licensing, Laboratory and Administrative Services Provided by the Department of Health.*

Section 5.0 ***Issuance and Renewal of License***

5.1 The licensing agency shall issue a license or renewal thereof for a period of no longer than one (1) year. Said license, unless sooner suspended or revoked, shall expire by limitation on the 31st day of December following its issuance and may be renewed from year to year after inspection, and approval by the licensing agency, provided the applicant meets the appropriate requirements of reference 1 and the rules and regulations herein.

5.2 A license shall be issued to a specific licensee for a specific location and shall not be transferable. The license shall be issued to the individual owner, operator or lessee, or to the corporate entity responsible for its governance.

5.2.1 Any initial licensure or change in owner, operator, or lessee of a licensed nursing facility shall require prior review by the Health Services Council and approval of the licensing agency as provided in section 5.5 and section 5.6 as a condition precedent to the transfer, assignment or issuance of a new license.

5.3 A license issued hereunder shall be the property of the state and loaned to such licensee, and it shall be kept posted in a conspicuous place on the licensed premises.

5.4 A distinct part of a nursing facility which is designed, maintained and primarily devoted to the provision of residential care and assisted living in accordance with reference 3 shall obtain a separate license in accordance with the regulatory and statutory requirements of references 3 and 4.

5.5 Reviews of applications for initial licensure or changes in the owner, operator, or lessee of licensed nursing facilities shall be conducted according to the following procedures:

a) Applicants for initial licensure or a change in effective control of a nursing facility shall submit all required information as contained in the application provided by the Department.

b) Within ten (10) working days of receipt, in acceptable form, of an application for a license in connection with an initial licensure or a change in the owner, operator or lessee of an existing

facility, the licensing agency will notify and afford the public thirty (30) days to comment on such application.

c) The decision of the licensing agency will be rendered within ninety (90) days from acceptance of the application for license.

d) The decision of the licensing agency shall be based upon the findings and recommendations of the Health Services Council unless the licensing agency shall afford written justification for variance therefrom.

e) All applications reviewed by the licensing agency and all written materials pertinent to the licensing agency review, including minutes of all Health Services Council meetings, shall be accessible to the public upon request.

5.6 Except as otherwise provided in Chapter 23-17 of the General Laws of Rhode Island, as amended, a review by the Health Services Council of an application for a license in the case of an initial licensure or a proposed change in the owner, operator, or lessee of a licensed nursing facility may not be made subject to any criterion unless the criterion directly relates to the statutory purpose expressed in section 23-17-3 of the General Laws. In conducting reviews of such applications the Health Services Council shall specifically consider and it shall be the applicant's burden of proof to demonstrate:

5.6.1 The character, commitment, competence, and standing in the community of the proposed owners, operators or directors of the facility as evidenced by:

(A) In cases where the proposed owners, operators, or directors of the health care facility currently own, operate, or direct a health care facility, or in the past five years owned, operated or directed a health care facility, whether within or outside Rhode Island, the demonstrated commitment and record of that (those) person(s):

(i) in providing safe and adequate treatment to the individuals receiving the health care facility's services;

(ii) in encouraging, promoting and effecting quality improvement in all aspects of health care facility services; and

(iii) in providing appropriate access to health care facility services;

(B) A complete disclosure of all individuals and entities comprising the applicant; and

(C) The applicant's proposed and demonstrated financial commitment to the health care facility.

5.6.2 The extent to which the facility will continue, without material effect on its viability at the time of change of owner, operator, or lessee, to provide safe and adequate treatment for individuals receiving the facility's services as evidenced by:

(A) The immediate and long term financial feasibility of the proposed financing plan;

(i) The proposed amount and sources of owner's equity to be provided by the applicant;

(ii) The proposed financial plan for operating and capital expenses and income for the period immediately prior to, during and after the implementation of the change in owner, operator or lessee of the health care facility;

(iii) The relative availability of funds for capital and operating needs;

(iv) The applicant's demonstrated financial capability;

(v) Such other financial indicators as may be requested by the state agency;

5.6.3 The extent to which the facility will continue to provide safe and adequate treatment for individuals receiving the facility's services and the extent to which the facility will encourage quality improvement in all aspects of the operation of the health care facility as evidenced by:

(A) The applicant’s demonstrated record in providing safe and adequate treatment to individuals receiving services at facilities owned, operated, or directed by the applicant; and

(B) the credibility and demonstrated or potential effectiveness of the applicant’s proposed quality assurance programs;

5.6.4 The extent to which the facility will continue to provide appropriate access with respect to traditionally underserved populations and in consideration of the proposed continuance or termination of health care services by the facility as evidenced by:

(A) In cases where the proposed owners, operators, or directors of the health care facility currently own, operate, or direct a health care facility, or in the past five years owned, operated or directed a health care facility, both within and outside of Rhode Island, the demonstrated record of that person(s) with respect to access of traditionally underserved populations to its health care facilities; and

(B) The proposed immediate and long term plans of the applicant to ensure adequate and appropriate access to the programs and health care services to be provided by the health care facility;

5.6.5 In consideration of the proposed continuation or termination of health care services by the facility:

(A) The effect(s) of such continuation or termination on access to safe and adequate treatment of individuals, including but not limited to traditionally underserved populations;

5.6.6 And, in cases where the application involves a merger, consolidation or otherwise legal affiliation of two or more health care facilities, the proposed immediate and long term plans of such health care facilities with respect to the health care programs to be offered and health

care services to be provided by such health care facilities as a result of the merger, consolidation or otherwise legal affiliation.

5.7 Subsequent to reviews conducted under sections 5.5 and 5.6 of these regulations, the issuance of a license by the licensing agency may be made subject to any condition, provided that no condition may be made unless it directly relates to the statutory purpose expressed in section 23-17-3 of the Rhode Island General Laws, as amended, or to the review criteria set forth in section 5.6 herein. This shall not limit the authority of the licensing agency to require correction of conditions or defects which existed prior to the proposed change of owner, operator, or lessee and of which notice had been given to the nursing facility by the licensing agency.

Background and Qualifications of the Applicant or Proposed License Holder

5.8 For purposes of this section, applicants must meet a financial threshold that shall include, as a minimum, that the applicant or proposed license holder shall have sufficient resources to operate the nursing facility at licensed capacity for thirty (30) days, evidenced by an unencumbered line of credit, a joint escrow account established with the Department, or a performance bond secured in favor of the state or a similar form of security satisfactory to the Department.

5.9 The Department may also require background information to be submitted relating to any partner, officer, director, manager or member (if member-managed) of the applicant or proposed license holder, or information relating to each person having a beneficial ownership interest of five percent (5%) or more in the applicant or proposed license holder.

5.10 In reviewing information required by sections 5.8 and 5.9 (above)**,** the Department may require the applicant or proposed license holder to file a sworn affidavit substantiating the validity of any submitted information as required by the Department to substantiate a satisfactory compliance history relating to each state or other jurisdiction in which the applicant, proposed license holder or any other person described by sections 5.8 and 5.9 (above) operated a nursing facility at any time during the five-year period preceding the date on which the application is made. The Department shall determine what constitutes a satisfactory compliance history.

5.11 The Department may also require the applicant or proposed license holder to file information relating to the current financial condition of the applicant, proposed license holder or any other person described by sections 5.8 and 5.9 (above) and the history of the financial condition of the applicant, proposed license holder or any other person described by sections 5.8 and 5.9 (above) with respect to a facility operated in another state or jurisdiction at any time during the five-year period preceding the date on which the application is made.

5.12 In addition to the information required to be provided in sections 5.8—5.11 above, the Department shall gather information from state departments and agencies relating to the background and qualifications of the applicant, proposed license holder, or any person having a five percent (5%) or more beneficial ownership interest.

Moratorium on New Initial Nursing Facility Licensed Beds and on Increases to the Licensed Capacity of Existing Nursing Facility Licenses

5.13 Pursuant to section 23-17-44 of the Rhode Island General Laws, as amended, the licensing agency shall issue no new initial licenses for nursing facilities prior to July 1, 2009; provided, however, that: (a) any person holding a previously issued and valid certificate of need as of the date of passage of that section shall be permitted to effect such prior certificate from the licensing agency consistent with such other statutory and regulatory provisions which may further apply; (b) any person holding a nursing facility license may undertake activities to construct and operate a replacement nursing facility with the same or lower bed capacity as is presently licensed provided that such replacement facility may only be licensed upon the otherwise unconditional cessation of operation of the previously licensed nursing facility; and (c) any certificate of need application under active review before the state agency as of January 10, 1996 which application seeks approval of a proposal to establish a new nursing facility or seeks to increase the licensed bed capacity of an existing nursing facility shall continue to be reviewed under all the statutory and regulatory requirements in effect at the time such application was accepted for review by the state agency; and (d) any residential care/assist living facility licensed as of July 1, 1999 pursuant to Chapter 23-17.4 of the Rhode Island General Laws, as amended, may establish a licensed nursing facility through the conversion of residential care/assisted living space within its existing physical plant, provided that (1) the number of nursing facility beds so licensed shall not exceed the lesser of twenty (20) beds or ten percent (10%) of the licensed bed capacity of such residential care/assisted living facility as of July 1, 1999; (2) the total capital expenditures associated with the implementation of such nursing facility shall not exceed five hundred thousand dollars ($500,000); (3) that such nursing facility shall be limited to admitting as residents those persons who are transferring from residency at such resident care/assisted living facility; (4) that such residential care/assisted living facility shall have submitted a certificate of need application to the Department of Health in a form and content acceptable to the Department of Health no later than 4:30 p.m. on October 1, 1999; (5) that such residential care/assisted living facility shall have been granted a certificate of need by the Department of Health; and (6) that such nursing facility shall comply with all of the requirements of the Health Care Certificate of Need Act (Chapter 15 of Title 23) and of the Licensing of Health Care Facilities Act (Chapter 17 of Title 23). All certificate of need applications submitted pursuant to this subsection (d) to the Department of Health in a form and content acceptable to the Department of Health no later than 4:30 p.m. on October 1, 1999 shall be batched and reviewed in the same review cycle.

5.14 Prior to July 1, 2009, the licensing agency shall not increase the licensed bed capacity of any existing licensed nursing facility, including any nursing facility approved for change in ownership, pursuant to section 23-17-14 of the Rhode Island General Laws, as amended, to greater than the level of the facility's licensed bed capacity as of August 21, 1996 plus the greater of ten (10) beds or ten percent (10%) of such licensed bed capacity. Any person holding a previously issued and valid certificate of need as of the date of passage of section 23-17-44 (2) or who shall subsequently be granted a certificate of need pursuant to section 5.8 above shall be permitted to effect such prior certificate from the licensing agency consistent with such other statutory and regulatory provisions which may further apply.

5.15 Notwithstanding any other provision of the law to the contrary, including any moratorium on increasing bed capacity in nursing facilities that may otherwise apply, a nursing facility may take out of service any or all beds of its licensed capacity without impediment to its right to place back into service such beds at a future date under the same terms and conditions as applied at the time of taking them out of service.

5.15.1 "***Take out of service***", as used in this section, means an action by a nursing facility to leave a bed(s) unutilized as a nursing facility bed for a specified period of time. Specified periods of time shall be in six-month increments, at a minimum.

5.15.2 The nursing facility shall inform the licensing agency in writing no less than ten (10) days prior to taking bed(s) out of service and shall describe the alteration of physical space (if any) resulting from taking such bed(s) out of service.

5.15.3 Beds taken out of service shall reduce a nursing facility's licensed bed capacity by the number of beds taken out of service.

Additional Information Required of all Nursing Facilities

5.16 Effective January 1, 2006, any nursing facility applying for initial licensure or renewal of its license that contracts with a management company to assist with the facility's operation shall file a copy of the management contract with the Department including the management fee and, if the management company is a corporation or limited liability company, shall identify every person having an ownership interest of five percent (5%) or more in such corporation or limited liability company and, if the management company is a general partnership or limited partnership, shall identify all general or limited partners of such general partnership or limited partnership.

Section 6.0 ***Capacity and Classifications***

6.1 Each license shall specify the licensed bed capacity of the facility. No facility shall have more residents than the number of beds for which it is licensed.

6.1.1 The facility shall identify to the licensing agency the location of licensed beds and shall maintain proper space and furnishings for such locations.

6.2 Proposed changes in bed capacity within a facility shall be submitted to the licensing agency in writing and shall be subject to the approval of the licensing agency in accordance with the provisions of reference 5.

Section 7.0 ***Change of Ownership, Operation and/or Location***

7.1 When a change of ownership, as defined in the rules and regulations pursuant to reference 5, or in operation or location of a facility or when discontinuation of services is contemplated the owner and/or operator shall notify the licensing agency in writing no later than six (6) weeks prior to the proposed action.

7.2 A license shall immediately become void and shall be returned to the licensing agency when operation of the facility is discontinued, or when any changes in ownership occur in accordance with appropriate certificate of need rules and regulations.

a) When there is a change in ownership as defined in the certificate of need rules and regulations or in the operation or control of an existing facility, the licensing agency reserves the right to extend the expiration date of such license, allowing the facility to

operate under the same conditions which applied to the prior operator, for such time as shall be required for the processing of a new application or for transfer of residents, not to exceed six (6) weeks.

7.3 Thirty (30) days prior to voluntary cessation of any facility license, the resident, his/her guardian or decision-maker, and the Department of Health shall be notified. The facility shall provide the Department with a plan for orderly closure, and transfer of residents and records.

7.3.1 In the event that a facility seeks a variance from the required thirty (30) day notice of closure of the facility, reasonable advance notice of the hearing for the variance shall be given by the facility to the resident, his or her guardian, or relative so appointed or elected to be his or her decision-maker, and an opportunity to be present at the hearing shall be granted to the person so designated.

7.3.2 In the event of the voluntary closure of a facility, which closure is the result of a variance from the required thirty (30) day notice of closure, granted by the Director, reasonable advance notice of the closure shall be given by the facility to the resident, his or her guardian, or relative so appointed or elected to be his or her decision-maker.

7.4 Any nursing facility with any significant changes in its management contract shall submit a copy of the revised management contract to the Department within thirty (30) days of the effective date of the new contract provisions.

Section 8.0 ***Inspections***

8.1 The licensing agency shall make such inspections and investigations as deemed necessary and in accordance with references 1 and 5 and the regulations herein. Such inspections shall apply to all nursing facilities licensed under 23-17 and shall apply to all residents housed therein without regard to source of payment.

8.2 A duly authorized representative of the licensing agency shall have the right to enter at any time without prior notice to inspect the entire premises and services, including all records of any facility for which an application has been received or for which a license has been issued. Any application shall constitute permission for and willingness to comply with such inspections. The duly authorized representative shall provide necessary identification information and shall sign the log or journal of the nursing facility provided in accordance with reference 7.

8.3 Refusal to permit inspections shall constitute a valid ground for license revocation.

8.4 Every nursing facility shall be given prompt notice by the licensing agency of all deficiencies reported as a result of an inspection or investigation and in accordance with the procedures incorporated in references 1 and 6.

8.5 Written reports and recommendations of inspections and inspection logs or journals shall be maintained on file in each facility for a period of no less than three years.

Section 9.0 ***Denial, Suspension, Revocation of License or Curtailment of Activities & Sanctions***

9.1 The licensing agency is authorized to deny, suspend, revoke the license, or curtail the activities of any nursing facility which: (1) has failed to comply with the rules and regulations pertaining to licensing of nursing facilities; (2) has aided, abetted or permitted any illegal act or conduct adverse to the health, welfare and safety of residents or of the general public; or (3) has failed to comply with municipal, state or federal law.

a) Lists of deficiencies noted in inspections conducted in accordance with section 8.0 herein shall be maintained on file in the licensing agency, and shall be considered by the licensing agency in rendering determinations to deny, suspend or revoke the license of a nursing facility or to curtail its activities.

9.2 In those instances wherein the licensing agency determines that a nursing facility licensed in accordance with reference 1 is not being operated in conformity with all of the requirements established thereby, the licensing agency may (in lieu of suspension or revocation) curtail activities of the facility, order the licensee to be placed on probationary status and set conditions with which the licensee must comply within a set period of time, order the licensee to admit no additional persons to the facility, to provide health services to no additional persons through the facility, to transfer all or some of the persons occupying the facility to other suitable accommodations, or to take any other corrective action necessary to secure compliance with the requirements established under the Act. Notice of the order and any subsequent hearing that may be scheduled shall comply with the requirements of procedural due process stipulated in section 23-17-8 of the Rhode Island General Laws, as amended. Such action may be taken only when the licensing agency determines that operation of the home shall not result in undue hardship to residents.

a) Notice of an order to curtail any or all activities of a nursing facility in accordance with section 9.2 herein shall be made in writing by certified mail and shall state the reason thereof, the action to be taken by the licensee and the time within which said action shall be taken.

9.3 When the licensing agency deems that operation of a nursing facility results in undue hardship to residents as a result of deficiencies enumerated in the notice of deficiencies, the licensing agency is authorized to deny licensure to facilities not previously licensed, or to suspend the license for a stipulated period of time or to revoke the license of a facility already licensed.

9.4 Whenever an action shall be proposed to deny, suspend or revoke the license or curtail activities of a licensee, the licensing agency shall notify the nursing facility by certified mail (or may be hand delivered), setting forth reasons for the proposed action, and the applicant or licensee shall be given an opportunity for a prompt and fair hearing in accordance with reference 20.

a) However, if the licensing agency finds that public health, safety, or welfare, including the health and safety of residents, imperatively requires emergency action and incorporates a finding to that effect in its order, the licensing agency may order summary suspension of license pending proceedings for revocation or other action.

9.5 The appropriate state and federal placement and reimbursement agencies shall be notified of any action taken by the licensing agency pertaining to either denial, suspension or revocation of license or curtailment of activities of any facility.

9.6 ***SANCTIONS:*** The licensing agency may take appropriate action from within the following array for dealing with violations of references 1 and 5 or of the rules and regulations herein.

a) As a result of denial, the rights and privileges attendant upon licensure will not accrue to a facility.

b) As a result of an order to curtail any or all activities of a nursing facility, a licensee may be ordered to admit no additional persons to said home, and/or transfer to other suitable accommodations all or some of the residents residing in said home, and/or take any other corrective action necessary to secure compliance with the requirements established by reference 1 and the rules and regulations herein.

c) As a result of suspension, a facility shall be restrained from admitting any residents during the period of suspension and shall be required to transfer all residents to another facility during the period of suspension. The difference between suspension and revocation of license is essentially a temporal one, such that the sanctions imposed as a result of suspension are so imposed until such time as the deficiency is corrected or until such other time as the licensing agency determines, whereas the sanctions imposed as a result of revocation are considered to be permanent and re-application for license would be necessary.

d) As a result of license revocation, a facility loses all rights and privileges related to licensure and will be required to transfer all residents, will be restrained from admitting any residents and will be subject to prosecution for operation without a license if the foregoing actions are not accomplished.

9.7 In accordance with the requirements of section 23-17-12.3 of the Rhode Island General Laws, as amended, every person including a controlling person, or corporation who shall willfully and continually violate the provisions of sections 23-17-12 -- 23-17-12.2 of the Rhode Island General Laws, as amended, will be subject to a fine up to three hundred dollars ($300) for each violation of these sections.

Adverse Change in Financial Condition

9.8 Whenever the Department, or the Department in consultation with the Rhode Island Department of Human Services, determines that a nursing facility's financial status is of concern and determines, through inspection of the facility or investigation of a complaint, that incident(s), event(s) or patterns of care exist that harm or have the potential to result in harm or danger to the residents of a facility, the Departments, acting jointly, shall convene a meeting, as soon as possible but in no event later than ten (10) days after the finding(s) cited above, with the license holder to communicate the state's concerns with respect to the operation of the facility. The license holder shall be given the opportunity to respond to the state's concerns and to offer explanation as to why the concerns are not valid or accurate.

9.9 In the event that the explanation provided by the license holder is not found by the Department to be adequate or otherwise satisfactory, the Department shall direct the license holder to prepare and submit, within ten (10) days of the meeting cited above, or for good cause shown no later than twenty (20) days after said meeting, a plan of correction and remediation for the Department's review and approval, including, but not limited to, the following elements:

1) Specific targeted improvements;

2) Definite deadlines for accomplishing those targeted improvements;

3) Measurable standards that will be used to judge whether the targeted improvements have been accomplished;

4) A spending plan that supports all costs associated with accomplishment of the targeted improvements;

5) Monthly reporting of cash availability, the status of vendor payments and employee payrolls, and staffing levels, as metrics concerning financial status and quality of care; and

6) With regard to concerns regarding resident care, and if directed by the Department, a proposal to engage an independent quality monitor or independent quality consultant, to work, in consultation with the facility administrator and medical director, the implementation of the plan of correction and remediation, and to provide progress updates to the Department of Health.

9.10 Whenever a facility's financial status is determined to be marginal, the Department shall cause such a facility to be inspected in order to determine if financial problems are causing the facility to be out of compliance with nursing facility regulatory standards.

9.11 Whenever a facility is determined to be having severe financial difficulties, the Department shall cause the facility to have more frequent inspections and the Director may, at the facility's expense:

1) Appoint an independent consultant to review the facility's management and financial status and make recommendations to improve the facility's financial status; or

2) Require the hiring of a temporary manager of the facility's operations.

9.12 With the exception of the plan of correction and remediation, as allowed in section 9.13 below, the information obtained by the Department under this section is confidential and is not subject to disclosure under § 38-2-2 of the Rhode Island General Laws, as amended, "Access to Public Records." However, upon request, the Department shall release the information to the following who shall treat the information as confidential:

1) The facility;

2) A person other than the facility if the facility consents in writing to the disclosure;

3) The state Medicaid agency responsible for rate setting of nursing facilities;

4) The state long-term care ombudsman; or

5) The Department of Attorney General.

9.13 Within ten (10) days, or twenty (20) days for good cause shown, of the submission of the plan of correction and remediation by the facility, the Department shall either:

a) Accept the plan, at which time it shall be considered to be a public record, and the

facility shall make it, and all reports that follow and are related to it, available for public inspection, and shall provide a written summary of the plan to each resident of the facility or his or her legal representative, and each resident's family representative;

b) Conditionally accept the plan with modifications made by the Department, at which time the plan shall be considered to be a public record and the facility shall make it, and all reports that follow and are related to it, available in accordance with subsection a) above; or

c) Reject the plan, at which time all records acquired in accordance with this section that do not violate resident confidentiality shall be considered to be a public record, and a notice of said plan rejection shall be sent, along with directions on obtaining the complete record to each resident of the facility or his or her legal representative and each resident's family representative.

9.14 The provisions in section 9.11 herein relating to the confidentiality of records do not apply:

1) To a facility whose license has been revoked or suspended;

2) To the use of the information in an administrative proceeding initiated by the Department, including implementing enforcement actions, and in judicial proceedings relating thereto.

9.15 These regulations adopt by reference the regulations that incorporate the criteria to measure financial status as shall be promulgated by the Department of Human Services pursuant to § 40-8-19.1 of the Rhode Island General Laws, as amended.

PART II *Organization and Management*

Section 10.0 *Governing Body or Other Legal Authority*

10.1 Each facility shall have an organized governing body or other legal authority, responsible for:

a) the management and fiduciary control of the operation and maintenance of the facility; and

b) the conformity of the facility with all federal, state and local rules and regulations relating to fire, safety, sanitation, communicable and reportable diseases, resident quality of care and quality of life, and other relevant health and safety requirements and with all rules and regulations herein.

c) the administration of a policy of non-discrimination in the provision of services to residents and the employment of persons without regard to race, color, creed, national origin, gender, religion, sexual orientation, age, handicapping condition or degree of handicap, in accordance with Title VI of the Civil Rights Act of 1964; U.S. Executive Order #11246 entitled "Equal Employment Opportunity", U.S. Department of Labor regulations; Title V of the Rehabilitation Act of 1973, as amended; the Rhode Island Fair Employment Practices Act, Rhode Island General Laws Chapter 28-5-1 *et seq*.; the Americans with Disabilities Act; and any other federal or state laws relating to discriminatory practices.

10.2 The governing body or other legal authority shall provide facilities, personnel and other resources necessary to meet resident and program needs and also:

a) describe the structure of the facility's governing body, including functional and staff organizational charts;
b) provide names and affiliations of members of the facility's governing body;
c) provide a copy of the organization's charter, constitution and/or by-laws.

10.3 The governing body or other legal authority shall designate a licensed administrator in accordance with reference 8 and shall establish by-laws or policies to govern the organization of the facility, to establish authority and responsibility, to identify program goals, and to provide for an annual evaluation of administrator performance.

10.4 The governing body or other legal authority shall adopt a written policy statement relating to conflict of interest on the part of members of the governing body receiving financial gain from ownership, medical staff and employees who may influence corporate decisions.

10.5 The governing body or other legal authority, through the administrator, shall be responsible for the procurement of a sufficient number of trained, experienced and competent personnel to provide appropriate care and supervision for all residents and to ensure that their personal needs are met.

Section 11.0 *Quality Improvement Program*

11.1 Pursuant to section 23-17-12.11 of the Rhode Island General Laws, as amended, each licensed nursing facility shall develop and implement a quality improvement program and establish a quality improvement committee. The governing body shall ensure that this program is effective, ongoing, facility-wide and shall have a written plan of implementation.

11.2 Each licensed nursing facility shall designate a qualified individual, who shall be determined by the facility's administrator, to coordinate and manage the nursing facility's quality improvement program.

11.3 The nursing facility's quality improvement committee shall include at least the following members:

- The nursing facility administrator;
- The director of nursing;
- The medical director;
- A social worker; and
- A representative of dietary services.

11.4 The quality improvement committee shall meet at least quarterly; shall maintain records of all quality improvement activities; and shall keep records of committee meetings that shall be available to the Department during any on-site visit.

11.5 The quality improvement committee for a nursing facility shall annually review and approve the quality improvement plan for the nursing facility. Said plan shall be available to the public upon request.

11.6 Each nursing facility shall establish a written quality improvement plan that shall be reviewed by the Department during the facility's annual survey and that includes:

a) program objectives;
b) oversight responsibility (e.g., reports to the governing body);
c) facility-wide scope;
d) involvement of all resident care disciplines/services; and
e) provides criteria to monitor nursing care, including medication administration;
f) prevention and treatment of decubitus ulcers;
g) dehydration, and nutritional status and weight loss or gain;
h) accidents and injuries;
i) unexpected deaths;
j) changes in mental or psychological status; and
k) any other data necessary to monitor quality of care;
l) and includes methods to identify, evaluate, and correct problems.

11.7 All resident care services, including services rendered by a contractor, shall be evaluated.

11.8 The facility shall take and document appropriate remedial action to address problems identified through the quality improvement program. The nursing facility administrator shall take appropriate remedial actions based on the recommendations of the nursing facility's quality improvement committee. The outcome(s) of the remedial action shall be documented and

submitted to the governing body for their consideration.

11.9 The Director may not require the quality improvement committee to disclose the records and the reports prepared by the committee except as necessary to assure compliance with the requirements of this section.

11.10 Good faith attempts by the quality improvement committee to identify and correct quality deficiencies will not be used as a basis for sanctions.

11.11 If the Department determines that a nursing facility is not implementing its quality improvement program effectively and that quality improvement activities are inadequate, the Department may impose sanctions on the nursing facility to improve quality of resident care including mandated hiring of, directly or by contract, an independent quality consultant acceptable to the Department.

Health Care Quality Program

11.12 All nursing facilities licensed under Chapter 23-17 of the Rhode Island General Laws, as amended, shall meet all applicable requirements of the ***Rules and Regulations Related to the Health Care Quality Program (R23-17.17-QUAL)*** promulgated by the Department.

Section 12.0 ***Administrator***

12.1 Every facility shall have a full-time administrator licensed in accordance with reference 8, who shall be directly responsible to the governing body or other legal authority for its management and operation, and shall provide liaison between the governing body, medical and nursing staff and other professional staff.

a) When the administrator does not spend full-time in the facility, a substitute shall be designated only with the approval of the licensing agency.

b) In the absence of the administrator, a person shall be designated or authorized in writing, as a substitute on an interim basis.

c) A substitute must be licensed in Rhode Island as a nursing home administrator.

12.2 The administrator shall be responsible to ensure that services required by residents shall be available on a regular basis and provided in an appropriate environment in accordance with established policies.

12.3 The administrator shall be responsible for maintaining accurate time records on all personnel and for posting the work schedule of all direct resident care personnel on a weekly basis. Time records shall be retained by the facility for no less than three years.

12.4 Health care facilities shall provide the licensing agency with prompt notice of pending and actual labor disputes/actions which would impact delivery of patient care services including, but not limited to, strikes, walk-outs, and strike notices. Health care facilities shall provide a plan, acceptable to the Director, for continued operation of the facility, suspension of operations, or closure in the event of such actual or potential labor dispute/action.

12.5 The licensing agency shall be notified of any change of the administrator of a facility.

Section 13.0 ***Medical Director and Attending Physicians***

13.1 The governing body or other legal authority shall designate a physician to serve as medical director. The medical director shall be a physician licensed to practice in Rhode Island in accordance with the provisions of reference 27 herein. Upon appointment, the name of the medical director shall be submitted to the Department. Each time a new medical director is appointed, the name of said physician shall be reported promptly to the Department. The medical director's Rhode Island medical license number, medical office address, telephone number, emergency telephone number, hospital affiliation and other credentialing information shall be maintained on file at the facility and updated as needed.

Duties and Responsibilities of the Medical Director

13.2 Responsibilities of the medical director shall include, but not be limited to:

a) coordination of medical care in the facility,
b) ensuring completion of employee health screening and immunization requirements contained in sections 14.11 and 14.12 herein.
c) the implementation of facility policies and procedures related to the medical care delivered in the facility;
d) physician and advanced practice practitioner credentialing;
e) practitioner performance reviews;
f) employee health including infection control measures;
g) evaluation of health care delivery, including oversight of medical records and participation in quality improvement;
h) provision of staff education on medical issues;
i) participation in state survey process, including the resolution of deficiencies, as needed.

13.3 The medical director, charged with the aforementioned duties and responsibilities for the delivery of medical care in the nursing facility, shall be immune from civil or criminal prosecution for reporting to the Board of Medical Licensure and Discipline the unprofessional conduct, incompetence or negligence of a nursing facility physician or limited registrant; provided, that the report, testimony, or other communication was made in good faith and while acting within the scope of authority conferred by this section.

13.4 The administrator shall notify the medical director immediately when any enforcement order as described in section 9.0 herein is issued by the Department or when the administrator is notified of any Medicare/Medicaid certification enforcement action. The administrator shall provide copies of all statements of deficiencies and related plans of correction to the medical director in a timely fashion.

13.5 The medical director shall attend the quarterly quality assurance/improvement meetings, as required in section 10.7 (d) herein. The administrator, or his/her designee, shall provide the medical director with adequate notice of the quarterly quality assurance/improvement meeting.

13.6 Each nursing facility shall maintain an active file of all physicians attending residents for any reason(s), including their phone numbers and addresses, an emergency phone number, their current medical license numbers, and the physician's preferred admitting hospital. This file of physicians shall be revised and updated, as needed, but no less than annually.

13.7 The governing body or other legal authority shall make available to each physician attending residents in the facility all of the policies governing resident care management and services.

Section 14.0 ***Personnel***

Criminal Records Check

14.1 Pursuant to section 23-17-34 of the General Laws, any person seeking employment in a nursing facility, hired after July 21, 1992, and having routine contact with a resident without the presence of other employees, shall be subject to a criminal background check, to be initiated prior to, or within one week of employment.

14.2 Said employee through the employer shall apply to the bureau of criminal identification of the state or local police department for a statewide criminal records check. Fingerprinting shall not be required as part of this check.

14.3 In those situations in which no disqualifying information has been found, the bureau of criminal identification (BCI) of the state or local police shall inform the applicant and the employer in writing.

14.4 Any disqualifying information, as defined below, according to the provisions of section 23-17-34 of the General Laws, will be conveyed to the applicant in writing, by the bureau of criminal identification. The employer shall also be notified that disqualifying information has been discovered, but shall not be informed by the BCI of the nature of the disqualifying information.

14.4.1 ***Disqualifying information***, as defined in Chapter 23-17-37 of the Rhode Island General Laws, as amended, means information produced by a criminal records review pertaining to conviction, for the following crimes will result in a letter to the employee and employer disqualifying the applicant from said employment: murder, voluntary manslaughter, involuntary manslaughter, first degree sexual assault, second degree sexual assault, third degree sexual assault, assault on persons sixty (60) years of age or older, child abuse, assault with intent to commit specified felonies (murder, robbery, rape, burglary, or the abominable and detestable crime against nature), felony assault, patient abuse, neglect or mistreatment of patients, burglary, first degree arson, robbery, felony drug offenses, larceny or felony banking law violations.

14.5 The employer shall maintain on file, subject to inspection by the Department of Health, evidence that criminal records checks have been initiated on all employees seeking employment after July 21, 1992 as well as the results of said check. Failure to maintain this evidence shall be grounds to revoke the license or registration of the employer.

14.6 If an applicant has undergone a statewide criminal records check within eighteen (18) months of an application for employment, then an employer may request from the bureau a letter indicating if any disqualifying information was discovered. The bureau will respond without disclosing the nature

of the disqualifying information. This letter may be maintained on file to satisfy the requirements of Chapter 23-17-34.

14.7 An employee against whom disqualifying information has been found may request that a copy of the criminal background report be sent to the employer who shall make a judgment regarding the continued employment of the employee.

Policies and Procedures

14.8 Each nursing facility shall maintain and implement written personnel policies and procedures supporting sound resident care and personnel practices. Such policies shall be reviewed annually and updated as necessary.

Job Descriptions

14.9 There shall be a job description for each classification of position which delineates qualifications, duties, authority and responsibilities inherent in each position.

a) For those selected non-licensed personnel authorized to administer drugs in accordance with section 25.9 herein, a job description delineating qualifications, duties and responsibilities shall be provided.

Health Screening

14.10 Upon hire and prior to delivering services, a pre-employment health screening shall be required for each individual who has or may have direct contact with a resident in the nursing facility. Such health screening shall be conducted in accordance with *the Rules and Regulations Pertaining to Immunization, Testing, and Health Screening for Health Care Workers (R23-17-HCW)* promulgated by the Department of Health.

14.11 ***Influenza: Long term care employee immunization:*** Except as provided in subsection v (below), every facility in this state shall request that employees receive yearly immunization for influenza virus in accordance with Chapter 23-17.19 of the Rhode Island General Laws, as amended.

Employee Immunization

i. ***Notice to employees****:* Every facility shall notify every employee of the immunization requirements of the provisions of Chapter 23-17.19 of the Rhode Island General Laws, as amended, and request that the employee agree to be immunized against influenza virus.

ii. ***Records and immunizations:*** The facility shall require documentation of annual immunization against influenza virus for each employee, which includes written evidence from a health care provider indicating the date and location the vaccine was administered. Upon finding that an employee is lacking such immunization or the facility or individual is unable to provide documentation that the individual has received the appropriate immunization, the facility shall make available the immunization.

iii. ***Other immunizations:*** An individual who is newly employed as an employee shall have

his status for influenza determined by the facility, and, if found to be deficient, the facility shall make available the necessary immunization.

iv. ***Exceptions:*** No employee shall be required to receive the influenza vaccine if any of the following apply:

1) The vaccine is contraindicated;
2) It is against his/her religious beliefs; or
3) The person refuses the vaccine after being fully informed of the health risks of that action.

Personnel Records

14.12 Personnel records shall be maintained for each employee, shall be available at all times for inspection and shall include no less than the following:

a) current and background information covering qualifications for employment;

b) records of completion of required training and educational programs;

c) records of all required health examinations which shall be kept confidential and in accordance with reference 17;

d) evidence of current registration, certification or licensure of personnel subject to statutory regulation;

e) annual work performance evaluation records; and

f) evidence of authorization to administer drugs for selected non-licensed personnel in accordance with section 25.9 herein.

In-Service Education

14.13 An in-service educational program shall be conducted on an ongoing basis, which shall include an orientation program for new personnel and a program for the development and improvement of skills of all personnel. The in-service program shall be geared to the needs of the aged and shall include annual programs on prevention and control of infection, food services and sanitation, fire prevention and safety, confidentiality of resident information, rights of residents and any other area related to resident care.

14.13.1 Provision shall be made for written documentation of programs, including attendance. Flexible program schedules shall be formulated at least two (2) months in advance.

Photo Identification

14.14 A health care facility shall require all persons, including students, and as directed by the nursing facility, who examine, observe, treat or assist a patient or resident of such facility to wear a photo

identification badge which states, in a reasonably legible manner, the first name, licensure/registration status, if any, and staff position of such person. This badge shall be worn in a manner that makes the badge easily seen and read by the resident or visitor.

Licensure Verification

14.15 For every person employed by the nursing facility who is licensed, certified, or registered by the Department, a mechanism shall be in place to electronically verify such licensure via the Department's licensure database.

Section 15.0 ***Handling of Resident Fund***

15.1 Any assignment of residents' property either by contractual agreement or by transfer of real estate, bank accounts or insurance benefits, must be reported together with the terms of the assignment to the residents' guardian, next of kin, sponsoring agency(ies) or representative payor and to the licensing agency.

15.2 Each operator of a nursing facility acting or intending to act as fiduciary agent for a resident is required to have written revocable authorization from any resident so served. The certification will attest to the resident's understanding of the significance of his action and will be required to be on file for inspection by authorized surveyors of the licensing agency.

15.3 The operator shall maintain adequate safeguards and accurate records of each resident's monies and valuables and shall provide at least quarterly, and on request, accounting in accordance with section 19.16 herein. Such records shall be available for inspection.

15.4 In addition to requirements of sections 15.1 through 15.3 above, each facility shall conform to the standards of reference 13 in relation to Title XIX residents.

Section 16.0 ***Reporting of Resident Abuse or Neglect, Accidents & Death***

16.1 Any physician, nurse or other employee of a nursing facility who has reasonable cause to believe that a resident has been abused, exploited, mistreated, or neglected shall make within 24 hours or by the end of the next business day of the receipt of said information, a report to the licensing agency (Office of Facilities Regulation). Any person required to make a report pursuant to this section shall be deemed to have complied with these requirements if a report is made to a high managerial agent. Once notified, the administrator or the director of nursing services shall be required to meet the above reporting requirements.

a) All reports, as required herein, shall be provided to the licensing agency (Office of Facilities Regulation) in writing via facsimile on the form supplied in Appendix “E” herein. A copy of each report shall be retained by the facility for review during subsequent inspections by the licensing agency.

b) The facility shall maintain evidence that all allegations of abuse, neglect, and/or mistreatment have been thoroughly investigated and that further potential abuse has been prevented while the investigation is in progress. Appropriate corrective action shall be taken, as necessary. The results of said investigation shall be reported to the licensing agency within five (5) business days.

16.2 Accidents resulting in:

1. hospitalization; or
2. death in the nursing facility; or
3. death in the hospital following the accident;

of any resident shall be reported in writing to the licensing agency before the end of the next working day or in a follow-up report in the event of item #3 (above). A copy of each report shall be retained by the facility for review during subsequent surveys.

16.3 The death of any resident of a nursing facility occurring within 24 hours of admission or prior to the performance of a physical examination in accordance with section 23.3 (c) herein, shall be reported to the Office of the State Medical Examiners.

16.4 In addition, all resident deaths occurring within a nursing facility which are sudden or unexpected, suspicious or unnatural, the result of trauma, remote or otherwise or when unattended by a physician shall be reported to the facility medical director and to the Office of the State Medical Examiners in accordance with Title 23, Chapter 4 of the General Laws of Rhode Island, as amended.

16.5 Reporting requirements, pursuant to Chapter 23-17.8 of the General Laws must be posted.

Section 17.0 ***Medical Records***

17.1 A medical record shall be established and maintained for every person admitted to a facility in accordance with accepted professional standards and practices. The administrator shall have ultimate responsibility for the maintenance of medical records; such responsibility may be delegated in writing to a staff member.

17.2 Entries in the medical record relating to treatment, medication, diagnostic tests and other similar services rendered shall be made by the responsible persons at the time of administration. Only physicians shall enter or authenticate medical opinions or judgment.

a) All accidents, including falls, whether resulting in an injury or not, shall be immediately recorded in the resident's record.

b) Detailed descriptions of all pressure ulcers, or other skin lesions, shall be recorded in the resident's record.

17.3 Each medical record shall contain sufficient information to identify the resident and to justify diagnosis, treatment, care and documented results and shall include as deemed appropriate:

a) identification data;

b) pre-admission screening including mental status {or PASARR (Pre-Admission Screening and Annual Resident Review), where appropriate};

c) medical history;

d) plan of care and services provided;

e) physical examination reports;

f) admitting diagnosis;

g) diagnostic and therapeutic orders;

h) consent forms;

i) physicians' progress notes and observations;

j) nursing notes;

k) medication and treatment records, including any immunizations;

l) laboratory reports, X-ray reports, or other clinical findings;

m) consultation reports;

n) documentation of all care and services rendered (e.g., dental reports, physical and occupational therapy reports, social service summaries, podiatry reports, inhalation therapy reports, etc.);

o) resident referral forms;

p) diagnosis at time of discharge; and

q) disposition and final summary notes.

17.4 At time of discharge, a discharge summary, summarizing the resident's stay, shall be completed promptly and signed by the attending physician.

17.5 Medical records of discharged residents shall be completed within a reasonable period of time (not to exceed sixty (60) days) with all clinical information pertaining to the resident's stay made part of the resident's medical record.

17.6 Confidentiality of medical records shall be governed by the provisions of reference 17 and the following;

a) Only authorized personnel shall have access to the records.

b) The facility shall release resident's medical information only with the written consent of the resident, parent, guardian or legal representative in accordance with reference 17.

17.7 Provisions shall be made for the safe storage of medical records to safeguard them against loss, destruction or unauthorized use.

17.8 All medical records, either original or accurately reproduced, shall be preserved for a minimum of five (5) years following discharge or death of the resident in accordance with reference 9.

a) Medical records of minors, however, shall be kept for at least five (5) years after such minor would have reached the age of eighteen (18) years.

17.9 The medical records of all residents shall be opened for inspection to duly authorized representatives of the licensing agency whose duty it is to enforce the regulations herein consistent with section 19.15 (a) herein.

a) Information contained in medical records gathered and collected for the purpose of enforcing these regulations is confidential in nature and shall not be publicly disclosed by any person obtaining such information by virtue of his office, unless by court order or as otherwise required by law.

Section 18.0 ***Transfer Agreements, Contracts, or Agreements***

18.1 The facility shall have in effect transfer agreements with one or more hospitals for the provision of hospital care or other hospital services to be made available promptly to the residents of the facility, as needed. The written transfer agreement shall ensure:

a) timely transfer or admission of residents between the hospital and the facility, whenever deemed medically appropriate in writing by a physician;

b) interchange of medical and other information necessary or useful in the care and treatment of residents transferred or to determine the kind of care the resident requires that includes, but is not limited to the following:

i. clear statement of the reason(s) resident is being transferred to the hospital or for consultation;

ii. name of resident, address, insurance status;

iii. name of attending physician and his/her telephone number;

iv. resident's next-of-kin and his/her telephone number;

v. name of contact staff person at the facility;

vi. list of all diagnoses and complaints;

vii. list of all current medications;

viii. recent x-ray reports and laboratory reports, as applicable;

ix. existence of any advance directives;

x. any additional information as cited in the "Continuity of Care" form ("Long Form") available from the Department; and

c) security and accountability for the resident's personal effects during transfer.

18.2 Designated nursing facility personnel shall complete the “Continuity of Care” form ("Short Form") approved by the Department for each resident who is discharged to another health care facility, such as a hospital, or who is discharged home with follow-up home care required. Said form shall be provided to the receiving facility or agency prior to or upon transfer of the resident.

18.3 If the facility does not employ full-time qualified professional personnel to render required services, or obtains services from an outside source, arrangements for such services shall be made through written agreements or contracts.

a) The responsibilities, functions, objectives, terms of agreement, financial arrangements, charges and other pertinent requirements shall be clearly delineated in the terms of any contract negotiated by a facility.

b) All contracts or agreements negotiated by a facility shall be consistent with the policies established in accordance with section 10.4 concerning conflict of interest.

c) Each consultant or outside source providing services to a facility shall submit monthly reports as services are provided. Said reports and contracts shall be kept on file for inspection for a period of no less than three (3) years.

Financial Interest Disclosure

18.4 Any health care facility licensed pursuant to Chapter 23-17 of the Rhode Island General Laws, as amended, which refers clients/residents to another such licensed health care facility or to a residential care/assisted living facility licensed pursuant to Chapter 23-17.4 of the Rhode Island General Laws, as amended, or to a certified adult day care program in which the referring entity has a financial interest shall, at the time a referral is made, disclose in writing the following information to the client/resident: (1) that the referring entity has a financial interest in the facility or provider to which the referral is being made; (2) that the client/resident has the option of seeking care from a different facility or provider which is also licensed and/or certified by the state to provide similar services to the client/resident.

18.5 The referring entity shall also offer the client/resident a written list prepared by the Department of Health of all such alternative licensed and/or certified facilities or providers. Said written list may be obtained by contacting:

Rhode Island Department of Health, Office of Facilities Regulation
3 Capitol Hill, Room 306
Providence, RI 02908
401.222.2566

18.6 Non-compliance with sections 18.4 and 18.5 (above) shall constitute grounds to revoke, suspend or otherwise discipline the licensee or to deny an application for licensure by the Director, or may result in imposition of an administrative penalty in accordance with Chapter 23-17.10 of the Rhode Island General Laws, as amended.

Section 19.0 ***Rights of Residents***

19.1 As part of the procedure for admission of a resident to a nursing facility a written contract shall be entered into between the said resident or his next of kin or legal representative and the nursing facility and the following rules shall be observed in accordance with reference 24.

19.2 Each resident shall be offered treatment without discrimination as to gender, age, race, color, religion, national origin, handicap, or source of payment.

19.3 Each resident shall be treated and cared for with consideration, respect and dignity and shall be afforded his right to privacy to the extent consistent with providing adequate medical care and with efficient administration.

19.4 Each resident shall have the right to choose his or her own physician subject to the physician's concurrence.

19.5 Each resident or responsible party shall be fully informed, as evidenced by the resident's written acknowledgment, prior to or at the time of admission or during stay, of all rules and regulations and policies pertaining to rights of residents and governing resident conduct and responsibilities.

19.6 Each resident or responsible party shall be informed in writing, prior to, or at the time of admission and during stay, of services available and of related charges including all charges not covered either under federal and/or state programs by other third party payers or by the facility's basic per diem rate.

19.7 Each resident admitted to a facility shall be and remain under the care of a physician as specified in policies adopted by the governing body.

a) Each resident shall be informed by a physician of his medical condition unless medically contraindicated, (as documented by a physician in his medical record), and shall participate in the planning and selection of his medical treatment and care.

19.8 If it is proposed that a resident be used in any human experimentation project, the resident shall first be thoroughly informed in writing of such proposal and shall be offered the right to refuse to participate in such project. A resident who, after being thoroughly informed, wishes to participate must execute a written statement of informed consent. The informed consent documentation shall be maintained on file in the facility.

19.9 Residents shall be encouraged and assisted to voice their grievances through a documented grievance mechanism established by the facility, involving residents, staff and relatives of residents, which will insure resident's freedom from restraints, interference, coercion, discrimination or reprisal.

19.9.1 There shall be prompt efforts by the facility staff to resolve resident's grievances.

19.10 Residents shall not be subject to mental and physical abuse and shall be free from chemical and (except in emergencies) physical restraints.

a) Restraining devices are generally prohibited. A controlling device to be used for the protection of the resident may be utilized only as prescribed in writing and signed by a physician. The length of time, the purpose and the kind of restraint shall be specified in the physician's order.

b) If after a trial of less restrictive measures, the facility decides that a physical restraint would enable and promote greater functional independence, then the use of the restraining device must first be explained to the resident, family member, or legal representative, and if the resident, family member or legal representative agrees to this treatment alternative, then the restraining device may be used for the specific periods for which the restraint has been determined to serve the purpose defined above. This does not allow the use of restraints for convenience sake.

c) The restraining device must be authorized by the physician for use for specific periods for which the restraint has been determined to serve the purpose defined in paragraph b) above. This does not allow the use of restraints for convenience sake.

19.11 A resident shall not be required to perform services for the facility that are not included for therapeutic purposes in his plan of care.

19.12 Residents may meet with and participate in activities of social, religious and community groups at their discretion unless medically contraindicated per written medical order.

19.13 Residents may associate and communicate privately with persons of their choice and shall be allowed freedom and privacy in sending and receiving mail.

a) Posted reasonable visiting hours must be maintained in each home, with a minimum of four hours daily. The facility must provide immediate access to residents by properly identified appropriate government personnel, family members, physicians, and relatives. However, the resident reserves the right to refuse visitation by any of the aforementioned.

b) i. All health care providers, as licensed under the provisions of Chapter 29 or 37 of Title 5 and all health care facilities, as defined in section 23-17-2(5) of the Rhode Island General Laws, as amended, shall be required to note in their residents' permanent medical records, the name of individual(s) not legally related by blood or marriage to the resident, who the resident wishes to be considered as immediate family member(s), for the purpose of granting extended visitation rights to said individual(s), so said individual(s) may visit the resident while he or she is receiving inpatient health care services in a health care facility.

ii. A resident choosing to designate said individual(s) as immediate family members for the purpose of extending visitation rights may choose up to five (5) individuals and do so either verbally or in writing. This designation shall be made only by the resident and can be initiated and/or rescinded by the resident at any time, either prior to, during, or subsequent to an inpatient stay at the health care facility.

iii. The full names of individual(s) so designated, along with their relationship to the resident, shall be recorded in the resident's permanent medical records, both at the inpatient health care facility and with the resident's primary care physician.

iv. In the event the resident has not had the opportunity to have said designation recorded in his or her medical records, a signed statement in the resident's own handwriting attesting to the designation of said individual(s) as an immediate family member for the purpose of extending visitation right during the provision of health care services in an inpatient health care facility, along with their relationship to said individual(s) shall meet all the requirements of this section. The resident's signature on said signed statement shall be witnessed by two individuals, neither of whom can be the designated individual(s). In the event such signed statement is not available, those designated as agents on a durable power of attorney for health care form shall be allowed visitation privileges.

v. This section shall not be construed to prohibit legally recognized members of the resident's family from visiting the resident if they have not been so designated through the provisions of this section. No resident shall be required to designate individual(s) under the provisions of this section.

19.14 Residents shall have the right to obtain personal services or to purchase needs outside of the facility.

19.15 The resident's right to privacy and confidentiality shall extend to all records pertaining to the resident. Release of any records shall be subject to the resident's approval except as otherwise provided by law.

a) The right to privacy and confidentiality relates to the public dissemination of specific information contained within resident records and to the identification of specific individuals, but does not abrogate the responsibility of the licensing agency to review all resident records.

19.16 A resident shall have the right to manage his or her own personal financial affairs. The resident may delegate the management of his or her financial affairs to the facility by means of a formal written request. The written request should specify the period of time for which transfer of financial responsibility is desired. If the facility agrees to accept such responsibility, it shall convey acknowledgment of acceptance to the residents in writing. The facility shall have the obligation to conduct the resident's affairs in conformity with state laws and to provide a written accounting statement at least quarterly or at any time upon demand of the resident.

19.17 Residents shall be assured privacy for visits by the spouse or other partner. If both are residents in the facility, they may share a room unless medically contraindicated per written order of the physician and subject to the availability of such accommodations within the facility.

19.18 Before transferring a resident to another facility or level of care within a facility, the resident shall be informed of the need for such a transfer and of any alternatives to such a transfer.

a) A resident shall be transferred or discharged only for medical reasons, or for his welfare or that of other residents or for nonpayment of his stay.

b) Reasonable advance notice for transfers to health care facilities other than hospitals shall be given to ensure orderly transfer or discharge and such actions shall be documented in the medical record.

19.18.1 ***Bed-Hold and Readmission:*** A nursing facility must provide written information pertaining to bed-hold and readmission for residents transferred for hospitalization or therapeutic leave as follows:

a) ***Notice before transfer:*** Before a resident of a nursing facility is transferred for hospitalization or therapeutic leave, a nursing facility must provide written information to the resident and a family member or legal representative concerning:

i) the provisions of the medical assistance program state plan regarding the period (if any) during which the resident will be permitted under the state plan to return and resume residence in the facility; and

ii) the policies of the facility regarding such a period, which policies must be consistent with section b) hereunder;

b) ***Notice upon transfer:*** At the time of the transfer of a resident to a hospital or for therapeutic leave, a nursing facility must provide written notice to the resident and a family member or legal representative of the duration of any period described in section c) hereunder; except in an emergency, said notice must be given within 24 hours of the transfer.

c) ***Permitting resident to return:*** A nursing facility must establish and follow a written policy under which a resident:

i) who is transferred from the facility for hospitalization or therapeutic leave; and

ii) whose hospitalization or therapeutic leave exceeds a period paid for under the state plan for the holding of a bed in the facility for the resident, will be readmitted to the facility immediately upon the first availability of a bed of appropriate level of care in a semi-private room in the facility if at time of readmission, the resident requires the services provided by the facility;

iii) Any nursing facility that accepts private payment for purposes of reserving a bed in the facility for a resident who is transferred from the facility for hospitalization or other institutional therapeutic leave, and that resident's medical and health care is being paid for by the state Medical Assistance Program, shall not charge an amount per day for reserving a bed in the facility that exceeds the facility's current Medicaid daily rate; for a minimum of the first five (5) days of said hospitalization or the institutional therapeutic leave.

iv) the departments of human services and of health shall receive, on a monthly basis, the names from each nursing home of those persons awaiting readmission under these provisions.

19.19 A resident shall have the right to live in a tobacco smoke-free environment. It shall be prohibited for any person other than a nursing facility resident to smoke in a nursing facility.

19.19.1 Nursing facility residents who smoke may do so only in private or semi-private rooms where both residents smoke, or rooms designated by the administration of the facility.

a) A designated smoking area shall be a room or rooms other than the largest living or assembly room or lounge.

b) A designated smoking area shall be ventilated in such a way that the air therefrom shall not enter other parts of the nursing facility.

19.20 The resident shall have the right to have his or her pain assessed on a regular basis.

19.21 Notwithstanding any other provisions of this section, upon request, patients receiving care through hospitals, nursing homes, assisted living residences and home health care providers, shall have the right to receive information concerning hospice care, including the benefits of hospice care, the cost, and how to enroll in hospice care.

19.22 The health care facility shall respond in a reasonable manner to the request of a resident's physician, certified nurse practitioner and/or a physician's assistant for medical services to the resident. The health care facility shall also respond in a reasonable manner to the resident's request for other services customarily rendered by the health care facility to the extent the services do not require the approval of the resident's physician, certified nurse practitioner and/or a physician's assistant or are not inconsistent with the resident's treatment.

19.23 ***Heat relief:*** Pursuant to section 23-17.5-27 of the Rhode Island General Laws, as amended, any nursing home facility which does not provide air conditioning in every patient room shall provide an air conditioned room or rooms in a residential section(s) of the facility to provide relief to patients when the outdoor temperature exceeds eighty (80) degrees Fahrenheit.

19.24 All rights and responsibilities specified in sections 19.4, 19.8, 19.16, and 19.18 shall devolve, in order of priority, to a resident's guardian, next of kin, sponsoring agency(ies) or representative payor (except when the facility itself is the representative payor) for residents who are:

a) adjudicated incompetent in accordance with state law; or

b) found by the physician to be medically incapable of understanding their rights; or

c) found to exhibit a communication barrier. If however, the communication barrier is one of speaking a language other than English, then an attempt shall be made to find an interpreter to allow the resident to knowingly exercise his or her rights.

19.25 ***Posting a Copy of Rights of Residents:*** Each nursing facility shall provide each resident or his/her representative upon admission, a copy of the provisions of section 23-17.5-4, entitled "Rights of Nursing Home Patients", and shall display in a conspicuous place, in the facility a copy of the "Rights of Residents" herein and related information. At a minimum the display must include the following:

a) A summary of the major provisions of the Rights of Residents as set forth herein;

b) The address and telephone number of: Health Facilities Regulation, Rhode Island Department of Health, Three Capitol Hill, Providence, R.I. 02908 (Telephone Number: 401-222-2566), the agency which will accept complaints or notice of violations of the provisions herein;

c) The results of the most recent state and federal licensing and certification surveys of nursing homes must be posted.

d) the telephone number of the state long-term care ombudsman: 401-785-3340.

e) the telephone number of the state Medicaid Fraud Unit: 401-222-2256 or 401-274-4400 x2269.

Resident and Family Notification

19.26 When directed to do so by the Department, the facility shall 1. notify the resident, or his or her legal representative, the resident's family representative, the resident's attending physicians of record and the nursing facility's medical director, if that resident has been found to be in immediate jeopardy to health and safety; and 2. in federally-certified facilities, notify all facility residents, or their legal representatives, their family representatives, their attending physicians and the nursing facility's medical director, whenever a nursing facility is cited for substandard quality of care as defined in 42 CFR 488.301or its successor regulation.

19.27 The facility shall provide for notification of changes regarding resident condition as provided in federal regulation 42 CFR 483.10 or successor regulation.

19.28 In nursing facilities not federally certified, when directed to do so by the Department, the facility shall notify all facility residents, or their legal representatives, their family representatives, their attending physicians and the nursing facility's medical director, whenever a nursing facility is cited for substandard quality of care as determined by the Director.

19.29 A facility citation for substandard quality of care shall be considered to be a public record ten (10) days following the citation, or upon Departmental approval of the corresponding plan of correction, whichever is sooner.

Family Councils

19.30 Upon the admission of a resident, the nursing facility shall inform the resident and the resident's family members, in writing, of their right to form a family council, or if a family council already exists, of the date, time, and location of scheduled meetings.

19.31 If a family council exists, its role shall be to address issues affecting residents generally at the facility, not to pursue individual grievances.

19.32 The family council shall not be entitled to obtain information about individual residents or staff members, or any other information deemed confidential under state or federal law.

19.33 No licensed nursing facility may prohibit the formation of a family council.

19.34 When requested by a member of a resident's family or a resident's representative, a family council shall be allowed to meet in a common meeting room of the nursing facility at least once a month during mutually agreed upon hours.

19.35 The nursing facility administration shall notify the state long-term care ombudsman of the existence or planned formation of a family council at that facility.

19.36 The family council may exclude members only for good cause shown, subject to appeal by the excluded party to the state long-term care ombudsman. No member shall be excluded on the basis of race or color, religion, gender, sexual orientation, disability, age, or country of ancestral origin.

19.37 A facility shall provide its family council with adequate space in a prominent posting area for the display of information pertaining to the family council.

19.38 Staff or visitors may attend family council meetings at the council's invitation.

19.39 The nursing facility shall provide a designated staff person who, at the request of the council, shall be responsible for providing assistance to the family council and for responding to recommendations and requests made by the family council.

19.40 The nursing facility shall consider the recommendations of the family council concerning issues and policies affecting resident care and life at the nursing facility.

19.41 A violation of the provisions of this section shall constitute a violation of the rights of nursing home residents.

Section 20.0 ***Uniform Reporting System***

20.1 ***Uniform Reporting System:*** Each nursing facility shall establish and maintain records and data in such a manner as to make uniform the system of periodic reporting. The manner in which the requirements of this regulation may be met shall be prescribed from time to time in directives promulgated by the Director with the advice of the Health Services Council.

20.2 Each nursing facility shall report to the licensing agency detailed financial and statistical data pertaining to its operations, services, and facilities. Such reports shall be made at such intervals and by such dates as determined by the Director and shall include but not be limited to the following:

a) utilization of nursing services;

b) unit cost of nursing services;

c) charges for rooms and services;

d) financial condition of the facility; and

e) quality of care.

20.3 The licensing agency is authorized to make the reported data available to any state agency concerned with or exercising jurisdiction over the reimbursement or utilization of nursing facilities.

20.4 The directives promulgated by the Director pursuant to these regulations shall be sent to each facility to which they apply. Such directives shall prescribe the form and manner in which the financial and statistical data required shall be furnished to the licensing agency.

PART III ***Resident Care Services***

Section 21.0 ***Resident Care Policies***

21.1 Each facility shall have written resident care policies to govern the continuing nursing care and related medical or other services provided.

21.2 Each nursing facility licensed under the provision of Chapter 23-17 of the Rhode Island General Laws, as amended, shall have a written plan for preventing the hazards of resident wandering from the facility. Said plan shall be on file in the nursing facility and available to the licensing agency upon request.

21.3 As part of the initial resident admission and assessment process, the facility shall review and consider any notice provided to the facility as required in subsection 42-56-10(23) of the Rhode Island General Laws, as amended, concerning the resident's or prospective resident's status on parole and recommendations, if any, from the Department of Corrections regarding safety and security measures.

21.4 Resident care policies and procedures shall be developed and reviewed annually, and revised as necessary, in all facilities by a group of professional personnel including one or more physicians, a registered nurse, and other professional personnel as deemed necessary (e.g., social workers, physical therapists, etc.). Documentation of this annual review shall be made available to the licensing agency upon request.

21.5 Resident care policies shall be available for review by all residents, physicians, community agencies, relatives and personnel and shall include provisions for at least the following:

a) meeting the total medical and psychosocial needs of residents;

b) the establishment of written plans of care for each resident for medical, nursing and other related services provided;

c) the range of services available and provided to residents and constraints imposed by limitations of services, physicians, facilities, staff coverage, payment mechanism or other;

d) the frequency of physician visits shall be at a minimum of 90 days;

e) the protection of residents' personal and property rights;

f) types of clinical conditions acceptable for admission to specific levels of care and appropriate services;

g) emergency admissions or discharges and emergency care of residents;

h) requirements for informed consent by resident, parent, guardian or legal representative for treatment;

i) notification of next of kin, attending physician or responsible agency of any transfer or

discharge;

j) notification of next of kin, attending physician or responsible agency of any change of condition;

k) transfer of medical information in accordance with reference 17;

l) discharge and termination of services; and

m) provision for continuity of resident care as related to discharge planning, which shall include a mechanism for recording, transmitting and receiving information essential to the continuity of resident care.

Such information shall contain no less than the following:

i. resident identification data; such as name, address, age, gender, name of next of kin, health insurance coverage, etc.;

ii. diagnosis and prognosis, medical status of resident, brief description of current illness, medical and nursing plans of care including such information as medications, treatments, dietary needs, baseline laboratory data;

iii. functional status;

iv. special services such as physical therapy, occupational therapy, speech therapy and such other;

v. psychosocial needs;

vi. bed-hold policy and readmission in accordance with section 19.18.1 c) herein; and

vii. such other information pertinent to ensure continuity of resident care.

21.6 There shall be documented evidence of the designation of responsibility to a physician, or to a nurse or to the medical staff for the execution and implementation of resident care policies.

a) When a nurse is designated as the responsible agent for a day-to-day execution of resident care policies, a physician shall be available to provide necessary medical guidance.

Section 22.0 ***Infection Control***

22.1 The facility shall be responsible for no less than the following:

a) establishing and maintaining a facility-wide infection surveillance program;

b) developing and implementing written policies and procedures for the surveillance, prevention, and control of infections in all resident care departments/services;

c) establishing policies governing the admission and isolation of residents with known or suspected infectious diseases;

d) developing, evaluating and revising on a continuing basis infection control policies, procedures and techniques for all appropriate areas of facility operation and services;

e) developing and implementing a system for evaluating and recording the occurrences of all infections relevant to employment (e.g., skin rash) among personnel and infections among residents; such records shall be made available to the licensing agency upon request;

f) implementing a TB infection control program requiring risk assessment and development of a TB infection control plan; early identification, treatment and isolation of strongly suspected or confirmed infectious TB residents; effective engineering controls; an appropriate respiratory protection program; health care worker TB training, education, counseling and screening; and evaluation of the program's effectiveness, per guidelines in reference 30.

i) The TB infection control plan shall include, at a minimum, a provision that residents shall be screened for TB, within fourteen (14) days of admission, and found to be free of active tuberculosis based upon the results of a negative two-step tuberculin skin test. If documented evidence is provided that the resident has had a two-step tuberculin skin test, performed within the most recent twelve (12) months prior to admission, that was negative, the requirements of this section shall be met.

g) developing and implementing an institution-specific strategic plan for the prevention and control of vancomycin resistance, with a special focus on vancomycin-resistant enterococci, per guidelines in reference 32. (See also reference 31 herein for additional information on this issue).

h) developing and implementing protocols for: 1) discharge planning to home that include full instruction to the family or caregivers regarding necessary infection control measures; and 2) hospital transfer of residents with infectious diseases which may present the risk of continuing transmission. Examples of such diseases include, but are not limited to, tuberculosis (TB), Methicillin resistant *staphylococcus aureus* (MRSA), vancomycin resistant enterococci (VRE), and clostridium difficile.

i) assuring that all resident care staff are available in order to assist in the prevention and control of infectious diseases and are provided with adequate direction, training, staffing and facilities to perform all required infection surveillance, prevention and control functions.

22.2 Infection control provisions shall be established for the mutual protection of residents, employees, and the public.

22.3 A continuing education program on infection control shall be conducted periodically for all staff.

22.4 ***Reporting of Communicable Diseases***

a) Each facility shall report promptly to the Rhode Island Department of Health, Division of Disease Prevention & Control, cases of communicable diseases designated as "reportable diseases" when such cases are diagnosed in the facility in accordance with reference 11.

b) When infectious diseases present a potential hazard to residents or personnel, these shall be reported to the Rhode Island Department of Health, Division of Disease Prevention & Control even if not designated as "reportable diseases."

c) When outbreaks of food-borne illness are suspected, such occurrences shall be reported immediately to the Rhode Island Department of Health, Division of Disease Prevention & Control or to the Office of Food Protection and Sanitation.

d) Facilities must comply with the provisions of section 23-28.36-3, which requires notification of fire fighters, police officers and emergency medical technicians after exposure to infectious diseases.

Resident Immunization Policies/Practices

22.5 ***Long term care resident immunization:*** Except as provided in subsection 22.5 (e) (below), every facility in this state shall request that residents be immunized for influenza virus and pneumococcal disease in accordance with Chapter 23-17.19 of the Rhode Island General Laws, as amended.

Influenza, pneumococcal, and other adult vaccination policies and protocols (such as physician's standing orders) for facility residents shall be developed and implemented by the facility and shall contain no less than the following provisions:

a) ***Notice to resident:*** In accordance with the provisions of section 23-17.19-4 of the Rhode Island General Laws, as amended, upon admission, the facility shall notify the resident and legal guardian of the immunization requirements of Chapter 23-17.19 of the Rhode Island General Laws, as amended, and request that the resident agree to be immunized against influenza virus and pneumococcal disease.

b) ***Records and immunizations:*** Every facility shall document the annual immunization against influenza virus and immunization against pneumococcal disease for each resident which includes written evidence from a health care provider indicating the date and location the vaccine was administered.

Upon finding that a resident is lacking such immunization or the facility or individual is unable to provide documentation that the individual has received the appropriate immunization, the facility shall make available the immunization.

c) ***Other immunizations:*** An individual who becomes a resident shall have his status for influenza and pneumococcal immunization determined by the facility, and, if found to be deficient, the facility shall make available the necessary immunizations.

d) Vaccinations must be provided in accordance with the most current ACIP (Advisory Council on Immunization Practices) guidelines for these vaccinations.

e) ***Exceptions:*** No resident or employee shall be required to receive either the influenza or pneumococcal vaccine if any of the following apply:

1) the vaccine is contraindicated;
2) it is against his religious beliefs; or
3) the resident or the resident's legal guardian refuses the vaccine after being fully informed of the health risks of such action.

f) Reports of vaccination rates shall be submitted annually (by July 1st of each year) to the Department. Such reports shall include, at a minimum:

i) number of all eligible residents 65 years and older residing in or admitted to the facility from September 15th to March 31st of the next year and the number of influenza vaccinations administered in that period;

ii) number of all eligible residents 64 years and younger residing in or admitted to the facility from September 15th to March 31st of the next year and the number of influenza vaccinations administered in that period;

iii) percentage of current residents 65 years and older vaccinated with pneumococcal vaccine;

iv) the number of residents who are exempted from influenza and/or pneumococcal vaccination for medical reasons;

v) the number of outbreaks in the facility each year due to influenza virus and pneumococcal disease, if known;

vi) the number of hospitalizations of facility residents each year due to influenza virus, pneumococcal disease and complications thereof; if known; and

vii) other reports as may be required by the Director.

Section 23.0 ***Physician Service***

23.1 All residents shall remain or be under the care of a physician of his or her choice, subject to the physician's concurrence.

23.1.1 All physician assistant services shall be in accordance with the provisions of Chapter 5-54 of the General Laws.

23.1.2 All nurse practitioner services shall be in accordance with the provisions of Chapter 5-34 of the General Laws.

23.2 No less than the following resident care information shall be made available to facilities by the referring source prior to or upon admission and provided only in accordance with the requirements of reference 17:

a) current medical findings;

b) summary of pre-admission treatment and care; and

c) diagnosis and medical orders by the physician for immediate resident care.

23.3 Each facility shall establish and comply with policies governing medical care supervision. Such policies shall include no less than the following:

a) that every resident be under the continued medical supervision of a physician of his or her choice;

b) that a prescribed medical care plan be established for each resident by the attending physician. Accordingly, recommendations or orders from consultants shall be approved by the attending physician prior to implementation of the order.

c) that the medical care plan be based on a physical examination done within 48 hours of admission unless such was performed within 5 days prior to admission;

d) that each resident be seen by an attending physician and the medical care plan be renewed or revised in accordance with the needs of the resident at least every 90 days;

e) that arrangements be made for physician coverage in the absence of the attending physician; and, and progress notes be written and signed by the physician at the time of each visit.

f) any physician's verbal order for drugs, and biologicals shall be given in accordance with the provisions of section 25.8 (b) herein.

23.4 Written policies and procedures pertaining to emergency medical care including a listing of physician coverage, shall be established and maintained at each nursing station. The facility must provide or arrange for physician's services 24 hours a day in case of an emergency.

23.5 Standing orders shall not be permitted. All orders shall be recorded in the resident's medical record and shall be properly signed. However, a physician's order for an individual resident may refer to treatments described in a written protocol adopted by the facility. An exception to the requirements of this section shall be made for the administration of influenza and pneumococcal immunizations as provided in section 22.5 herein.

Section 24.0 ***Nursing Service***

24.1 Each facility shall have a formally organized nursing service with an organization chart reflecting the lines of communication. The authority, responsibilities and duties for each nursing service position and/or category shall be clearly delineated in writing through job descriptions.

24.2 The nursing service shall be under the direction of a Director of Nurses who shall be a registered nurse employed full-time. A relief registered nurse shall be employed to insure full-time coverage in the absence (including vacation, sick time, days off, or other) of the designated registered nurse.

a) The Director of Nurses employed full-time in accordance with section 24.2 above shall not be the administrator nor the assistant administrator and shall: (1) have at least two years experience in nursing supervision or, by training and experience, shall have demonstrated competency in nursing service management; (2) be employed by only one facility in said capacity; and (3) be responsible for the total nursing service which shall include no less than:

i. development, maintenance and evaluation of standards of nursing practice;

ii. development and periodic revision of nursing policies and procedure manuals;

iii. recommendation to the facility's administration of the number and categories of nursing personnel required to provide resident care;

iv. training, assignment, supervision and evaluation of personnel;

v. coordination of nursing care services with other services, e.g., medical, nutrition, etc.; and

vi. all other functions and activities related to nursing service management.

24.3 Each facility shall have a registered nurse on the premises twenty-four (24) hours a day. In addition, the necessary nursing service personnel (licensed and non-licensed) shall be in sufficient numbers on a 24 hour basis, to assess the needs of resident, to develop and implement resident care plans, to provide direct resident care services, and to perform other related activities to maintain the health, safety and welfare of residents.

a) There shall be a master plan of the staffing pattern for providing 24 hour nursing service; for the distribution of nursing personnel for each floor and/or residential area; for the replacement of nursing personnel; and for forecasting future needs. The staffing pattern shall include provisions for nurses, aides, orderlies and other personnel as required.

b) The number and type of nursing personnel shall be based on resident care needs and classifications as determined for each residential area. Each nursing facility shall be responsible to have sufficient qualified staff to meet the needs of the residents.

c) At least one individual who is certified in Basic Life Support must be available twenty-four hours a day (24 hrs./day) within the facility.

Nursing Staff Posting Requirements

24.4 Each facility shall post its daily direct care nurse staff levels by shift in a public place within the facility. The posting shall be accurate to the actual number of direct care nursing staff on duty for each shift per day. The posting shall be in a format similar to that found in Appendix “A” herein to include:

a) the number of registered nurses, licensed practical nurses, nursing assistants, and medication technicians who are not also nursing assistants;

b) the number of temporary, outside agency nursing staff;

c) the resident census as of 12:00 a.m.
d) documentation of the use of unpaid eating assistants (if utilized by the facility on that date).

24.5 The posting information shall be maintained on file by the nursing facility for no less than three (3) years and shall be made available to the public upon request.

24.6 The nursing facility shall prepare an annual report showing the average daily direct care nurse staffing level for the facility by shift and by category of nurse to include registered nurses, licensed practical nurses, nursing assistants and medication technicians; the use of nurse and nursing assistant staff from temporary placement agencies; and the nurse and nurse assistant turnover rates.

24.6.1 The annual report shall be submitted with the facility's renewal application and provide data for the previous twelve (12) months and ending no earlier than September 30th, for the year preceding the license renewal year or for the partial year available for the 2007 renewal applications. Annual reports shall be submitted in a format similar to that found in Appendix "F" herein.

24.7 The information on nurse staffing shall be reviewed as part of the nursing facility's annual licensing survey and shall be available to the public, both in printed form and on the Department's website, by facility.

24.8 The Director of Nurses may act as a charge nurse only when the facility is licensed for 30 beds or less.

24.9 Whenever the licensing agency determines, in the course of inspecting a facility, that additional staffing is necessary on any residential area to provide adequate nursing care and treatment or to ensure the safety of residents, the licensing agency may require the facility to provide such additional staffing and any or all of the following actions shall be taken to enforce compliance with the determination of the licensing agency.

a) The facility shall be cited for a deficiency and shall be required to augment its staff within 10 days in accordance with the determination of the licensing agency.

b) If failure to augment staffing is cited, the facility shall be required to curtail admission to the facility.

c) If a continued failure to augment staffing is cited, the facility shall be subjected to an immediate compliance order to increase the staffing, in accordance with section 23-1-21 of the General Laws of Rhode Island of as amended.

d) The sequence and inclusion or non-inclusion of the specific sanctions enumerated in sections above may be modified in accordance with the severity of the deficiency in terms of its impact on the quality of resident care.

24.10 No nursing staff of any facility shall be regularly scheduled for double shifts.

Section 25.0 ***Selected Nursing Care Procedures***

25.1 Written resident care plans, including problems, measurable goals, interventions, and time frames,

shall be developed and maintained for each resident consonant with the attending physician's plan of medical care.

a) Resident care plans shall be reviewed, evaluated and revised by professional staff no less than every three months, or when there is a significant change in the resident's health status.

25.2 The personal hygiene of each resident shall be attended to. All residents shall receive care including care of skin, shampooing and grooming of hair, oral hygiene, shaving, cleaning and cutting of fingernails and toenails. Residents shall be kept free of offensive odors.

25.3 Residents shall be encouraged and/or assisted to function at their highest level of self-care and independence. Every effort shall be made to keep residents active and out of bed for reasonable periods of time except when contraindicated by physician orders.

25.4 Every facility shall have an active program for rehabilitative nursing care.

25.5 Such supportive and restorative nursing care needed to maintain maximum functioning of the resident shall be provided.

25.6 Each resident shall be given care to prevent pressure ulcers, contractures and deformities, including:

a) preventive skin care as appropriate;

b) changing the position of bedfast and chair-fed residents;

c) maintaining proper body alignment and joint movement to prevent contractures and deformities; and

d) encouraging, assisting and training residents in self-care and activities of daily living.

25.7 Measures shall be taken to prevent and reduce incontinence for each resident which shall include no less than:

a) written assessment by a registered nurse, within two (2) weeks of admission, of each incontinent resident's ability to participate in a bowel and/or bladder training program;

b) an individualized plan of care for each resident selected for training to be included in the resident's nursing care plan to restore as much normal bladder function as possible.

Administration of Drugs

25.8 Drugs shall be administered in accordance with written orders of the attending physician and procedures established in accordance with sections 28.1 and 28.2 herein. Such procedures shall include measures to assure: (1) that drugs are checked against physicians' orders; (2) that the resident is identified prior to administration of a drug; (3) that each resident has an individual

medication record; and (4) that the dose of drug administered to each resident is properly recorded therein by the person administering the drug.

a) Drugs not specifically limited as to time or number of doses when ordered shall be controlled by automatic stop orders or other methods in accordance with written policies.

b) Physicians' verbal orders for drugs and biologicals shall be given only to a licensed nurse, a registered pharmacist or to a physician and shall be immediately recorded and signed by the person receiving the order. Such orders shall be countersigned by the attending physician within fifteen (15) days.

Administration of Drugs by Medication Technicians

25.9 Medication technicians who have satisfactorily completed a state approved course in drug administration and have demonstrated competency in accordance with the state-approved protocol in drug administration may administer oral or topical drugs, with the exception of all Schedule II drugs, with supervision in accordance with the state-approved protocol in drug administration. If such medication technicians are from temporary employment agencies, the facility shall have onsite evidence of supervision in accordance with the state-approved protocol in drug administration.

25.10 The director of nursing or his/her registered nurse designee shall conduct and document quarterly evaluations of the medication technicians who are administering drugs. Copies of said evaluations shall be placed in the medication technicians' personnel records.

Assistance with Eating and Hydration

25.11 Nursing facilities may employ resident attendants to assist residents with activities of eating and drinking. The resident attendant shall not be counted in the direct care staffing levels (see also section 24.4 herein).

25.12 A nursing facility shall not use any individual on a paid or unpaid basis in the capacity of a resident attendant, as defined herein, in the nursing home unless the individual:

a) has satisfactorily completed a training program approved by the Director, as described in section 25.14 of these regulations;

b) continues to provide competent eating and hydration assistance as determined by the facility's professional nursing staff.

25.13 The facility shall ensure:

a) the resident attendant works in congregate dining areas under the supervision of a registered nurse (RN) or licensed practical nurse (LPN);

b) the resident attendant wears a photo identification badge in accordance with section 14.14 of these regulations;

c) the resident attendant only assists residents selected by the professional nursing staff,

based on the charge nurse's assessment and the resident's latest assessment and plan of care;

d) the resident attendant assists with eating and drinking for residents who have no complicated eating/feeding problems, including but not limited to:

i. Tube or parenteral/IV feedings;
ii. Recurrent lung aspirations;
iii. Difficulty swallowing;
iv. Residents at risk of choking while eating or drinking;
v. Residents with significant behavior management challenges while eating or drinking;
vi. Residents presenting other risk factors that may require emergency intervention.

e) maintenance of records regarding individuals acting as resident attendants and the training program attended.

Training Program for Resident Attendants

25.14 Resident attendants shall be required to have successfully completed a basic training program approved by the Director consisting of eight (8) hours of classroom instruction, as stipulated in Appendix B, and including no less than four (4) hours of practical experience supervised and documented by a registered nurse.

Pain Assessment

25.15 All health care providers licensed by this state to provide health care services and all health care facilities licensed under Chapter 23-17 of the Rhode Island General Laws, as amended, shall assess patient pain in accordance with the requirements of the ***Rules and Regulations Related to Pain Assessment (R5-37.6-PAIN)*** promulgated by the Department.

Section 26.0 ***Special Care Units***

Alzheimer and Other Dementia Special Care Units or Programs:

26.1 Any facility that provides or offers to provide care or services for residents in a manner as defined in section 1.2 herein shall disclose to the licensing agency and any person seeking placement in such Alzheimer and Other Dementia Special Care Unit/Program the form of specialized care and treatment provided that is in addition to the care and treatment required in the regulations herein.

26.1.1 The information disclosed shall be on a form prescribed by the Department of Health.

26.1.2 The facility shall provide care and services as described in the disclosure form, and consistent with the rules and regulations herein. The information disclosed shall explain the additional care provided in each of the following areas:

a) ***Philosophy -*** The special care unit/program's written statement of its overall philosophy and mission which reflects the needs of residents afflicted with dementia.

b) ***Pre-Admission, Admission and Discharge*** - The process and criteria for placement (which shall include a diagnosis of dementia), transfer or discharge from the unit.

c) ***Assessment, Care Planning and Implementation*** -The process used for assessment and establishing the plan of care and its implementation, including the method by which the plan of care evolves and is responsive to changes in condition.

d) ***Staffing Patterns and Training***– Staff patterns and training and continuing education programs, which shall emphasize the effective management of the physical and behavioral problems of those with dementia.

e) ***Physical Environment*** - The physical environment and design features shall be appropriate to support the functioning and safety of cognitively impaired adult residents.

f) ***Therapeutic Activities*** - The frequency and types of resident activities. Therapeutic activities shall be designed specifically for those with dementia.

g) ***Family Role in Care*** – The facility shall provide for the involvement of families and family support program.

h) ***Program Costs*** - The cost of care and any additional fees.

26.1.3 Any significant changes in the information provided by the nursing facility will be reported to the licensing agency at the time the changes are made.

Rehabilitation Special Care Unit and Subacute Special Care Unit:

26.2 Any facility that provides or offers to provide care for patients or residents by means of a Rehabilitation Special Care Unit or a Subacute Special Care Unit shall be required to disclose to the licensing agency and to any person seeking placement in a Rehabilitation Special Care Unit or a Special Care Unit of a nursing facility the form of specialized care and treatment provided that is in addition to the care and treatment required in the regulations herein.

26.2.1 The information disclosed shall be on a form prescribed by the Department.

26.2.2 The facility shall provide care and services as described in the disclosure form, and consistent with the rules and regulations herein.

26.2.3 Any significant changes in the information provided by the nursing facility shall be reported to the licensing agency at the time the changes are made.

Section 27.0 ***Dietetic Services***

27.1 Each facility shall maintain a dietetic service under the supervision of a full-time person who, as a minimum, is a graduate of a State approved course that provided instruction in food service supervision and nutrition and has experience in the organization and management of food service.

a) When the dietary manager is absent, a responsible person shall be assigned to supervise dietetic service personnel and food service operations.

27.2 When the dietary manager is not a qualified dietitian who is registered or eligible for registration by the commission of dietetic registration and/or licensed by the State, the facility shall obtain per written contractual arrangement adequate and regularly scheduled consultation from a qualified dietitian.

27.3 The responsibilities of the qualified dietitian shall include but not be limited to:

a) advising the administration and the supervisor of dietetic services on all nutritional aspects of resident care, food service and preparation;

b) reviewing food service policies, procedures and menus to insure the nutritional needs of all residents are met in accordance with reference 12;

c) serving as liaison with medical and nursing staff on nutritional aspects of resident care;

d) advising on resident care policies pertaining to dietetic services;

e) providing dietary counseling to residents when necessary;

f) planning and conducting regularly scheduled in-service education programs which shall include training in food service sanitation;

g) preparing reports which shall include date and time of consultation and services rendered, which reports shall be signed and kept on file in the facility; and

h) recording observations and information pertinent to dietetic treatment in the resident's medical record;

i) input in care plan development.

27.4 Adequate space, equipment and supplies shall be provided for the efficient, safe and sanitary receiving, storage, refrigeration, preparation and service of food and other related aspects of the food service operation in accordance with reference 10.

27.5 Policies and procedures shall be established for the dietetic service, pertaining to but not limited to the following:

a) responsibilities and functions of personnel;

b) standards for nutritional care in accordance with reference 12;

c) alterations or modifications to diet orders or schedules;

d) food purchasing storage, preparation and service;

e) safety and sanitation relative to personnel and equipment in accordance with reference 10; and

f) ancillary dietary services, including food storage and preparation in satellite kitchens and vending operations in accordance with reference 10; and

g) a plan to include alternate methods and procedures for food preparation and service, including provisions for potable water, to be used in emergencies.

27.6 All facilities shall provide sufficient and adequately trained supportive personnel, competent to carry out the functions of the dietetic services.

a) The dietetic services shall have employees on duty over a period of 12 or more hours per day, seven days per week.

b) Those employees involved in direct preparation of food (as opposed to distribution of food, dishwashing, etc.) shall not be involved in resident care.

c) Housekeeping and nursing personnel may assist in food distribution, but not food preparation. Careful hand washing shall be done prior to assisting in food distribution.

27.7 The facility's food service operation shall comply with all appropriate standards of reference 10.

a) Diet kitchens, nourishment stations, and any other related areas shall be the responsibility of the dietetic service.

27.8 All menus including alternate choices shall be planned at least one week in advance, to meet the standards for nutritional care in accordance with reference 12 and to provide for a variety of foods, adjusted for seasonal changes, and reflecting the dietary preferences of residents.

a) Menus shall indicate nourishments offered to residents between evening meal and bedtime.

b) Menus shall be posted in a conspicuous place in the dietary department and in resident areas.

c) Records of menus actually served shall be retained for thirty (30) days.

27.9 All diets shall be ordered in writing by the attending physician.

a) All diets shall be planned, prepared and served to conform to the physician's orders and to meet the standards of reference 12 to the extent medically possible.

b) Diet orders shall be reviewed by the attending physician on same schedule as other physician orders.

27.10 There shall be a diet manual, approved by the dietitian and available to all dietetic and nursing services personnel. Diets served to residents shall comply with the principles set forth in the diet manual.

27.11 Each resident shall receive and the facility shall provide at least three (3) meals daily, at regular times comparable to normal mealtimes based upon the individual preference of a resident or group of residents in a residential area and/or at regular times comparable to normal mealtimes in the

community.

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

b) The facility shall offer snacks at bedtime daily.

c) 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, or group of residents in a residential area agrees to this meal span, and a nourishing snack is served.

27.12 Foods shall be prepared by methods that conserve nutritive value, flavor and appearance, and shall be prepared and served at proper temperatures and in a form to meet individual needs. Food substitutes of similar nutritive value shall be offered when residents refuse foods served for good reason.

a) A file of tested recipes, adjusted to appropriate yield, shall be maintained and utilized corresponding to items on the menu.

b) House diets shall be appropriately seasoned.

c) There shall be a supply of staple foods for a minimum of seven (7) days and of perishable foods for a minimum of two days in the facility.

27.13 Food shall be attractively served on dinnerware of good quality, such as ceramic, plastic or other materials that are durable and aesthetically pleasing.

27.14 A dining room shall be available for those residents or residents who wish to participate in group dining in accordance with section 46.1 herein.

27.15 Self-help feeding devices shall be available to those residents who need them to maintain maximum independence in the activities of daily living.

27.16 A facility contracting for food service shall require as part of the contract, that the contractor comply with the provisions of the regulations herein.

Section 28.0 ***Pharmaceutical Services***

28.1 Each facility shall provide pharmaceutical services either directly within the facility or per contractual arrangement. Such services shall be provided in accordance with the requirements of references 25 and 34 herein.

a) In either instance, appropriate methods and procedures for the procurement and the dispensing of drugs and biologicals shall be established in accordance with appropriate federal and state laws and regulations.

28.2 There shall be written policies and procedures relating to the pharmaceutical service which shall require no less than:

a) the authority, responsibility and duties of the registered pharmacist;

b) the selection, procurement, distribution, storage, dispensing or other disposition of drugs and biologicals in accordance with appropriate federal and state laws and regulations;

c) maintenance of records of all transactions, including recording of receipt and dispensing or other disposition of all drugs and biologicals;

d) inspection of all drug and biological storage and medication areas and documented evidence of findings;

e) automatic stop orders for drugs or biologicals;

f) the use of only approved drugs and biologicals;

g) control of medicines from any source;

h) a monitoring program to identify adverse drug reactions, interactions and incompatibilities and antibiotic antagonisms; and

i) labeling of drugs and biologicals including name of resident, name of physician, drug dosage, cautionary instructions, and expiration date.

28.3 Adequate space, equipment, supplies and locked storage areas shall be provided for the storage of drugs and biologicals based on the scope of services provided. Refrigerated food storage units shall not be utilized for storage of drugs and/or biologicals except:

a) In facilities of 30 beds or less, a refrigerated food storage unit may be used for drugs and biologicals provided they are locked in an appropriate container.

28.4 Drugs may be administered to residents from bulk inventories of non-legend and non-controlled substance items such as aspirin, milk of magnesia, etc. as ordered by a licensed physician.

28.5 An emergency medication kit, approved by the pharmaceutical service committee or its equivalent, shall be kept at each nursing station.

28.6 Each residential area shall have adequate drug and biological preparation areas with provisions for locked storage in accordance with federal and state laws and regulations.

28.7 ***In Nursing Facilities***

a) The pharmaceutical service committee or its equivalent, consisting of not less than a registered pharmacist, a registered nurse, a physician and the administrator, shall:

i. serve as an advisory body on all matters pertaining to pharmaceutical services;

ii. establish a program of accountability for all drugs and biologicals;

iii. develop and review periodically all policies and procedures for safe and effective drug therapy in accordance with section 28.2 herein; and

iv. monitor the service.

b) A registered pharmacist shall assist in developing, coordinating and supervising all pharmaceutical services in conjunction with the pharmaceutical services committee. In addition, a registered pharmacist shall:

i. review the drug and biological regimen of each resident at least monthly;

ii. report any irregularities to the attending physician and director of nurses. These reports must show evidence of review and response; and

iii. document in writing the performance of such review, which documentation shall be kept on file by the facility and shall be made accessible to inspectors on request.

Section 29.0 ***Dental Services***

29.1 Each facility shall provide or obtain from outside resources, dental services for routine and emergency care.

29.1.1 Each resident shall have the right to receive dental services from a dentist of his/her choice.

29.2 A list of community dentists shall be maintained and available to all residents.

29.3 When necessary, arrangements shall be made by facilities for the transportation of residents to and from the dental care office.

Section 30.0 ***Laboratory and Radiologic Services***

30.1 All nursing facilities shall make provisions for laboratory, x-ray and other services to be provided either directly by the facility or per contractual arrangements with an outside provider.

30.2 If the facility provides its own laboratory and x-ray services, these shall meet all applicable statutory and regulatory requirements.

30.3 All services shall be provided only per order of the attending physician who shall be promptly notified of the findings in accordance with a protocol established by the facility. Such a protocol shall describe which laboratory values mandate a call to the resident’s attending physician.

30.4 Signed and dated reports of all findings shall become part of the resident's medical record.

Section 31.0 ***Social Services***

31.1 Every facility shall provide social services to attain or maintain the highest practicable physical, mental and psychological well being of each resident. Social services must be provided either directly by a qualified social worker or by arrangement with an appropriate health or social service agency or through consultation with a qualified social worker who would supervise a social work designee appointed by the administrator.

a) Services shall pertain to no less than the following:

i. identification of social and emotional needs of residents through a comprehensive psychosocial assessment including a social history;

ii. establishment of a plan of care based on residents' needs;

iii. procedures for referral of residents, when indicated, to appropriate social agencies and discharge planning as indicated

31.2 A qualified social worker is defined as an individual with a minimum of a BSW from an accredited School of Social Work. A social work designee is defined as a staff member appointed by the administrator who is suited by training or experience to implement plans and procedures enumerated in accordance with section 31.1 (a) above.

31.3 Notwithstanding any provisions in §§ 5-39.1-1 – 5-39.1-14 or any other general or public law to the contrary, any nursing facility licensed under Chapter 17 of Title 23 that employs a social worker or social worker designee who meets all of the criteria in section 31.4 below shall be granted a variance to the "qualified social worker" provisions stated herein.

31.4 Such criteria shall be limited to: (1) meets the centers for Medicare and Medicaid requirements for long-term care facilities under 42 CFR part 483, subpart B (or any successor regulation); (2) is currently employed by a nursing facility licensed under Chapter 17 of Title 23; and (3) has been continuously employed in a nursing facility licensed under Chapter 17 of Title 23 commencing on or before July 1, 2003.

31.5 Sufficient supportive personnel shall be available to meet resident needs.

31.6 Appropriate records shall be maintained of all social services rendered, including consultation services, and reports shall be included in the resident's medical record.

31.7 Policies and procedures shall be established to assure confidentiality of all resident information consistent with the requirements of reference 17.

Section 32.0 ***Specialized Rehabilitative Services***

32.1 Each facility shall provide directly or per written agreement with outside providers specialized rehabilitative and supportive services as needed by residents to improve, restore or maintain functioning.

a) Residents shall not be admitted or retained in a facility not providing either directly or per contractual arrangement, those rehabilitative or other specialized services required to meet individual medical care needs of residents.

32.2 The specialized rehabilitative services, which include physical therapy, speech pathology,

audiology and occupational therapy shall be provided per written order of the attending physician and in accordance with accepted professional practice by licensed therapists or assistants.

32.3 Written administrative and resident care policies and procedures shall be developed for rehabilitative services by appropriate therapists and representatives of the medical, administrative and professional staff.

32.4 Rehabilitative services shall be provided under a written plan of care initiated by the attending physician and developed in consultation with appropriate therapist(s) and nursing personnel.

32.5 Entries of all rehabilitative or supportive services rendered, including evaluation of progress and other pertinent information, shall be recorded in the resident's medical record and signed by personnel rendering the service(s).

32.6 Safe and adequate space and equipment shall be available commensurate with the scope of services provided.

Section 33.0 ***Resident Activities***

33.1 Each facility shall provide for an ongoing activities program, appropriate to the needs and interests of each resident, to encourage self-care, resumption of normal activities and maintenance of an optimal level of psychosocial functioning.

33.2 The activities program must be directed by a qualified professional as defined in reference 2.

33.3 The ongoing activities program shall make provisions to:

a) promote opportunities for engaging in normal pursuits including religious activities of the resident's choice;

b) promote the physical, social and mental well-being of each resident;

c) promote independent as well as group activities; and

d) harmonize with each resident's needs and medical treatment plan, subject to approval by the resident's attending physician.

33.4 Adequate space, supplies and equipment shall be available to meet resident care needs in accordance with the activities program and as stipulated in section 46.0 herein.

33.5 Each resident must have an activities plan, and all pertinent observations and information must be recorded in the medical record.

Section 34.0 ***Equipment***

34.1 Each facility shall maintain sufficient and appropriate types of equipment consistent with resident needs and sufficient to meet emergency situations.

34.2 All equipment to meet the needs of the residents shall be maintained in safe and good operational condition.

PART IV *Environmental and Maintenance Services*

Section 35.0 *Housekeeping*

35.1 A full-time employee of the facility shall be designated responsible for housekeeping services, supervision and training of housekeeping personnel.

35.2 Sufficient housekeeping and maintenance personnel shall be employed to maintain a comfortable, safe, clean, sanitary and orderly environment in the facility.

a) Housekeeping personnel may assist in food distribution but not food preparation. Careful hand washing should be done prior to assisting in food distribution.

35.3 Written housekeeping policies and procedures shall be established in accordance with section 22.1 herein on Infection Control, for the operation of housekeeping services throughout the facility. Copies shall be available for all housekeeping personnel.

35.4 All parts of the home and its premises shall be kept clean, neat and free of litter and rubbish and offensive odors.

35.5 Equipment and supplies shall be provided for cleaning of all surfaces. Such equipment shall be maintained in a safe, sanitary condition and shall be properly stored.

35.6 Hazardous cleaning solutions, compounds, and substances shall be labeled, stored in a safe place, and kept in an enclosed section separate from other cleaning materials.

35.7 Cleaning shall be performed in a manner which will minimize the development and spread of pathogenic organisms in the home environment.

35.8 Exhaust ducts from kitchens and other cooking areas shall be equipped with proper filters and cleaned at regular intervals. The ducts shall be cleaned as often as necessary and inspected by the facility no less than twice a year.

35.9 Facilities contracting with outside resources for housekeeping services shall require conformity with existing regulations.

35.10 Each facility shall be maintained free from insects and rodents through the operation of a pest control program.

Section 36.0 *Laundry Services*

36.1 Each facility shall make provisions for the cleaning of all linens and other washable goods.

36.2 Facilities providing laundry service shall have adequate space and equipment for the safe and effective operation of laundry service and, in unsewered areas, shall obtain approval of the sewage system by the licensing agency to ensure its adequacy.

36.3 Written policies and procedures for the operation of the laundry service including special

procedures for the handling and processing of contaminated linens, shall be established in accordance with section 22.0 herein on Infection Control.

36.4 There shall be distinct areas for the separate storage and handling of clean and soiled linens.

a) The soiled linen area and the washing area shall be negatively pressurized or otherwise protected to prevent introduction of airborne contaminants.

b) The clean linen area and the drying area shall be physically divorced from the soiled linen area and the washing area.

36.5 All soiled linen shall be placed in closed containers prior to transportation.

36.6 To safeguard clean linens from cross-contamination they shall be transported in containers used exclusively for clean linens which shall be kept covered at all times while in transit and stored in areas designated exclusively for this purpose.

36.7 A quantity of linen equivalent to three times the number of beds including the set of linen which is actually in use shall be available and in good repair at all times.

36.8 Facilities contracting for services with an outside resource in accordance with section 18.3 herein shall require conformity with these regulations.

Section 37.0 ***Disaster Preparedness***

37.1 Each facility shall develop and maintain a written disaster preparedness plan that shall include plans and procedures to be followed in case of fire or other emergencies. The plan shall include provisions for evacuation of the facility in the event of a natural disaster. The plan and procedures shall be developed with the assistance of qualified safety, emergency management, and/or other appropriate experts and shall be coordinated with the local emergency management agency.

37.2 The plan shall include procedures to be followed pertaining to no less than the following:

a) fire, explosion, severe weather, loss of power and/or water, flooding, failure of internal systems and/or equipment, and other calamities;

b) transfer of casualties;

c) transfer of records;

d) location and use of alarm systems, signals and fire fighting equipment;

e) containment of fire;

f) notification of appropriate persons;

g) relocations of residents and evacuation routes;

h) feeding of residents;

i) handling of drugs and biologicals;

j) missing residents;

k) back-up or contingency plans to address possible internal systems (e.g., food, power, water, sewage disposal) and/or equipment failures; and

l) any other essentials as required by the local emergency management agency.

37.3 A copy of the plan shall be available at every nursing unit.

37.4 Emergency steps of action shall be clearly outlined and posted in conspicuous locations throughout the facility.

37.5 Simulated drills testing the effectiveness of the plan shall be conducted for all shifts at least quarterly. Written reports and evaluation of all drills shall be maintained by the facility.

37.6 All personnel shall receive training in disaster preparedness as part of their employment orientation.

37.7 The administrator of the facility shall notify the licensing agency (Office of Facilities Regulation) immediately by telephone of any unscheduled implementation of any part of the facility's disaster preparedness plan and shall provide a follow-up report in writing within three (3) business days using the form supplied in Appendix "E" herein.

37.8 Each nursing facility shall agree to enter into a memorandum of agreement with the licensing agency and the local municipality in which the nursing facility is geographically located to participate in a statewide distribution plan for medications and/or vaccines in the event of a public health emergency or disease outbreak.

PART V ***Physical Plant***

Section 38.0 ***New Construction, Addition or Modification***

38.1 All new construction, alterations, extensions or modifications of an existing facility, as defined in rules and regulations pursuant to reference 5, shall be subject to the following provisions:

Reference 5 (Certificate of Need)
Reference 6 (Department of Health)
Reference 10 (Food Code)
Reference 15 (AIA Construction Guidelines)
Reference 16 (State Fire Code)
Reference 18 (Sewage regulations)
Reference 19 (ANSI Code)
Reference 23 (State Building Code)
Reference 28 (Americans with Disabilities Act)

In addition, any other applicable state and local laws, codes and regulations shall apply. Where there is a difference between codes, the code having the higher standard shall apply.

38.2 All plans for new construction or the renovation, alteration, extension, modification or conversion of an existing facility that may affect compliance with sections 41.0, 43.0, 44.0, 45.0, 46.0, and 52.0 herein, and reference 15, shall be reviewed by a Rhode Island licensed architect. Said architect shall certify that the plans conform to the construction requirements of sections 41.0, 43.0, 44.0, 45.0, 46.0, and 52.0 herein, and reference 15, prior to construction. The facility shall maintain a copy of the plans reviewed and the architect's signed certification, for review by the Department of Health upon request.

38.2.1 In the event of non-conformance for which the facility seeks a variance, the general procedures outlined in section 54.0 shall be followed. Variance requests shall include a written description of the entire project, details of the non-conformance for which the variance is sought and alternate provisions made, as well as detailing the basis upon which the request is made. The Department may request additional information while evaluating variance requests.

38.2.2 If variances are granted, a licensed architect shall certify that the plans conform to all construction requirements of sections 41.0, 43.0, 44.0, 45.0, 46.0, and 52.0 herein, and reference 15, except those for which variances were granted, prior to construction. The facility shall maintain a copy of the plans reviewed, the variance(s) granted and the architect's signed certification, for review by the Department upon request.

38.3 Upon completion of construction, the facility shall provide written notification to the Department describing the project, and a copy of the architect's certification. The facility shall obtain authorization from the Department prior to occupying/re-occupying the area. At the discretion of the Department, an on-site visit may be required

Section 39.0 ***General Provisions - Physical Environment***

39.1 Each facility shall be constructed, equipped and maintained to protect the health and safety of residents, personnel and the public. All equipment and furnishings shall be maintained in good condition, properly functioning and replaced when necessary.

39.2 All steps, stairs and corridors shall be suitably lighted, both day and night. Stairs used by residents shall have banisters, handrails or other types of support. All stair treads shall be well maintained to prevent hazards.

39.3 All rooms utilized by residents shall have proper ventilation and shall have outside openings with satisfactory screens. Shades or Venetian blinds and draperies shall be provided for each window.

39.4 Grounds surrounding the facility shall be accessible to and usable by residents and shall be maintained in an orderly and well-kept manner.

Section 40.0 ***Fire and Safety***

40.1 Each facility shall meet the provisions of reference 16.

40.2 Each facility shall establish a monitoring program for the internal enforcement of all applicable fire and safety laws and regulations. Such a program shall include written procedures for the implementation of said rules and regulations and logs shall be maintained.

Section 41.0 ***Emergency Power***

41.1 The facility shall provide an emergency source of electrical power necessary to protect the health and safety of residents in the event the normal electrical supply is interrupted.

a) Such emergency power system shall supply power adequate at least for: (1) lighting all means of egress; (2) equipment to maintain detection, alarm and extinguishing systems; and (3) life support systems, where applicable.

b) Where life support systems are used, emergency electrical service shall be provided by an emergency generator located on the premises.

Section 42.0 ***Facility Requirements for the Physically Handicapped***

42.1 Each facility shall be accessible to, and functional for, residents, personnel and the public. All necessary accommodations shall be made to meet the needs of persons with mobility disabilities, or sight, hearing and coordination or perception disabilities in accordance with reference 19.

42.2 Blind, non-ambulatory, physically handicapped or residents with mobility disabilities which limit self-preservation capability shall not be housed above the street level floor unless the facility is equipped with an elevator and meets other requirements of reference 19. Further, the facility must meet one of the following as defined in the N.F.P.A. Standards No. 220:

a) is of fire resistive construction, one (1) hour protected non-combustible construction; or

b) is fully sprinklered one (1) hour protected ordinary construction; or

c) is fully sprinklered one (1) hour protected wood frame construction.

Section 43.0 ***Residential Area***

43.1 Each residential area, as defined in section 1.35 herein, shall have at least the following:

a) a nurses' station with adjacent hand washing facility;

b) storage and preparation area(s) for drugs and biologicals;

c) storage rooms for walkers, wheelchairs and other equipment;

d) appropriate clean and soiled utility space; and

e) a telephone with outside line.

43.2 In addition, each residential area shall be equipped with a communication system which, as a minimum, shall be:

a) electrically activated;

b) operated from the bedside of each occupant and from all areas used by occupants, including multipurpose rooms, toilet and bathing facilities; and

c) capable of alerting the responsible person or persons on duty 24 hours a day, wherever their station may be.

Section 44.0 ***Resident Rooms and Toilet Facilities***

44.1 Resident rooms shall be designed with a personalized, homelike environment, and equipped for adequate nursing care, comfort and privacy of residents with no more than two (2) beds per room. At least five percent (5%) of the total beds (per unit or per facility) shall be located in single-bed rooms, each with a private bathing facility and toilet.

a) Single bedrooms shall be no less than 100 square feet in area and no less than eight feet wide exclusive of toilet rooms, closets, lockers, wardrobes, alcoves or vestibules. In new construction, single bedrooms shall be no less than 120 square feet in area.

b) Multi-bedrooms shall be no less than 160 square feet in area and no less than ten feet wide, exclusive of toilet rooms, closets, lockers, wardrobes, alcoves or vestibules. In new construction, multi-bedrooms shall be no less than 200 square feet in area.

44.2 Each room shall have a window which can be easily opened. The window sill shall not be higher than 3'0" above the floor and shall be above grade level.

44.3 The size of each window shall be no less than 2'6" wide by 4'5" high, double hung or an approved equivalent.

44.4 Each room shall have direct access to a corridor and outside exposure with the window at or above grade level.

44.5 Lavatories and bathing areas to be used by the handicapped shall be equipped with grab-bars for the safety of the residents and shall meet the requirements of reference 15.

44.6 All facilities constructed after the 20th of March 1977 shall have as a minimum, connecting toilet rooms between residents' rooms in accordance with the requirements of section 38.0 herein.

In all facilities constructed after 1 August 2001, patient toilet rooms shall be equipped with facilities for cleaning bedpans.

a) However, in facilities constructed prior to 20 March 1977, there shall be no less than one toilet per eight beds or fraction thereof on each floor where resident rooms are located.

44.7 Separate lavatory and toilet facilities shall be provided for employees and the general public commensurate with the needs of the facility.

44.8 A minimum of one (1) bathtub or shower shall be provided for every twelve (12) residents, not otherwise served by bathing facilities in resident rooms. At least one bathtub shall be provided in each residential area.

44.9 Each bathtub or shower shall be in an individual room or enclosure which provides space for the private use of the bathing fixture, for drying and dressing and for a wheelchair and an attendant.

44.10 Complete privacy shall be provided to each resident in semi-private rooms by the use of overhead type fire resistive screens and/or cubicle fire resistive curtains suspended by inset overhead tracks in accordance with reference 16.

a) When overhead type screens and/or cubicle curtains are not provided, each semi-private room shall be equipped with a fire resistive portable screen.

44.11 Each resident must be provided with a bed of proper size and height for the convenience of the resident, with a clean, comfortable mattress, bedside stand, comfortable chair, dresser and individual closet space for clothing with clothes racks and shelves accessible to residents in each room, and a reading lamp equipped with bulb of adequate candlepower.

a) Bedding including bedspread, shall be seasonally appropriate.

44.12 In all situations where physical configuration is not comfortable to adequate nursing care, comfort or privacy in the application of the above standards, the licensing agency shall be the ultimate authority in determining standards to be applied.

Section 45.0 ***Special Care Unit***

45.1 A resident room shall be designated for isolation purposes. Such room shall be properly identified with precautionary signs, shall have outside ventilation, private toilet and hand washing facilities, and shall conform to other requirements established for the control of infection in accordance with section 22.0 herein.

Section 46.0 ***Dining & Resident Activities Rooms***

46.1 The facility shall provide one or more clean, orderly, appropriately furnished and easily accessible room(s) of adequate size designed for resident dining and resident activities.

a) These areas shall be appropriately lighted and ventilated with non-smoking areas identified.

b) If a multipurpose room is used, there must be sufficient space to accommodate dining and resident activities and prevent interference with each other.

c) The total area set aside for these purposes shall be not less than 30 square feet per bed for the first 100 beds and 27 square feet per bed for all beds in excess of 100.

d) Storage shall be provided for recreational equipment and supplies.

Section 47.0 ***Plumbing***

47.1 All plumbing shall be installed in such a manner as to prevent back siphonage or cross connections between potable and non-potable water supplies in accordance with reference 23.

47.2 Fixtures from which grease is discharged may be served by a line in which a grease trap is installed in accordance with standards of reference 23. The grease trap shall be cleaned sufficiently often to sustain efficient operation.

Section 48.0 ***Waste Disposal***

48.1 ***Medical Waste:***

Medical waste as defined in the *Rules and Regulations Governing the Generation, Transportation, Storage, Treatment, Management & Disposal of Regulated Medical Waste in Rhode Island (DEM-DAH-MW-01-92*), Rhode Island Department of Environmental Management (June 1994), shall be managed in accordance with the provisions of the aforementioned regulations.

48.2 ***Other Waste:***

Wastes which are not classified as infectious waste, hazardous wastes or which are not otherwise regulated by law or rule may be disposed in dumpsters or load packers provided the following precautions are maintained:

a) Dumpsters shall be tightly covered, leak proof, inaccessible to rodents and animals, and placed on concrete slabs preferably graded to a drain. Water supply shall be available within easy accessibility for washing down of the area. In addition, the pick-up schedule shall be

maintained with more frequent pick-ups when required. The dumping site of waste materials must be in sanitary landfills approved by the Department of Environmental Management.

b) Load packers must conform to the same restrictions required for dumpsters and in addition, load packers shall be:

i. high enough off the ground to facilitate the cleaning of the underneath areas of the stationary equipment; and

ii. the loading section shall be constructed and maintained to prevent rubbish from blowing from said area site.

c) ***Recycleable waste***: Containers for recyclable waste, including paper and cardboard, shall be tightly covered, leak proof, inaccessible to rodents and animals, and placed on concrete slabs preferably graded to a drain. In addition, the pick-up schedule shall be maintained with more frequent pick-ups when required.

Section 49.0 ***Water Supply***

49.1 Water shall be distributed to conveniently located taps and fixtures throughout the building and shall be adequate in volume and pressure for all purposes including fire fighting.

a) In resident areas, hot water temperatures shall not be less than 100 degrees Fahrenheit nor exceed 110 degrees Fahrenheit (plus or minus two degrees). Thermometers (accuracy of which can be plus or minus two degrees) shall be provided in each residential area to check water temperature periodically on that unit and at each site where residents are immersed or showered.

b) Thermostatic or pressure balanced mixing valves are required at each site or fixture used for immersion or showering of residents. Thermometers and tactical (skin sense) method shall be used to verify the appropriateness of the water temperature prior to each use.

c) After 1 July 1991, in addition to temperature regulating devices controlling the generation of domestic hot water, hot water supply(ies) to resident care areas shall be regulated by anti-scalding, water tempering or mixing valves (approved by the director or his/her designee) in order to maintain the temperature standards of 47.1 a).

Section 50.0 ***Waste Disposal Systems***

50.1 Any new facility shall be connected to a public sanitary sewer if available, or otherwise shall be subject to the requirements of reference 18.

Section 51.0 ***Maintenance***

51.1 All essential mechanical, electrical and resident care equipment shall be maintained in safe operating condition and logs or records shall be maintained of periodic inspections.

Section 52.0 ***Other Provisions***

52.1 Facilities shall make provisions to ensure that the following are maintained:

a) adequate and comfortable lighting levels in all areas in accordance with Appendix D;

b) limitation of sounds at comfort levels;

c) comfortable temperature levels for the residents in all parts of resident occupied areas with a centralized heating system to maintain a minimum of 70°F degrees Fahrenheit during the coldest periods;

d) adequate ventilation through windows or by mechanical means; and

e) corridors equipped with firmly secured handrails on each side.

f) ***Heat relief:*** Pursuant to section 23-17.5-27 of the Rhode Island General Laws, as amended, any nursing home facility which does not provide air conditioning in every patient room shall provide an air conditioned room or rooms in a residential section(s) of the facility to provide relief to patients when the outdoor temperature exceeds eighty (80) degrees Fahrenheit.

PART VI *Confidentiality - Variance and Appeal Procedure*

Section 53.0 *Confidentiality*

53.1 Disclosure of any health care information relating to individuals shall be subject to all the statutory and regulatory provisions pertaining to confidentiality including but not limited to the provisions of reference 17.

Section 54.0 *Variance Procedure*

54.1 The licensing agency may grant a variance from the provisions of a rule or regulation in a specific case if it finds that a literal enforcement of such provision will result in unnecessary hardship to the applicant and that such a variance will not be contrary to the public interest, public health and/or health and safety of residents.

Variances shall not be granted for the provisions of these regulations found in sections 2.0, 9.0, 16.0, 19.0, 22.0, 24.0, 25.0, 27.11, 48.0, 49.0, 51.0, and 53.0.

54.2 A request for a variance shall be filed by an applicant in writing, setting forth in detail the basis upon which the request is made.

a) Upon the filing of each request for variance with the licensing agency, and within a reasonable time thereafter, the licensing agency shall notify the applicant by certified mail of its approval or in the case of a denial, a hearing date, time and place may be scheduled if the facility appeals the denial.

54.3 At a hearing held in furtherance of an appeal from a denial for a variance in accordance with section 54.2 (a) above, the applicant shall present his case to the Director or his designee for quasi-judicial matters, and shall have the burden of persuading the Director or his designee as aforesaid, through the introduction of clear and convincing evidence, that a literal enforcement of the rules will result in unnecessary hardship, and that a variance will not be contrary to the public interest, public health and/or health and safety of residents.

54.4 Nursing facilities that provide care in accordance with alternative service delivery models may be eligible for a variance in accordance with the requirements contained herein.

Section 55.0 *Deficiencies and Plans of Correction*

55.1 The procedures of this section are exclusive of those required in accordance with section 24.5 herein and of those procedures required to be performed as a result of inspections and investigations conducted in accordance with Chapter 23-17 of the General Laws of Rhode Island, as amended.

55.2 The licensing agency shall notify the governing body or other legal authority of a facility of violations of individual standards through a notice of deficiencies which shall be forwarded to the facility within fifteen (15) days of inspection of the facility unless the director determines that immediate action is necessary to protect the health, welfare, or safety of the public or any member thereof through the issuance of an immediate compliance order in accordance with section 23-1-21 of the General Laws of Rhode Island, as amended.

55.3 A facility which received a notice of deficiencies must submit a plan of corrections to the licensing agency within fifteen (15) days of the date of the notice of deficiencies. The plan of corrections shall detail any requests for variances as well as document the reasons therefor.

55.4 The licensing agency will be required to approve or reject the plan of corrections submitted by a facility in accordance with section 55.3 above within fifteen (15) days of receipt of the plan of corrections.

55.4.1 To be deemed acceptable by the licensing agency, a plan of correction shall:

a) Address how corrective action will be accomplished for those residents found to have been affected by the deficient practice(s);

b) Address how the facility will identify other residents having the potential to be affected by the same deficient practice(s);

c) Address what measures will be put into place or systemic changes made to ensure that the deficient practice(s) will not recur;

d) Indicate how the facility plans to monitor its performance to ensure that solutions are sustained;

e) Include dates when corrective action will be completed; and

f) Include any additional components deemed necessary by the licensing agency.

55.4.2 The facility shall develop a plan for ensuring that correction is achieved and sustained. This plan shall be implemented and the corrective action(s) evaluated for effectiveness. The plan of correction shall be integrated into the quality assurance system.

55.4.3 All deficiencies shall be fully and wholly corrected within thirty (30) days of the date of notice of the deficiencies, unless an extension is granted for good cause shown, but in no case shall an extension exceed fifteen (15) days.

55.5 If the licensing agency rejects the plan of corrections, or if the facility does not provide a plan of corrections within the fifteen (15) day period stipulated in section 55.3 above, or if a facility whose plan of corrections has been approved by the licensing agency fails to execute its plan within a reasonable time, the licensing agency may invoke the sanctions enumerated in section 9.6 herein. If the facility is aggrieved by the action of the licensing agency, the facility may appeal the decision and request a hearing in accordance with reference 20.

55.6 The notice of the hearing to be given by the Department of Health shall comply in all respects with the provisions of section 10 of reference 20. The hearing shall in all respects comply with sections 9, 10 and 12 of reference 20.

PART VII ***Exception and Severability***

Section 56.0 ***Exception***

56.1 Modification of any individual standard herein, for experimental or demonstration purposes, or as deemed appropriate by the licensing agency, provided that such modification will not be contrary to the public interest and the public health, or to the health and safety of residents, shall require advance written approval by the licensing agency.

Section 57.0 ***Rules Governing Practices and Procedures***

57.1 All hearings and reviews required under the provisions of Chapter 23-17 of the General Laws of Rhode Island, as amended, shall be held in accordance with the provisions of the *Rules and Regulations of the Rhode Island Department of Health Regarding Practices and Procedures Before the Department of Health and Access to Public Records of the Department of Health (R42-35-PP).*

Section 58.0 ***Severability***

58.1 If any provisions of these regulations or the application thereof to any facility or circumstances shall be held invalid, such invalidity shall not affect the provisions or application of the regulations which can be given effect, and to this end the provisions of the regulations are declared to be severable.

REFERENCES

1. "Health Care Facility Licensing Act of Rhode Island", Chapter 23-17 of the General Laws of Rhode Island, as amended.

2. "Conditions of Participation for Long Term Care Facilities", CFR 42 Part 483, Subpart A; Health Care Financing Administration, Department of Health Education and Welfare 1991 Edition.

3. "Residential Care and Assisted Living Facility Licensing Act", Chapter 23-17.4, General Laws of Rhode Island, as amended.

4. *Rules and Regulations for the Licensing of Assisted Living Residences,* Rhode Island Department of Health.

5. "Health Care Certificate of Need Act of Rhode Island", Chapter 23-15 of the General Laws of Rhode Island, as amended.

6. "Department of Health", Chapter 23-1 of the General Laws of Rhode Island, as amended.

7. "Nursing or Personal Care Home Accountability", Chapter 23-17.2 of the General Laws of Rhode Island, as amended.

8. "Nursing Home Administrators", Chapter 5-45 of the General Laws of Rhode Island, as amended.

9. "Vital Statistics", Section 23-3-26 of the General Laws of Rhode Island, as amended.

10. *Food Code* (R23-1,21-27-FOOD), Rhode Island Department of Health.

11. *Rules and Regulations Pertaining to the Reporting of Communicable, Occupational, and Environmental Diseases* (R23-10-DIS), Rhode Island Department of Health.

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21. *Rules and Regulations for the Registration of Nursing Assistants*, (R23-17.9-NA), Rhode Island Department of Health.

22. "Nurses", Chapter 5-34 of the General Laws of Rhode Island, as amended.

23. "Rhode Island State Building Code", Chapter 23-27.3 of the General Laws of Rhode Island of, as amended.

24. "Rights of Nursing Home Patients", Chapter 23-17.5 of the General Laws of Rhode Island of, as amended.

25. *Rules and Regulations Governing the Generation, Transportation, Storage, Treatment, Management and Disposal of Regulated Medical Waste in Rhode Island* (DEM-DAH-MW-01-92), Rhode Island Department of Environmental Management, April 1994.

26. "Guidelines for Prevention of Tuberculosis Transmission in Hospitals", U.S. Department of Health and Human Services, HHS Publication, No. (CDC) 82-8371, January 1982.

27. *Rules and Regulations for the Licensure & Discipline of Physicians (R5-37-MD/DO)*, Rhode Island Department of Health.

28. "The Americans with Disabilities Act," U.S. Code Title 42 Sections 12101--12213; Title 47 Sections 152, 221, 225, 611; Title 29 Section 706 effective July 21, 1990. Amendments effective November 21, 1991: 105 Stat. 1077, 1095.

29. *Guidelines for Preventing the Transmission of Mycobacterium tuberculosis in Health-Care Settings*, 2005, U.S. Department of Health & Human Services, Public Health Service, Centers for Disease Control & Prevention, MMWR 2005; 54 (No. RR-17, 1-141).

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31. *Guidelines for the Control of Vancomycin Resistant Enterococci (VRE) in Nursing Homes and Extended Care Facilities*, Rhode Island Department of Health, April 1996.

32. *Rules and Regulations Pertaining to Immunization, Testing, and Health Screening for Health Care Workers (R23-17-HCW),* Rhode Island Department of Health.

33. *Rules and Regulations Pertaining to Pharmacists, Pharmacies & Manufacturers, Wholesalers & Distributors (R5-19-PHAR*), Rhode Island Department of Health.

34. *Immunization of Health-Care Workers: Recommendations of the Advisory Committee on Immunization Practices (ACIP) and the Hospital Infection Control Practices Advisory Committee (HICPAC),* U.S. Public Health Service, Centers for Disease Control, *Morbidity & Mortality Weekly Report*, December 26, 1997 / 46(RR-18);1-42.
Available online at: **www.cdc.gov/mmwr/preview/mmwrhtml/00050577.htm**

35. *Policy and Procedures for Tuberculosis Screening of Health-Care Workers*. Francis J. Curry National Tuberculosis Center, 3180 18th Street, Suite 101, San Francisco, CA 94110-2028 (telephone: 415-502-4600 facsimile: 415-502-4620) available online at: **www.nationaltbcenter.edu**

36. *Rules and Regulations Pertaining to the Use of Latex Gloves by Health Care Workers, in Licensed Health Care Facilities, and by Other Persons, Firms, or Corporations Licensed or Registered by the Department (R23-73-LAT),* Rhode Island Department of Health.

37. *Rules and Regulations Related to Pain Assessment (R5-37.6-PAIN),* Rhode Island Department of Health.

NursingFac_Proposed_August2012.doc
Tuesday, 31 July 2012

Appendix "A"

Todays Date: _____ **Resident Census** (12:01 a.m.): _____

	A.M/Day Shift Hours[2] (List hours)		P.M/Day Shift Hours (List hours)		Night Shift Hours (List hours)	
Facility Nursing: Direct Care Positions	# Staff	# Hours this shift	# Staff	# Hours this shift	# Staff	# Hours this shift
Registered Nurse (RN)						
Lic. Practical Nurse (LPN)						
Nurse Assistant (NA)						
Medication Technician						
Agency/contract Nursing: Direct Care Positions	# Staff	# Hours this shift	# Staff	# Hours this shift	# Staff	# Hours this shift
Registered Nurse (RN)						
Lic. Practical Nurse (LPN)						
Nurse Assistant (NA)						
Medication Technician						

Resident attendants for meal assistance are/is provided for the following meal times:

☐ Breakfast-brunch ☐ Lunch ☐ Dinner

Footnotes:

RIGL 23-17-12.8 Posting of nursing staff levels in nursing facilities. Facilities are required to post actual on-site direct care nursing staff [1]levels by shift in a public place within the facility.

[2]For alternative work schedules or cross-over shifts, the staff FTE and hours worked must be split over the appropriate work shifts.

Appendix B

Nursing Home Resident Attendant Training Program Protocol

Version 7-07

Scope:

To provide training to individuals who will provide safe and proper eating and hydration assistance to nursing home residents with *no* complicated eating or drinking problems.

Program Criteria:

- The training program shall be conducted by a registered nurse, and may include the assistance of a registered dietitian;

- The training shall provide a minimum of eight (8) hours of classroom instruction, and participants shall demonstrate an understanding of topics that includes but is not limited to:
  - Eating techniques;
  - Physical mechanics of:
    - Breathing and swallowing;
    - Aspiration;
    - Choking
  - Assistance with eating and hydration (drinking);
  - Infection control;
  - Resident rights;
  - Communication and interpersonal skills;
  - Appropriate responses to resident behavior;
  - Safety and emergency procedures, including the Heimlich maneuver;

- The training shall provide, either directly or through arrangements with a nursing facility, a minimum of four (4) hours of practical experience supervised by a registered nurse.

Classroom Demonstration:

✓ Completion of eight (8) hours of classroom instruction and demonstration of topic competency to the satisfaction of the registered nurse trainer.

Practical Demonstration:

✓ Completion of four (4) hours of practical experience supervised by a registered nurse.

Certificate of Completion:

✓ Certificate of classroom completion signed by registered nurse trainer and bearing the Department program approval certification number and including an area for documentation of satisfactory completion of practical experience, similar to Appendix C.

Program Approval:

Organizations or facilities interested in providing a resident attendant eating assistance program should submit a letter of intent to HEALTH, Office of Facilities Regulation, c/o Eating Assistance Program, 3

Capital Hill, Providence, RI 02908. The request must include:

- ✓ An outline of the structure and format for the program;
- ✓ Resume/curriculum vita for the registered nurse trainer and other trainers;
- ✓ Curriculum/program outline to be utilized;
- ✓ Method of ensuring participants' successful demonstration of competencies;
- ✓ Program contact information.

Following review by HEALTH, numbered program approvals will be provided.

Appendix C

Certificate of Completion

Nursing Home Resident Attendant Training Program

Jane Doe

Has completed the classroom portion of a nursing home resident attendant training program and demonstrated her knowledge and understanding of the following core competencies:

- ✓ Eating techniques;
- ✓ Physical mechanics of:
  - o Breathing and swallowing;
  - o Aspiration;
  - o Choking
- ✓ Assistance with eating and hydration (drinking);
- ✓ Infection control;
- ✓ Resident rights;
- ✓ Communication and interpersonal skills;
- ✓ Appropriate responses to resident behavior;
- ✓ Safety and emergency procedures, including the Heimlich maneuver;

(List any additional or supplemental competencies provided)

Successfully demonstrated to me on this date: {Month, day, Year}

_____

Registered Nurse Trainer (Name) License # HEALTH Program Approval #

Four (4) hours of practical demonstration was completed on the following date(s):

# Hours	Date	Registered Nurse Signature	Facility Name

APPENDIX D

Recommended Lighting Levels for Areas Unique to Nursing Homes

Minimum Foot Candles on Tasks At Any Time[1]

		Foot Candles
Administrative Spaces: General Office, Medical Records, Conference/interview area/room(s)		***50***
Corridors – Nursing Areas:	Day: Night:	***20*** ***10***
Dietary		***50***
Elevators		***15***
Examination Rooms		***50***
Employee:	Lounge(s): Locker Room(s):	***50*** ***20***
Linens:	Sorting soiled linen: Central clean linen supply: Linen room(s)/closets	***30*** ***30*** ***10***
Stairways		***15***
Lobby area(s):	Receptionist: General:	***30*** ***20***
Physical therapy		***30***
Occupational therapy area(s):	Work benches/tables: Work area – general:	***50*** ***30***
Speech therapy		***30***
Resident Lounge(s):	Reading General	***30*** ***15***
Resident dining area(s)		***30***
Resident care area(s):	Room/bed/toilet/reading: General:	***30*** ***15***
Nursing station(s):	Desk, medication area, nourishment center: General: Corridors day/night (see “corridors” above):	***50*** ***30*** ***20 - 10***
Mechanical-electrical room/space:		***30***
Utility room:	Clean and soiled	***30***
Janitor’s closet		***15***
Storage – general		***20***
Toilet – bathing – shower facilities		***30***
Barber and beautician areas		***50***
Waiting area(s):	Reading General	***30*** ***20***

1 Source: *Guidelines for Construction and Equipment of Hospital and Medical Facilities*, The American Institute of Architects Press, Washington, D.C., 1992--1993 edition.

Department of Health, Office of Facilities Regulation
Documentation of Required Reporting[2]
R23-17-NF - Appendix E

Statutory Reference:
Chapter 23-17,
Sections 16 & 37
Chapter 23-17.8-2

Reporting Facility: Date of report:

Facility Address:			
Reported by:		Title	
Contact number:			

Type of Report: ☐ Allegation of Abuse, Neglect, or Mistreatment[3] ☐ Accident ☐ Incident/Other

Select most appropriate reason for report:

☐ ***Abuse, Neglect, or Mistreatment (as defined in §23-17.8-1)*** ☐ ***Resident to Resident***

☐ ***Resident accident or incident resulting in hospitalization, death, or death following hospitalization;***

☐ ***Death within 24 hours or admission or prior to physical exam - see section 23.3(c)***[4]***;***

☐ ***Elopement: Police notified:*** ☐ ***Yes*** ☐ ***No***

☐ ***Misappropriation or exploitation of resident property or resources, or***

☐ ***Unscheduled implementation of the facilities fire/evacuation/disaster plan impacting residents.***

Resident(s) Information:

Last Name:		First:		Gender:	☐ Female ☐ Male
Last Name:		First:		Gender:	☐ Female ☐ Male

Incident Information:

Date of Incident:		Time:		Witness(s)	☐ No ☐ Yes (List below)
Location of Incident:					
Witness(s):					

Alleged Perpetrator(s) Information (if applicable):

Last Name:		First:		☐Resident	☐Non-resident
Last Name:		First:		☐Resident	☐Non-resident
Victim or Abuser involved in previous abuse?	Victim: ☐ No ☐ Yes			Abuser: ☐ No ☐ Yes	

Description of incident and immediate action taken to ensure safety of resident(s) pending facility investigation.

CONTINUE ON ADDITIONAL PAGES AS NEEDED

FAX to: Facilities Regulation: 222-3650, and RI LTC Ombudsman: 785-3391

2 Reports may be called in immediately to DOH-222-5200 with follow-up faxes of this form by the next business day.
3 Facility investigation reports required within five (5) business days.
4 Requires report to the State Medical Examiner in accordance with 23, Chapter 4 and notice to facility medical director.

Department of Health, Office of Facilities Regulation
Nursing Facility Licensed Staff Hours/Turnover Annual Report

Statutory Reference: Chapter 23-17-24.7

R23-17-NF - Appendix F

Facility Name: _____ **License #:** _____

Reporting Period From: _____ To: _____
Month Year Month Year

TABLE 1: Nursing Care Annual Turnover Rate

	RN	LPN	NA
TOTAL # of Terminations this period:			
AVERAGE # Employed (Sum of each Mouth/12)			

Staff Turnover Rate (Terminations/Average Staff)	RN	LPN	NA

TABLE 2: Average Direct care Nursing Hours - Input average Census and staff data for this period

Average Resident Census this Period: _____

		Average A.M./Day Hours Per Resident	Average P.M./Evening Hours Per Resident	Average Night Hours Per Resident
Licensed	Registered Nurse (RN)			
	Lic. Practical Nurse (LPN)			
	Nurse Assistant (NA)			
Sub-Total Facility Nursing Staff this period:				
	Medication Technician (unlicensed)			
Licensed Contract	Registered Nurse (RN)			
	Lic. Practical Nurse (LPN)			
	Nurse Assistant (NA)			
Sub-Total Contract Nursing Staff this period:				
	Medication Technician (unlicensed)			
Total Average Nursing Staff this Period - Per resident/Per shift:				

Comments:

_____
Administrator Signature

_____
Date Submitted