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NEBRASKA HEALTH AND HUMAN SERVICES  
REGULATION AND LICENSURE

175 NAC 12

TITLE 175 HEALTH CARE FACILITIES AND SERVICES LICENSURE

CHAPTER 12 SKILLED NURSING FACILITIES, NURSING FACILITIES, AND  
INTERMEDIATE CARE FACILITIES

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TITLE 175 HEALTH CARE FACILITIES AND SERVICES LICENSURE

CHAPTER 12 SKILLED NURSING FACILITIES, NURSING FACILITIES, AND  
INTERMEDIATE CARE FACILITIES

12-001 SCOPE AND AUTHORITY: These regulations govern licensure of skilled nursing facilities, nursing facilities, and intermediate care facilities. The regulations are authorized by and implement the Health Care Facility Licensure Act, Neb. Rev. Stat. §§ 71-401 to 71-459.

12-002 DEFINITIONS

Abuse means any knowing, intentional, or negligent act or omission on the part of any person which results in physical, sexual, verbal or mental abuse, unreasonable confinement, cruel punishment, exploitation, or denial of essential care, treatment, or services to a resident.

Accident means an unexpected, unintended event that can cause a resident bodily injury.

Activities of daily living (See definition of "Care.")

Adjoining means located to allow access without having to enter a general corridor area used or observed by other facility occupants.

Apartment means a portion of a building that contains: living and sleeping areas; storage room(s); separate room(s) containing a toilet, lavatory, and bathtub or shower; and a kitchen area with a sink and cooking and refrigeration appliances.

Applicant means the individual, government, corporation, partnership, limited liability company, or other form of business organization that applies for a license.

Biological means any virus, therapeutic serum, toxin, antitoxin, or analogous product applicable to the prevention, treatment, or cure of disease or injuries of humans.

Care means the exercise of concern or responsibility for the comfort, welfare, and habilitation of persons, including a minimum amount of supervision and assistance with or the provision of personal care, activities of daily living, health maintenance activities, or other supportive services. For purposes of this chapter:

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1. Activities of daily living means transfer, ambulation, exercise, toileting, eating, self-administered medication, and similar activities;
2. Health maintenance activities means noncomplex interventions which can safely be performed according to exact directions, which do not require alteration of the standard procedure, and for which the results and resident responses are predictable; and
3. Personal care means bathing hair care, nail care, shaving, dressing, oral care, and similar activities.

Chemical restraint means a psychopharmacologic drug that is used for discipline or convenience and is not required to treat medical symptoms.

Complaint means any expression of concern or dissatisfaction.

Completed application means an application that contains all the information specified in 175 NAC 12-003 and includes all required attachments, documentation, and the licensure fee.

Department means the Department of Health and Human Services Regulation and Licensure.

Designee means a person who is authorized by law or by the resident to act on his or her behalf, for example, a parent of a minor child, a legal guardian, a conservator, or an attorney in fact named in a durable power of attorney for health care.

Device means an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent, or other similar or related article, including any component, part, or accessory, which is prescribed by a medical practitioner and dispensed by a pharmacist or other person authorized by law to do so.

Direction and monitoring means, for the purpose of medication administration, the acceptance of responsibility for observing and taking appropriate action regarding any desired effects, side effects, interactions, and contraindications associated with the medication. Direction and monitoring can be done by a:

1. Competent individual for himself or herself;
2. Caretaker; or
3. Licensed health care professional.

Director means the Director of Regulation and Licensure.

Dispensing pharmacy means the pharmacy that provides prescribed medications to residents of the facility or that provides emergency box drugs to an institution pursuant to the Emergency Box Drug Act, Neb. Rev. Stat. §§ 71-2410 to 71-2417.

Drug means substances as defined in Neb. Rev. Stat. § 71-1,142.

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Dwelling means a building that contains: living and sleeping areas; storage room(s); separate room(s) containing a toilet, lavatory, and bathtub or shower; and a kitchen area with a sink and cooking and refrigeration appliances.

Emergency box drugs means drugs required to meet the immediate therapeutic needs of residents when the drugs are not available from any other authorized source in time to sufficiently prevent risk of harm to such residents by the delay resulting from obtaining such drugs from such other authorized source.

Existing facility means a licensed facility or a facility whose construction or remodeling plans were approved by the Department prior to the effective date of 175 NAC 12.

Exploitation means the taking of property of a resident by means of undue influence, breach of a fiduciary relationship, deception, extortion, or by any unlawful means.

Facility means a skilled nursing facility, nursing facility, or intermediate care facility as defined.

Five rights means the right medication to the right resident in the right dosage by the right route at the right time.

Food Code means the Nebraska Food Code as defined in Neb. Rev. Stat. § 81-2,244.01 and as published by the Nebraska Department of Agriculture, except for compliance and enforcement provisions.

Foreign when applied to corporations means all those created by authority other than that of the State of Nebraska.

Grievance means any written expression of dissatisfaction which may or may not be the result of an unresolved complaint.

Health care facility means a(n) ambulatory surgical center, assisted-living facility, center or group home for the developmentally disabled, critical access hospital, general acute hospital, health clinic, hospital, intermediate care facility, intermediate care facility for the mentally retarded, long-term care hospital, mental health center, nursing facility, pharmacy, psychiatric or mental hospital, public health clinic, rehabilitation hospital, skilled nursing facility, or substance abuse treatment center.

Health maintenance activity (See definition of "Care".)

Incident means an occurrence likely to have a grave outcome.

Intermediate care facility means a facility where shelter, food, and nursing care or related services are provided for a period of more than 24 consecutive hours to persons residing at such facility who are ill, injured, or disabled and do not require hospital or skilled nursing facility care.

Licensed health care professional means an individual for whom medication authorization or administration of medications is included in the scope of practice.

Licensed nurse means a licensed registered nurse or a licensed practical nurse.

Licensee means the individual, government, corporation, partnership, limited liability company, or other form of business organization legally responsible for the operation of the facility and to whom the Department has issued a license.

Medical practitioner means any licensed physician, osteopathic physician, dentist, podiatrist, optometrist, chiropractor, physician assistant, certified registered nurse anesthetist, advanced practice registered nurse, or certified nurse midwife.

Medication means any prescription or nonprescription drug intended for treatment or prevention of disease or to affect body function in humans.

Medication administration includes, but is not limited to:

1. Providing medication for another person according to the five rights;
2. Recording medication provision; and
3. Observing, monitoring, reporting, and otherwise taking appropriate actions regarding desired effects, side effects, interactions, and contraindications associated with the medication.

Medication aide means an individual who is listed on the medication aide registry operated by the Department as provided in 172 NAC 95 and 96.

Medication error is the preparation, provision or administration of medications which is not in accordance with:

1. Physician orders;
2. Manufacturers specifications regarding the preparation and administration of the drug or biological; or
3. Accepted professional standards and principles that apply to professionals providing services.

Medication error rate is determined by calculating the percentage of errors. The numerator is the total number of errors that the survey team observes, both significant and nonsignificant. The denominator is called "opportunities for error" and includes all the doses the survey team observed being administered plus the doses ordered but not administered.

Medication provision means the component of the administration of medication that includes giving or applying a dose of medication to an individual and includes helping an individual in giving or applying such medication to himself or herself.

Medically related social services means services provided by the facility's staff to assist residents in maintaining or improving their ability to manage their everyday physical, mental, and psychosocial needs.

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Mental abuse means humiliation, harassment, threats of punishment or deprivation, or other action causing mental anguish.

Misappropriation of money or property means the deliberate misplacement, exploitation, or use of a resident's belongings or money without the resident's consent.

NAC means Nebraska Administrative Code.

Neglect means a failure to provide care, treatment, or services necessary to avoid physical harm or mental anguish of a resident.

New construction means a facility or a distinct part of a facility in which care and treatment is to be provided and which is enlarged, remodeled, or altered in any fashion or is built from the ground up on or after the effective date of 175 NAC 12.

New facility means a facility or a distinct part of a facility in which care and treatment is to be provided and which is not currently licensed as a health care facility. New facility also includes those facilities, which were previously licensed for care and treatment in another licensure category, that now intend to seek licensure in a different category.

Nursing facility means a facility where medical care, nursing care, rehabilitation, or related services and associated treatment are provided for a period of more than 24 consecutive hours to persons residing at such facility who are ill, injured, or disabled.

Personal care (See definition of "Care.")

Physical abuse means hitting, slapping, pinching, kicking, or other actions causing injury to the body.

Physical restraint means any manual method or physical or mechanical device, material, or equipment attached or adjacent to the resident's body that he or she cannot remove easily and that restricts freedom of movement or normal access to his or her own body.

Premises means a facility, the facility's grounds and each building or grounds on contiguous property used for administering and operating a facility.

PRN means an administration scheme in which a medication is not routine, is taken as needed, and requires assessment for need and effectiveness.

Qualified dietitian means a Registered Dietitian or a Licensed Medical Nutrition Therapist.

Qualified inspector means a professional architect or engineer licensed to practice in Nebraska, an official or employee of a local jurisdiction authorized by that jurisdiction to make inspections of particular building equipment or systems, or an individual certified by a nationally recognized organization to make such inspections.

Qualified personnel means that professional staff are licensed, certified or registered to provide specialized therapy/rehabilitative services in accordance with applicable state laws.

Resident means a person residing and receiving care and/or treatment as recommended by a medical practitioner at a skilled nursing facility, nursing facility, or intermediate care facility.

Schematic plans means a diagram of the facility which describes the number and location of beds, the location of care and treatment rooms, Life Safety Code construction and occupancy classifications locations, fire compartments, and Fire Marshal-approved points of safety.

Sexual abuse means sexual harassment, sexual coercion, or sexual assault.

Significant change means a major change in the resident's status that is not self-limiting, impacts on more than one area of the resident's health status, and requires interdisciplinary review and/or revision of the care plan.

Significant medication error means one which jeopardizes a resident's health and safety.

Significant weight loss is 5% loss of body weight in one month, 7.5% loss of body weight in three months, or 10% body weight loss in six months.

Skilled nursing facility means a facility where medical care, skilled nursing care, rehabilitation, or related services and associated treatment are provided for a period of more than 24 consecutive hours to persons residing at such facility who are ill, injured, or disabled.

Specialized rehabilitative services means services provided by qualified personnel such as, but not limited to, physical therapy, speech-language pathology, occupational therapy, and mental health rehabilitative services for mental illness and mental retardation.

Sufficient fluid means the amount of fluid needed to prevent dehydration (output of fluids far exceeds fluid intake) and maintain health. The amount needed is specific for each resident, and fluctuates as the resident's condition fluctuates.

Therapeutic diet means a diet ordered by a physician as part of treatment for a disease or clinical condition, to increase, decrease or eliminate certain substances in the diet, or to provide food the resident is able to eat.

Treatment means a therapy, modality, product, device, or other intervention used to maintain well being or to diagnose, assess, alleviate, or prevent a disability, injury, illness, disease, or other similar condition.

Unlicensed direct care staff means personnel who are not licensed or certified under the Uniform Licensing Law or other state laws governing the practice of health care and whose primary responsibility is to manage, supervise, and/or provide direct care to residents. Unlicensed direct care staff includes nursing assistants, medication aides, and other personnel with this responsibility and with job titles designated by the facility.

Verbal abuse means the use of oral, written, or gestured language including disparaging and derogatory terms to residents or within their hearing distance.

12-003 LICENSING REQUIREMENTS AND PROCEDURES: Any person intending to establish, operate, or maintain a skilled nursing facility, nursing facility, or intermediate care facility must first obtain a license from the Department. A facility must not hold itself out as a skilled nursing facility, nursing facility, or intermediate care facility or as providing skilled nursing, nursing or intermediate care nursing services unless licensed under the Health Care Facility Licensure Act. An applicant for an initial or renewal license must demonstrate that the facility meets the care, treatment, operational, and physical plant standards contained in 175 NAC 12.

12-003.01 Initial License: The initial license process occurs in two stages. The first stage consists of the applicant's submission of affirmative evidence of the ability to comply with the operational and physical plant standards contained in 175 NAC 12-006 and 12-007. The application is not complete until the Department receives documents specified in 175 NAC 12-003.01.

The second stage consists of the Department's review of the completed application together with an inspection of the skilled nursing facility, nursing facility, or intermediate care facility. The Department determines whether the applicant meets the standards contained in 175 NAC 12 and the Health Care Facility Licensure Act.

12-003.01A Applicant Responsibilities: An applicant for an initial skilled nursing facility, nursing facility, or intermediate care facility license must:

1. Intend to provide skilled nursing facility, nursing facility, or intermediate care facility services as defined;
2. Comply with the applicable codes, guidelines, and standards specified in 175 NAC 12-007;
3. Submit a written application to the Department as provided in 175 NAC 12-003.01B;
4. Receive approval, in writing from the Department, of schematic plans and, if new construction, of construction plans; and
5. Notify the Department at least 30 working days prior to planned resident occupancy.

12-003.01B Application Requirements: The applicant may construct an application or obtain an application form from the Department. The application must include:

1. Full name of the facility to be licensed, street and mailing address, telephone number, and facsimile number, if any;
2. Type of facility to be licensed;
3. Name of the administrator;
4. Name(s) and address(es) of the facility owner(s);
5. Ownership type;
6. Mailing address of the owner;
7. Preferred mailing address for receipt of official notices from the Department;
8. List of names and addresses of all persons in control of the facility. The list must include all individual owners, partners, limited liability company members, parent companies, and members of boards of directors

- owning or managing the operations and any other persons with financial interests or investments in the facility. In the case of publicly held corporations, the individual owners listed must include any stockholders who own 5% or more of the company's stock;
9. Legal name of the individual or business organization (government, corporation, partnership, limited liability company, or other type) to whom the license should be issued and a statement that such individual or organization accepts the legal responsibility for compliance with 175 NAC 12;
  10. Applicant's federal employer identification number, if not an individual;
  11. Applicant's social security number if the applicant is an individual. To ensure social security numbers are not part of public records and are used only for administrative purposes, applicants may submit social security numbers in a separate document;
  12. Number of beds;
  13. Signature(s) of:
    - a. The owner, if the applicant is an individual or partnership;
    - b. Two of its members, if the applicant is a limited liability company;
    - c. Two of its officers, if the applicant is a corporation; or
    - d. The head of the governmental unit having jurisdiction over the facility to be licensed, if the applicant is a governmental unit;
  14. Copy of the registration as a foreign corporation filed with the Nebraska Secretary of State, if applicant is a foreign corporation;
  15. Schematic plans;
  16. For new construction, construction plans completed in accordance with the Engineers and Architects Regulation Act, Neb. Rev. Stat. §§ 81-3401 to 81-3455. Construction plans and description must include the following:
    - a. Project name; description of the project with quantity and floor area information on bed, care, treatment, bathing, toileting, dining, and activity locations, building systems, and medical equipment; street address; and contact person;
    - b. Site plan, floor plans, elevations, wall and building sections, construction details, plumbing and electrical diagrams, and construction component schedules;
    - c. Complete list of names, titles, and telephone numbers of other authorities reviewing or inspecting the construction;
    - d. Upon Department request, any additional information that may be required for review, such as structural and mechanical calculations, electrical system calculations, and product and equipment information; and
    - e. Certification, if any, from a licensed architect or engineer that the construction plan and any revisions thereof meet the requirements of 175 NAC 12-007;
  17. Planned occupancy date;
  18. Copies of zoning approval from the relevant jurisdiction;
  19. Occupancy certificates issued by the State Fire Marshal or delegated authority;

20. Required licensure fee specified in 175 NAC 12-004.10; and
21. If applicable, the disclosure information required by the Alzheimer's Special Care Disclosure Act, Neb. Rev. Stat. §§ 71-516.01 to 71-516.04. The following information must be submitted:
  - a. The Alzheimer's special care unit's written statement of its overall philosophy and mission which reflects the needs of residents afflicted with Alzheimer's disease, dementia, or a related disorder;
  - b. The process and criteria for placement in, transfer to, or discharge from the unit;
  - c. The process used for assessment and establishment of the plan of care and its implementation, including the method by which the plan of care evolves and is responsible to changes in condition;
  - d. Staff training and continuing education practices;
  - e. The physical environment and design features appropriate to support the functioning of cognitively impaired adult residents;
  - f. The frequency and types of resident activities;
  - g. The involvement of families and the availability of family support programs; and
  - h. The costs of care and any additional fees.

12-003.01C Department Responsibilities: The Department will:

1. Review the application for completeness;
2. Provide notification to the applicant of any information needed to complete the application;
3. Confirm, either by Department review or by accepting certification from an architect or engineer, that the schematic plans and, if new construction, the construction plans meet the standards of 175 NAC 12-007;
4. Upon receipt of the requested information, conduct an on-site inspection in accordance with 175 NAC 12-005; and
5. Issue or deny a license based on the results of the initial inspection.

12-003.01D Denial of License: See 175 NAC 12-008.01 and 12-008.02 for grounds and procedures for the Department's denial of an initial license.

12-003.02 Renewal Licenses

12-003.02A Licensee Responsibilities: The licensee must submit a written application to the Department. The licensee may construct an application or obtain an application form from the Department. The application must include:

1. Full name of the facility to be licensed, street and mailing address, telephone number, and facsimile number, if any;
2. Type of facility to be licensed;
3. Name of the administrator;
4. Name(s) and address(es) of the facility owner(s);
5. Ownership type;

6. Mailing address(es) of the owner(s);
7. Preferred mailing address for receipt of official notices from the Department;
8. List of names and addresses of all persons in control of the facility. The list must include all individual owners, partners, limited liability company members, parent companies, and members of boards of directors owning or managing the operations and any other persons with financial interests or investments in the facility. In the case of publicly held corporations, the individual owners listed must include any stockholders who own 5% or more of the company's stock;
9. Legal name of the individual or business organization (government, corporation, partnership, limited liability company, or other type) to whom the license should be issued and a statement that the individual or organization accepts the legal responsibility for compliance with 175 NAC 12;
10. Applicant's federal employer identification number, if not an individual;
11. Applicant's social security number if the applicant is an individual. (To ensure social security numbers are not part of public records and are used only for administrative purposes, applicants may submit social security numbers in a separate document.);
12. Number of beds;
13. Signature(s) of:
  - a. The owner, if the applicant is an individual or partnership;
  - b. Two of its members, if the applicant is a limited liability company;
  - c. Two of its officers, if the applicant is a corporation; or
  - d. The head of the governmental unit having jurisdiction over the facility to be licensed, if the applicant is a governmental unit;
14. Occupancy certificates issued by the State Fire Marshal or delegated authority dated within the 18 months prior to the license expiration date;
15. Required licensure fee specified in 175 NAC 12-004.10; and
16. If applicable, the disclosure information required by the Alzheimer's Special Care Disclosure Act. The following information must be submitted:
  - a. The Alzheimer's special care unit's written statement of its overall philosophy and mission which reflects the needs of residents afflicted with Alzheimer's disease, dementia, or a related disorder;
  - b. The process and criteria for placement in, transfer to, or discharge from the unit;
  - c. The process used for assessment and establishment of the plan of care and its implementation, including the method by which the plan of care evolves and is responsible to changes in condition;
  - d. Staff training and continuing education practices;
  - e. The physical environment and design features appropriate to support the functioning of cognitively impaired adult residents;
  - f. The frequency and types of resident activities;
  - g. The involvement of families and the availability of family support programs; and
  - h. The costs of care and any additional fees.

12-003.02B Department Responsibilities: The Department will:

1. Send a notice of expiration and an application for renewal to the licensee's preferred mailing address not later than 30 days prior to the expiration date. The licensure renewal notice specifies:
  - a. Date of expiration;
  - b. Fee for renewal;
  - c. License number; and
  - d. Name and address of the facility;
2. Issue a renewal license when it determines that the licensee has submitted a completed renewal application;
3. Send to each licensee that fails to renew its license a second notice, which is the final notice and specifies that:
  - a. The licensee failed to pay its renewal fees or submit an application, or both;
  - b. The license has expired;
  - c. The Department will suspend action for 30 days following the date of expiration;
  - d. Upon receipt of the renewal fee and completed renewal application, the Department will issue the renewal license; and
  - e. Upon failure to receive the renewal fee and completed renewal application, the license will be lapsed; and
4. Place the facility license on lapsed status for nonpayment of fees if the licensee fails to renew the license. During this time, the facility may not operate. The license remains in lapsed status until it is reinstated.

12-003.02C Refusal to Renew: See 175 NAC 12-008.01 and 12-008.02 for grounds and procedures for the Department's refusal to renew a license.

12-003.03 Reinstatement from Lapsed Status: A facility requesting reinstatement of its lapsed license must submit to the Department an application for reinstatement and pay the required licensure fee specified in 175 NAC 12-004.10. The application must conform to the requirements specified in 175 NAC 12-003.02.

12-003.03A The Department will review the application for completeness and will decide if an onsite inspection is needed to determine compliance with the operation, care, treatment, and physical plant requirements of 175 NAC 12-006 and 12-007. The decision is based on the following factors:

1. The length of time that has transpired from the date the license was placed on lapsed status to the date of the reinstatement application; and
2. Whether the facility has provided care or treatment from the site under a license that is different from the lapsed license.

12-003.03B When the Department decides that a reinstatement inspection is warranted, it will conduct the inspection in accordance with 175 NAC 12-005.

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12-003.03C When the Department decides that a reinstatement inspection is not warranted, it will reinstate the license.

12-003.03D Refusal to Reinstate: See 175 NAC 12-008.01 and 12-008.02 for grounds and procedures for the Department's refusal to reinstate a lapsed license.

12-004 GENERAL REQUIREMENTS

12-004.01 Separate License: An applicant must obtain a separate license for each type of health care facility or health care service that the applicant seeks to operate. All buildings in which care and treatment is provided must comply with 175 NAC 12-006 and, if applicable, 175 NAC 12-007. A single license may be issued for:

1. A facility operating in separate buildings or structures on the same premises under one management;
2. An inpatient facility that provides services on an outpatient basis at multiple locations; or
3. A health clinic operating satellite clinics on an intermittent basis within a portion of the total geographic area served by such health clinic and sharing administration with such clinics.

12-004.02 Single License Document: The Department may issue one license document that indicates the various types of health care facilities or health care services for which the entity is licensed.

12-004.03 Effective Date and Term of License: Skilled nursing facility, nursing facility, and intermediate care facility licenses expire on March 31st of each year.

12-004.04 License Not Transferable: A license is issued only for the premises and persons named in the application and is not transferable or assignable. Change of ownership (sale, whether of stock, title, or assets, lease, discontinuance of operations) or change of premises terminates the license. If there is a change of ownership and the facility remains on the same premises, the inspection in 175 NAC 12-005 is not required. If there is a change of premises, the facility must pass the inspection specified in 175 NAC 12-005.

12-004.05 Bed Capacity, Usage, and Location: The facility must not use more beds than the total number of beds for which the facility is licensed. Changes in the use and location of beds may occur at any time without Department approval for licensure purposes. The facility must not locate more residents in a sleeping room/bedroom than the capacity for which the room was originally approved.

12-004.06 Change of Ownership or Premises: The licensee must notify the Department in writing ten days before a skilled nursing facility, nursing facility, or intermediate care facility is sold, leased, discontinued, or moved to new premises.

12-004.07 Notification: An applicant or licensee must notify the Department in writing by electronic mail, facsimile, or postal service:

1. At the time of license renewal, of any change in the use or location of beds;
2. At least 30 working days prior to the date it wishes to increase the number of beds for which the facility is licensed;
3. To request a single license document;
4. To request simultaneous facility or service licensure inspections for all types of licensure held or sought;
5. If new construction is planned, and submit construction plans for Department approval prior to any new construction affecting resident living, care, or treatment portions of the facility. The Department may accept certification from an architect or engineer in lieu of Department review;
6. Within 24 hours of any resident death that occurred due to suicide, a violent act, or the resident's leaving the facility without staff knowledge when departure presented a threat to the safety of the resident or others;
7. Within 24 hours if a facility has reason to believe that a resident death was due to abuse or neglect by staff;
8. Within 24 hours of any facility fire requiring fire department response; or
9. Within 24 hours of an accident or natural disaster resulting in damage to the physical plant and having a direct or immediate adverse effect on the health, safety, and security of residents. This must include a description of the well-being of the facility's residents and the steps being taken to assure resident safety, well-being, and continuity of care and treatment. The notification may be made by telephone if the accident or natural disaster has affected the facility's capacity to communicate.

12-004.08 Information Available to Public: The licensee must make available for public inspection upon request licenses, license record information, and inspection reports. This information may be displayed on the licensed premises.

12-004.09 Deemed Compliance

12-004.09A Accreditation or Certification: The Department may deem an applicant or licensee in compliance with 175 NAC 12-006 based on its accreditation as a skilled nursing facility, nursing facility, or intermediate care facility by the:

1. Joint Commission on Accreditation of Health Organizations;
2. Commission on Accreditation of Rehabilitation Facilities; or
3. Medicare or Medicaid certification program.

12-004.09A1 The applicant or licensee must request the Department to deem its facility in compliance with 175 NAC 12-006 based upon accreditation or certification. The request must be:

1. Submitted in writing within 30 days of receipt of a report granting accreditation or certification; and
2. Accompanied by a copy of the accreditation or certification report.

12-004.09A2 Upon receipt of the request the Department will deem the facility in compliance with 175 NAC 12-006 and will provide written notification of the decision to the facility within 10 working days of receipt of the request.

12-004.09A3 The Department will exclude a facility that has been deemed in compliance with 175 NAC 12-006 from the random selection of up to 25% of facilities for compliance inspections under 175 NAC 12-005.04A. The facility may be selected for a compliance inspection under 175 NAC 12-005.04B.

12-004.09A4 To maintain deemed compliance, the licensee must maintain the accreditation or certification on which its license was issued. If the accreditation or certification has been sanctioned, modified, terminated, or withdrawn, the licensee must notify the Department within 15 days of receipt of notification of the action. After giving the notice, the facility may continue to operate unless the Department determines that the facility no longer meets the requirements for licensure under the Health Care Facilities Licensing Act. If the Department determines the facility no longer qualifies for deemed compliance, the facility is subject to inspections under 175 NAC 12-005.

12-004.10 Fees: The licensee must pay fees for licensure and services as set forth below:

1. Initial and renewal licensure fees:
  - a. 1 to 50 Beds \$1,550
  - b. 51 to 100 Beds \$1,750
  - c. 101 or more Beds \$1,950
2. Duplicate license: \$ 10
3. Refunds for denied applications:
  - a. If the Department did not perform an inspection, the license fee is refunded except for an administrative fee of \$25.
  - b. If the Department performed an inspection, the license fee is not refunded.

12-005 INSPECTIONS: To determine compliance with operational, care, treatment, and physical plant standards, the Department inspects skilled nursing facilities, nursing facilities, and intermediate care facilities prior to and following licensure. The Department determines compliance through on-site inspections, review of schematic and construction plans, and reports of qualified inspectors.

12-005.01 Initial Inspection: The Department will conduct an announced initial on-site inspection to determine compliance with 175 NAC 12-006 and 12-007. The inspection will be conducted within 30 working days, or later if requested by the applicant, of receipt of a completed application for an initial license. The Department will provide a copy of the inspection report to the facility within ten working days after completion of an inspection.

12-005.02 Results of Initial Inspection

12-005.02A When the Department finds that the applicant fully complies with the requirements of 175 NAC 12-006 and 12-007, the Department will issue a license.

12-005.02B When the Department finds that the applicant has complied substantially but has failed to comply fully with the requirements of 175 NAC 12-006 and 12-007 and the failure(s) would not pose an imminent danger of death or physical harm to residents of the facility, the Department may issue a provisional license. The provisional license:

1. Is valid for up to one year; and
2. Is not renewable.

12-005.02C When the Department finds the applicant has one or more violations that create no imminent danger of death or serious physical harm and no direct or immediate adverse relationship to the health, safety, or security of the residents of the facility, the Department may send a letter to the facility requesting a statement of compliance. The letter will include:

1. A description of each violation;
2. A request that the facility submit a statement of compliance within ten working days; and
3. A notice that the Department may take further steps if the statement of compliance is not submitted.

12-005.02D The statement of compliance must indicate any steps that have been or will be taken to correct each violation and the estimated time to correct each violation. Based on the statement of compliance, the Department will take one of the following actions:

1. If the facility submits and implements a statement of compliance that indicates a good faith effort to correct the violations, the Department will issue either a regular license or a provisional license; or
2. If the facility fails to submit and implement a statement of compliance that indicates a good faith effort to correct the violations, the Department may deny the license.

12-005.02E When the Department finds the applicant fails to meet the requirements of 175 NAC 12-006 and 12-007 and the failure(s) would create an imminent danger of death or serious physical harm, the Department will deny the license.

12-005.03 Physical Plant Inspections: The Department will conduct inspections for conformity with construction plans and compliance with 175 NAC 12-007 for new construction and new facilities in accordance with the following:

12-005.03A On-site progress inspections of the physical plant by qualified inspectors for conformity to construction documents and compliance with code

requirements may occur at any time after construction has begun and prior to the concealment of essential components.

12-005.03B The Department will conduct an on-site final inspection of the physical plant prior to use or occupancy. In lieu of an on-site final inspection by the Department, the Department may accept a certification from a licensed architect or engineer that the physical plant meets the requirements of the Health Care Facility Licensure Act and 175 NAC 12, and that the facility is complete and ready for occupancy in accordance with Department-approved plans. The architect or engineer may construct a certification form or obtain a certification form from the Department.

12-005.03B1 The certification must state:

1. Name of the architect or engineer;
2. Name of the professional entity with which he or she is affiliated, if any;
3. Address and telephone number;
4. Type of license held, the state in which it is held, and the license number;
5. Name and location of the facility;
6. Name(s) of the owner(s) of the facility;
7. New construction had the building structure and plumbing rough-in inspected by a qualified inspector prior to the time these would be concealed and preclude observation;
8. All new construction is completed in accordance with approved construction plans; and
9. The facility is furnished, cleaned, and equipped for the care and treatment to be performed in compliance with 175 NAC 12-007, and approved for use and occupancy.

12-005.03B2 The certification must have attached to it:

1. Copies of documents from other authorities having jurisdiction verifying the facility meets the codes specified in 175 NAC 12-007.03A, and is approved for use and occupancy;
2. Copies of certifications and documentation from equipment and building system installers verifying that all equipment and systems installed are operating and approved for use and occupancy; and
3. Schematic floor plans documenting actual room numbers and titles, bed locations and capacity, and life safety information.

12-005.04 Compliance Inspections: The Department may, following the initial licensure of a facility, conduct an unannounced onsite inspection at any time it deems necessary to determine compliance with 175 NAC 12-006 and 12-007. The inspection may occur based on random selection or focused selection.

12-005.04A Random Selection: Each year the Department may inspect up to 25% of the skilled nursing facilities, nursing facilities, and intermediate care facilities based on a random selection of licensed skilled nursing facilities, nursing facilities, and intermediate care facilities.

12-005.04B Focused Selection: The Department may inspect a skilled nursing facility, nursing facility, or intermediate care facility when the Department is informed of one or more of the following:

1. An occurrence resulting in resident death or serious physical harm;
2. An occurrence resulting in imminent danger to or the possibility of death or serious physical harm to residents;
3. An accident or natural disaster resulting in damage to the physical plant and having a direct or immediate adverse effect on the health, safety, and security of residents;
4. The passage of five years without an inspection;
5. A complaint alleging violation of the Health Care Facility Licensure Act or 175 NAC 12;
6. Complaints that, because of their number, frequency, or type, raise concerns about the maintenance, operation, or management of the facility;
7. Financial instability of the licensee or the licensee's parent company;
8. Outbreaks or recurrent incidents of physical health problems such as dehydration, pressure sores, or other illnesses;
9. Change of services, management or ownership;
10. Change in status of accreditation or certification on which licensure is based, as provided in 175 NAC 12-004.09; or
11. Any other event that raises concerns about the maintenance, operation, or management of the facility.

#### 12-005.05 Results of Compliance Inspections

12-005.05A When the inspection reveals violations that create imminent danger of death or serious physical harm or have a direct or immediate adverse effect on the health, safety, or security of the facility's residents, the Department will review the inspection findings within 20 working days after the inspection. If the evidence from the inspection supports the findings, the Department will impose discipline in accordance with 175 NAC 12-008.03.

12-005.05B When the inspection reveals one or more violations that create no imminent danger of death or serious physical harm and no direct or immediate adverse effect on the health, safety, or security of the facility's residents, the Department may request a statement of compliance from the facility. The statement of compliance must indicate any steps that have been or will be taken to correct each violation and the estimated time to correct each violation. Based on the statement of compliance, the Department will take one of the following actions:

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1. If the facility submits and implements a statement of compliance that indicates a good faith effort to correct the violations, the Department will not take any disciplinary action against the license; or
2. If the facility fails to submit and implement a statement of compliance, the Department will initiate disciplinary action against the license in accordance with 175 NAC 12-008.

12-005.06 Re-Inspections

12-005.06A The Department may conduct re-inspections to determine if a facility fully complies with the requirements of 175 NAC 12-006 and 12-007. Re-inspection occurs:

1. After the Department has issued a provisional license;
2. Before a provisional license is converted to a regular license;
3. Before a disciplinary action is modified or terminated; or
4. After the Department receives a statement of compliance for cited violations.

12-005.06B Following a re-inspection, the Department may:

1. Convert a provisional license to a regular license;
2. Affirm that the provisional license is to remain effective;
3. Modify a disciplinary action in accordance with 175 NAC 12-008.02; or
4. Grant full reinstatement of the license.

12-006 STANDARDS OF OPERATION, CARE, AND TREATMENT: To assure adequate protection and promotion of the health, safety, and well-being of facility residents and compliance with state statutes, skilled nursing facilities, nursing facilities, and intermediate care facilities must meet the following standards except where specified otherwise.

12-006.01 Licensee Responsibilities: The licensee of each facility must assume the responsibility for the total operation of the facility. The licensee may appoint a governing body. Licensee responsibilities include:

1. Monitoring policies to assure the appropriate administration and management of the facility;
2. Ensuring the facility's compliance with all applicable state statutes and relevant rules and regulations;
3. Periodically reviewing reports and recommendations regarding the quality assurance/performance improvement program and implementing programs and policies to maintain and improve the quality of resident care and treatment;
4. Appointing a Nebraska-licensed administrator who is responsible for the day-to-day management of the facility;
5. Defining the duties and responsibilities of the administrator in writing;

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6. Notifying the Department in writing within five working days when a vacancy in the administrator position occurs, including who will be responsible for the position until another administrator is appointed; and
7. Notifying the Department in writing within five working days when the vacancy in the administrator position is filled, including the effective date, license number, and the name of the person appointed administrator.

12-006.02 Administrator: Every skilled nursing facility, nursing facility, and intermediate care facility must have a Nebraska-licensed administrator who is responsible for the overall management of the facility. Each administrator must be responsible for and oversee the operation of only one licensed facility or one integrated system, except that an administrator may be responsible for and oversee the operations of up to three licensed facilities if approval is granted by the Board of Examiners in Nursing Home Administration and such facilities are located within two hours' travel time of each other, the distance between the two facilities the farthest apart does not exceed 150 miles, and the combined total number of beds in the facilities does not exceed 200. With approval of the Board, an administrator may act in the dual role of administrator and department head but not in the dual role of administrator and director of nursing. The administrator is responsible for:

1. The facility's compliance with rules and regulations.
2. Planning, organizing, and directing those responsibilities delegated to him or her by the licensee of the facility;
3. Maintaining liaison, through meetings and periodic reports, among the governing body, medical and nursing staff, and other professional and supervisory staff of the facility;
4. The facility's protection and promotion of residents' health, safety and well-being; promotion of resident individuality, privacy and dignity; and resident participation in decisions regarding care and services;
5. Ensuring staffing appropriate in number and qualification to meet the resident needs;
6. Designating an appropriate person to act as a substitute in his or her absence who is responsible and accountable for management of the facility. The administrator remains responsible for the acts of the designated person. In case of an extended absence, an appropriate person means one who holds a current license or provisional license issued by the Department to act as a nursing home administrator;
7. Ensuring that facility staff identify and review incidents and accidents, resident complaints and concerns, patterns and trends in overall facility operation such as provisions of resident care and service and take action to alleviate problems and prevent recurrence;
8. Ensuring that a report is made on any alleged abuse of a resident by a staff member, volunteer, family member, visitor, or any other person to Adult Protective Services or local law enforcement as directed in the Adult Protective Services Act, Neb. Rev. Stat. §§ 28-348 to 28-387. All alleged abuse must be investigated and residents protected from further abuse throughout the investigation; and

9. Ensuring the establishment of a quality assurance/performance improvement committee and that the recommendations of the committee are addressed.

12-006.03 Medical Director: The facility must designate a physician to serve as medical director. The medical director is responsible for:

1. Ensuring adequate medical practitioner availability and support;
2. Ensuring effective medical practitioner and facility compliance with requirements;
3. Evaluating and improving the quality of the care; and
4. Evaluating and improving the quality of the systems and processes that influence the care.

12-006.04 Staff Requirements: The facility must maintain a sufficient number of staff with the required training and skills necessary to meet the resident population's requirements for assistance or provision of personal care, activities of daily living, supervision, supportive services and medical care where appropriate.

12-006.04A Employment Eligibility: The facility must provide for and maintain evidence of the following:

12-006.04A1 Staff Credentials: The facility must verify the current licensure, certification, registration, or other credentials of staff prior to the staff assuming job responsibilities and must have procedures for verifying that current status is maintained.

12-006.04A2 Health Status: The facility must establish and implement policies and procedures related to the health status of staff to prevent the transmission of disease to residents.

12-006.04A2a Health History Screening: The facility must complete a health history screening for each staff prior to assuming job responsibilities. A physical examination is at the discretion of the employer based on results of the health history screening.

12-006.04A3 Criminal Background and Registry Checks: The facility must complete and maintain documentation of pre-employment criminal background and registry checks on each unlicensed direct care staff member.

12-006.04A3a Criminal Background Checks: The facility must complete criminal background checks through a governmental law enforcement agency or a private entity that maintains criminal background information.

12-006.04A3b Registry Checks: The facility must check for adverse findings on the following registries:

1. Nurse Aide Registry;

2. Adult Protective Services Central Registry;
3. Central Register of Child Protection Cases; and
4. Nebraska State Patrol Sex Offender Registry.

12-006.04A3c The facility must:

1. Determine how to use the criminal background and registry information, except for the Nurse Aide Registry, in making hiring decisions;
2. Decide whether employment can begin prior to receiving the criminal background and registry information; and
3. Document any decision to hire a person with a criminal background or adverse registry findings, except for the Nurse Aide Registry. The documentation must include the basis for the decision and how it will not pose a threat to patient safety or patient property.

12-006.04A3d: The facility must not employ a person with adverse findings on the Nurse Aide Registry regarding resident abuse, neglect, or misappropriation of resident property.

12-006.04B Training: The facility must provide initial and ongoing training designed to meet the needs of the resident population. Training must be provided by a person qualified by education, experience, and knowledge in the area of the service being provided. The training must include the following:

12-006.04B1 Initial Orientation: The facility must ensure each employee of the facility receives initial orientation within two weeks that includes as a minimum, but is not limited to:

1. Resident rights;
2. Emergency procedures including fire safety and disaster preparedness plans including availability and notification;
3. Information on abuse, neglect, and misappropriation of money or property of a resident and reporting requirements according to the Adult Protective Services Act, and facility procedures;
4. Job duties and responsibilities; and,
5. Nursing staff must receive information on medical emergencies directives.

12-006.04B2 Ongoing Training: The facility must ensure each employee receives ongoing training to ensure continued compliance with regulations and facility policy. The record of such training must include a notation of type of training, name of employee(s), date of training, and name of person providing the training.

12-006.04B2a Nursing Assistant Training: Ongoing training for nursing assistants must consist of at least 12 hours per year on topics

appropriate to the employee's job duties, including meeting the physical, psychosocial, and mental needs of the residents in the facility.

12-006.04B2b Medication Aides: When medication aides are utilized by the facility, there must be ongoing training to ensure competencies are met as provided in 172 NAC 95.

12-006.04B2c Director of Food Service: When the director of food service is not a qualified dietitian, the director must have at least 15 hours of continuing education related to dietetics each year, 5 hours of which relate to sanitation. Evidence of credentials and of continuing education must be available within the facility.

12-006.04C Nursing Staff Resources and Responsibilities: The facility must provide sufficient nursing staff on a 24-hour basis, with specified qualifications as follows, to provide nursing care to all residents in accordance with resident care plans.

12-006.04C1 Director of Nursing Services: The facility must employ a Director of Nursing Services full-time, who may serve only one facility in this capacity. The Director of Nursing Services of the facility must be a registered nurse. The Director of Nursing Services is responsible for the following:

1. Administrative authority, function, and activity of the nursing department;
2. Orientation and inservice education of the nursing services staff;
3. Establishment and implementation of nursing services, objectives, standards of nursing practices, nursing policy and procedure manuals and written job descriptions for each level of nursing personnel;
4. Establishment and implementation of methods of coordination of nursing services with other resident services in meeting each resident's needs;
5. Preadmission evaluation of residents; establishment and implementation of criteria for admission to the facility;
6. Recommendation of the number and levels of nursing personnel to be employed;
7. Nursing staff development; and
8. Establishment and implementation of complete nursing assessments and nursing care plans for residents, and ongoing evaluation and updating of care plans to reflect the current overall condition of the residents.

12-006.04C1a The full-time registered nurse requirement as a Director of Nursing Services may not be waived.

12-006.04C1b The Director of Nursing Services may serve as a charge nurse only when the facility has an average daily occupancy of 60 or fewer residents.

12-006.04C1c The facility must notify the Department in writing within five working days when a vacancy in the Director of Nursing Services position occurs, including who will be responsible for the position until a full-time Director of Nursing Services is secured. The Department must be notified in writing within five working days when the vacancy is filled indicating effective date, name, and license number of the person assuming Director of Nursing Services responsibilities.

12-006.04C2 Registered Nurse Requirement: Except when waived under 175 NAC 12-006.04C2a or 12-006.04C2b, skilled nursing facilities and nursing facilities must use the services of a registered nurse for at least eight consecutive hours a day, seven days a week.

12-006.04C2a Registered Nurse Waiver in a Nursing Facility: The Department may waive the requirement that a nursing facility certified under Title XIX of the federal Social Security Act, as amended, use the services of a registered nurse for at least eight consecutive hours per day, seven days per week, if:

1. The facility demonstrates to the satisfaction of the Department that it has been unable despite diligent efforts, including offering wages at the community prevailing rate for nursing facilities, to recruit appropriate personnel;
2. The Department determines that a waiver of the requirement will not endanger the health or safety of individuals staying in the facility; and
3. The Department finds that, for any periods in which a registered nurse is not available, a registered nurse or physician is obligated to respond immediately to telephone calls from the facility; or
4. The Department of Health and Human Services Finance and Support has been granted any waiver by the federal government of staffing standards for certification under Title XIX of the federal Social Security Act, as amended, and the requirements of subdivisions of 12-006.04C2a, items 1-3, have been met.

A waiver granted under this section is subject to annual review by the Department. As a condition of granting or renewing a waiver, a facility may be required to employ other qualified personnel. The Department may grant a waiver under this section if it determines that the waiver will not cause the State of Nebraska to fail to comply with any of the applicable requirements of Medicaid so as to make the state ineligible for the receipt of all funds to which it might otherwise be entitled.

12-006.04C2b Registered Nurse Waiver in a Skilled Nursing Facility:  
The Department may waive, for up to one year, the requirement that a skilled nursing facility certified under Title XVIII of the Federal Social Security Act, as amended, use the services of a registered nurse for more than 40 hours per week if:

1. The facility is located in a non-urban area where the supply of skilled nursing facility services is not sufficient to meet the needs of individuals residing in the area;
2. The facility has one full-time registered nurse who is regularly on duty at the facility 40 hours per week; and
3. The facility has:
  - a. Only residents whose physician has indicated through orders or admission or progress notes that the residents do not require the services of a registered nurse or a physician for more than 40 hours per week; and
  - b. Has made arrangements for a registered nurse or a physician to spend time at the facility, as determined necessary by the physician, to provide the necessary services on days when the regular, full-time registered nurse is not on duty.

A waiver granted under this subsection is subject to annual review by the Department. As a condition of granting or renewing a waiver, a facility may be required to employ other qualified licensed personnel.

12-006.04C3 Charge Nurse Requirement: Except when waived under 175 NAC 12-006.04C4 or 12-006.04C5 of this section, skilled nursing facilities and nursing facilities must designate a licensed nurse to serve as a charge nurse on each tour of duty. Intermediate care facilities must designate a licensed nurse to serve as a charge nurse for one tour of duty each 24 hours.

12-006.04C3a The charge nurse is responsible for the total nursing care delivered on his or her tour of duty on the assigned unit. Charge nurse responsibilities are as follows:

1. Through assignment, delegate and/or direct to other nursing personnel the direct nursing care of the specific residents on the basis of staff qualifications, size and physical layout of the facility, characteristics of the resident load, and the emotional, social, and nursing care needs of residents;
2. Be knowledgeable and responsive to the physical and emotional needs of all residents;
3. Complete and accurate medication administration;
4. Provide direct resident care as required;

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5. Participate in the review, revising and implementation of residents' plan of care;
6. Notify the Director of Nursing Services, physician, and family of changes in resident condition, i.e., injury, accident, or adverse change; and,
7. Complete documentation describing nursing care provided, including resident response and status.

12-006.04C4 24-Hour Nurse Staffing Waiver in a Nursing Facility: The Department may waive the requirement that a nursing facility certified under Title XIX of the federal Social Security Act, as amended, use the services of a licensed nurse on a 24-hour basis seven days per week, including the requirement for a charge nurse on each tour of duty, if:

1. The facility demonstrates to the satisfaction of the Department that it has been unable, despite diligent efforts, including offering wages at the community prevailing rate for nursing facilities, to recruit appropriate personnel;
2. The Department determines that a waiver of the requirement will not endanger the health or safety of individuals staying in the facility; and
3. The Department finds that, for any periods in which licensed nursing services are not available, a licensed registered nurse or physician is obligated to respond immediately to telephone calls from the facility or hospital; or
4. The Department of Health and Human Services Finance and Support has been granted any waiver by the federal government of staffing standards for certification under Title XIX of the federal Social Security Act, as amended, and the requirements of 175 NAC 12-006. 04C4, items 1-3 have been met.

A waiver granted under this section is subject to annual review by the Department. As a condition of granting or renewing a waiver, a facility may be required to employ other qualified licensed personnel. The Department may grant a waiver under this section if it determines that the waiver will not cause the State of Nebraska to fail to comply with any of the applicable requirements of Medicaid so as to make the state ineligible for the receipt of all funds to which it might otherwise be entitled.

12-006.04C5 24-Hour Nurse Staffing Waiver in a Skilled Nursing Facility: The Department may waive the requirement that a skilled nursing facility use licensed nurses on a 24-hour basis, seven days a week, including the requirement for a charge nurse each tour of duty, if:

1. The facility demonstrates to the satisfaction of the Department that it has been unable, despite diligent efforts including but not limited to offering wages equal to or greater than the community

prevailing wage rate being paid nurses at nursing facilities, to hire enough licensed nurses to fulfill such requirements;

2. The Department determines that a waiver of the requirement will not endanger the health or safety of residents of the facility; and,
3. The Department finds that, for any period in which staffing requirements cannot be met, a registered nurse or a physician is obligated to respond immediately to telephone calls from the facility.

A waiver granted under this subsection is subject to annual review by the Department. As a condition of granting or renewing a waiver, a facility may be required to employ other qualified licensed personnel.

12-006.04C6 Notification of Waiver

12-006.04C6a The Department will provide notice of the granting of a waiver to the office of the state long-term care ombudsman and to Nebraska Advocacy Services or any successor designated for the protection of and advocacy for persons with mental illness or mental retardation.

12-006.04C6b The skilled nursing facility or nursing facility granted a waiver must provide written notification to each resident of the facility or, if appropriate, to the guardian, designee, or immediate family of the resident.

12-006.04C7 Other Nursing Personnel: The facility must assign a sufficient number of qualified nursing personnel who are awake, dressed and assigned to resident care duties at all times.

12-006.04C7a The facility must ensure personnel who provide direct resident care but are not required to be licensed or registered, including Nursing Assistants and Medication Aides, meet the following requirements:

12-006.04C7a(1) Nursing Assistants must be at least 16 years of age and must have completed a training course approved by the Department in accordance with 175 NAC 13.

12-006.04C7a(2) Medication Aides must meet the requirements in 172 NAC 95.

12-006.04C7a(3) Personnel must have the ability to speak and understand the English language or a language understood by a substantial portion of the facility's residents.

12-006.04C7b Paid Dining Assistants: When the facility utilizes persons other than a licensed registered or practical nurse or a nursing

assistant for the feeding of residents, the facility must follow 172 NAC 105. Each facility must establish and implement policies and procedures:

1. To ensure that paid dining assistants providing assistance with feeding to residents in the facility meet the qualification, training and competency requirements specified in 172 NAC 105;
2. To ensure that competency assessments and/or courses for paid dining assistants have been completed in accordance with the provisions of 172 NAC 105;
3. That specify how the facility will meet the role requirements at 172 NAC 105-004, which state that paid dining assistants must:
  - a. Only feed residents who have no complicated feeding problems as selected by the facility based on the resident's latest assessment, plan of care, and determinations by the charge nurse that the resident's condition at the time of such feeding meets that plan of care and that the paid dining assistant is competent to feed that particular resident;
  - b. Work under the supervision of a licensed registered or practical nurse who is on duty, physically present in the facility, and immediately available; and
  - c. Call a supervisor for help in an emergency;
4. That specify how the facility will meet the requirements at 172 NAC 105-007, which state that the facility must maintain:
  - a. A listing of all paid dining assistants employed at the facility and the number of hours worked;
  - b. For each individual paid dining assistant:
    - (1) Verification of successful completion of an approved paid dining assistant training course and competency evaluation, and
    - (2) Verification that the facility has made checks with the Nurse Aide Registry, the Adult Protective Services Central Registry, and the central register of child protection cases maintained by the Department of Health and Human Services if applicable; and
5. That address how supervision of paid dining assistants will occur and how paid dining assistants will be identified as single-task workers.

12-006.04D Dietary Services Staffing: The facility must employ sufficient personnel competent to carry out the functions of the dietary services in a safe and timely manner.

12-006.04D1 Qualified Dietitian: The facility must employ a qualified dietitian on a full-time, part-time, or consultant basis.

12-006.04D1a The qualified dietitian is responsible for the general guidance and direction of dietary services, assessing special nutritional needs, developing therapeutic diets, regular diets, developing and implementing inservice education programs, participating in interdisciplinary care planning when necessary, supervising institutional food preparation, service and storage.

12-006.04D2 Food Service Director: The facility must designate a person to serve as the director of food service who receives scheduled consultation from a registered dietitian or licensed medical nutrition therapist if a qualified dietitian is not employed full-time.

12-006.04D2a To qualify as director of food service the employee must be one of the following:

1. A graduate of a dietetic technician program approved by the American Dietetic Association;
2. An individual with a bachelor's degree in foods and nutrition;
3. A graduate of a dietetic assistant program approved by the American Dietetic Association, qualifying for certification by the Dietary Managers Association;
4. A graduate of a dietary manager program approved by the Dietary Managers Association and qualifying for certification by the Dietary Managers Association; or
5. An individual who successfully completes a course in food service management offered by an accredited university, community college, or technical college, whose curriculum meets at least the minimum requirements of any of the programs described in 175 NAC 12-006.04D2a, items 1-3, whether or not formally approved by the entities named in those sections.

12-006.04D3 The dietitian or director of food service is responsible for ensuring residents are provided with a nourishing, palatable, well-balanced diet that meets the daily nutritional and special dietary needs of each resident. The director of food service or his/her designee must participate in the interdisciplinary care plan.

12-006.04E Social Services Staffing: The facility must employ adequate staff to meet the social service needs of the residents.

12-006.04E1 The facility must designate a social services director to be responsible for arranging and integrating social services with other elements of the care plan. The person designated as social services director must have:

1. A certificate issued by the Department to practice social work as a certified master social worker;
2. A Master of Social Work (M.S.W.) degree with one year experience in the provision of social services in a long term care facility, or geriatric setting;
3. A graduate degree in social or behavioral sciences with a specialty in gerontology with one year experience in the provision of social services in a long term care facility, or geriatric setting;
4. A Bachelor of Social Work degree from a college or university with an undergraduate social work program accredited by the Council on Social Work Education with one year of experience in the provision of social services in a long term care facility or geriatric setting;
5. A Bachelor of Arts (B.A.) or Bachelor of Science (B.S.) degree in social or behavioral sciences with one year of experience in the provision of social service in a long term care facility, or geriatric setting;
6. An Associate of Arts degree in social or behavioral sciences with two years of experience in the provision of social services in a long term care facility, or the services of a qualified consultant;
7. Successfully completed a course of instruction in social services of at least 36 hours established by the Provider Associations; or
8. Two years experience in the provision of social services in a long-term care facility.

12-006.04E2 If the designated person does not meet the qualifications of a social service director, the facility must have a written agreement with a qualified social worker for consultation and assistance on a regularly scheduled basis as required to meet the needs of the residents.

12-006.04E3 The social service director or his/her designee must act as part of the interdisciplinary team in assessing the individual needs of the resident and participate in development and implementation of the interdisciplinary care plan. The facility must implement social service interventions to assist the resident in meeting treatment goals, address resident needs and provide social service support in meeting resident needs and individuality.

12-006.04E4 The facility social service staff must establish and maintain relationships with the resident's family or designee.

12-006.04F Resident Activity Staffing: The facility must employ adequate staff to provide activities of interest to residents.

12-006.04F1 The facility must designate a qualified resident activities director. The activities director must meet one of the following qualifications:

1. A qualified therapeutic recreation specialist with one year of experience in a long term care facility or geriatric setting;
2. A licensed occupational therapist with one year of experience in a long term care facility or geriatric setting;
3. A qualified therapeutic recreation assistant with one year of experience in a long term care facility or geriatric setting;
4. An individual who has a Bachelor of Arts (B.A.) or Bachelor of Science (B.S.) degree in social or behavioral sciences with one year of experience in the provision of recreational services in a long term care facility or geriatric setting;
5. An individual who has successfully completed a course of instruction in recreational services of at least 36 hours established by the provider associations, or a substantially equivalent course established by any other health care association or entity; or,
6. Has two years of full-time experience in a resident activities program in a health care setting.

12-006.04F2 If the designated person does not meet the qualifications of an activities director, the facility must have a written agreement with a qualified consultant for consultation and assistance on a regularly scheduled basis as required to meet the needs of the residents.

12-006.04F3 The activity director or his/her designee must act as a member of the interdisciplinary team and participate in the development of the interdisciplinary care plan. The activity director is responsible for providing daily activities for residents to stimulate and promote the physical, spiritual, social, emotional, and intellectual well-being of each resident.

12-006.04G Medical Records Staffing: The facility must assign overall supervisory responsibility for the medical record service to a full-time employee of the facility, and must maintain sufficient supporting personnel competent to carry out the functions of the medical record services.

12-006.05 Resident Rights: The facility must inform residents of their rights in writing. The operations of the facility must afford residents the opportunity to exercise their rights, which must include, but are not limited to, the following. Residents must have the right to:

1. Be fully informed in writing prior to or at the time of admission and during his or her stay, of services available in the facility, and of related charges including any charges for services not covered by the facility's basic per diem rate;
2. Be fully informed of his or her rights and responsibilities as a resident and of all rules and regulations governing resident conduct and responsibilities. This information must be provided prior to or at the time of admission and its receipt acknowledged by the resident in writing, or, in the case of residents

already in the facility, upon the facility's adoption or amendment of resident rights policies;

3. Be fully informed by a physician of his or her health and medical condition unless medically contraindicated;
4. Participate in the planning of his or her total care and medical treatment, or to refuse treatment. A resident may participate in experimental research only upon informed written consent;
5. Be free from arbitrary transfer or discharge. The resident must be informed at the time of admission that he or she may be transferred or discharged only upon the following terms:
  - a. Upon his or her consent;
  - b. For medical reasons, which must be based on the resident's needs and be determined and documented by a physician;
  - c. For the resident's safety or the safety of other residents or facility employees;
  - d. When rehabilitation is such that movement to a less restrictive setting is possible; or
  - e. For nonpayment of the resident's stay, except as prohibited by Title XVIII or XIX of the Social Security Act as amended, or the Nebraska Nursing Home Act, Neb. Rev. Stat. §§ 71-6008 to 71-6037. Non-payment under the Nebraska Nursing Home Act must not include a change in resident economic status so that the resident receives Medicaid or becomes eligible for Medicaid if the resident has resided in the facility for a period of at least one year after July 17, 1986, unless 10% of the facility's residents are receiving Medicaid or are eligible for Medicaid. This provision does not apply to Nebraska Veterans' Homes established under Chapter 80, Article 3 of Nebraska Statutes.

A minimum of 30 days written notice must be given to the resident or to his or her designee prior to involuntary transfer or discharge of a resident, except that:

- (1) Five days written notice must be given if the transfer is to a less restrictive setting due to rehabilitation.
- (2) Ten days written notice will be given if the resident is five or more days in arrears of payment for stay.
- (3) Written notice is not required in the event of emergency transfer or discharge if the transfer or discharge is mandated by the resident's health care needs and is in accord with the written orders and medical justification of the attending physician, or if mandated for safety of other residents or facility employees as is documented in the facility's records.

Written notice must contain:

- (1) The stated reason for transfer or discharge;
- (2) The effective date of the transfer or discharge; and

(3) In not less than 12-point type, the following text:

A health care facility or health care service shall not discriminate or retaliate against a person residing in, served by, or employed at the facility or service who has initiated or participated in any proceeding authorized by the Health Care Facility Licensure Act or who has presented a complaint or provided information to the administrator of the facility or service, the Department of Health and Human Services, the Department of Health and Human Services Finance and Support, or the Department of Health and Human Services Regulation and Licensure. Such person may maintain an action for any type of relief, including injunctive and declaratory relief, permitted by law.

6. Exercise rights as a resident of the facility and as a citizen of the United States;
7. Voice complaints and grievances without discrimination or reprisal and have those grievances addressed;
8. Be free from chemical and physical restraints imposed for the purposes of discipline or convenience, and not required to treat the resident's medical symptoms;
9. Be free from abuse, neglect and misappropriation of their money and personal property;
10. Refuse to perform services for the facility;
11. Examine the results of the most recent survey of the facility conducted by the Department;
12. Privacy in written communication including sending and receiving mail;
13. Receive visitors as long as this does not infringe on the rights and safety of other residents in the facility. The administrator may refuse access to any person for any of the following reasons:
  - a. The resident refuses to see the visitor;
  - b. The presence of that person would be injurious to the health and safety of a resident, especially as documented by the attending physician;
  - c. The visitor's behavior is unreasonably disruptive to the facility and this behavior is documented by the facility;
  - d. The presence of that person would threaten the security of a resident's property or facility property; or
  - e. The visit is for commercial purposes only.

Any person refused access to a facility may, within 30 days of such refusal, request a hearing by the Department. The wrongful refusal of a nursing home to grant access to any person as required in Neb. Rev. Stat. §§ 71-6019 and 71-6020 constitutes a violation of the Nebraska Nursing Home Act. A nursing home may appeal any citation issued pursuant to this section as provided in 175 NAC 12-008.02;

14. Have access to the use of a telephone with auxiliary aides where calls can be made in private;

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15. Retain and use personal possessions, including furnishings, and clothing as space permits, unless to do so would infringe upon the rights and safety of other residents;
16. Self-administer medications if it is safe to do so;
17. Form and participate in an organized resident group that functions to address facility issues;
18. Review and receive a copy of their permanent record, within two working days;
19. Manage his or her personal financial affairs. Under specific written authorization by the resident, the facility may assist in such management to the extent specified by the resident;
20. Receive confidential treatment of all information contained in his or her records, including information contained in an electronic data bank. His or her written consent or that of the resident's designee is required for the release of information to persons not otherwise authorized under law to receive it; and
21. Be treated with consideration, respect, and full recognition of his or her dignity and individuality, including privacy in treatment and in care for his or her personal needs.

12-006.06 Complaints and Grievances: The facility must establish and implement procedures for addressing complaints and grievances from residents, resident groups, employees and others.

12-006.06A Submission of Complaints and Grievances: The facility must establish and implement a procedure on submission of individual or collective complaints and grievances. The facility must prominently display in plain view of residents, employees, and others the procedure for submitting complaints and grievances.

12-006.06B Resolution of Complaints and Grievances: The facility must establish and implement a procedure for investigating and assessing the validity of, and addressing complaints and grievances.

12-006.06C The facility must ensure that the telephone numbers and addresses of the Department's Investigations Division and the state long term care ombudsman are readily available to residents, employees and others for further course of redress.

12-006.07 Quality Assurance/Performance Improvement: The facility must have a quality assurance/performance improvement committee responsible for identifying issues which necessitate action, development and implementation of action plan to correct problems and reevaluation of the problem to promote quality care and treatment provided to residents.

12-006.07A Committee Participants: The facility must ensure the following individuals serve on the quality assurance/performance improvement committee:

1. Director of Nursing Services;
2. Medical Director or designee; and

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

12-006.07B Other Participants: The facility must request participation of other members of the facility staff as well as consultants on the quality assurance/performance improvement committee as necessary to identify issues which necessitate action and to participate in development and implementation of action plan to correct the problem and reevaluation of the problem.

12-006.07C Committee Responsibilities: The quality assurance/performance improvement committee is responsible for:

1. Identifying issues that necessitate action by the committee;
2. Developing and implementing plans of action to correct identified problems;
3. Monitoring the appropriateness and effectiveness of corrective actions; and
4. Reevaluating corrective actions, revising of plans of corrective action, and revising facility policies and clinical policies as necessary.

12-006.08 Medical Services: The facility must ensure that the medical care of each resident is supervised by a medical practitioner and that another medical practitioner supervises the medical care of the residents when their attending medical practitioner is unavailable.

12-006.08A Admission Criteria: The facility must ensure that each individual admitted to the facility has written approval of a recommendation for admittance to the facility by a medical practitioner. Each resident admitted to the facility must have a history and physical examination completed by a medical practitioner within 30 days prior to or 14 days after admission. Each resident must remain under the care of a medical practitioner.

12-006.08B Medical Practitioner Responsibilities: The medical practitioner must:

1. Review the resident's total program of care, including medications and treatments, at each visit required;
2. Write, sign, and date progress notes at each visit;
3. Sign any order he/she gives.

12-006.09 Care and Treatment: The facility is responsible for ensuring the physical, mental and psychosocial needs of all residents are met in accordance with each resident's individualized needs and physician orders.

12-006.09A Resident Admission and Retention: The facility must ensure that the facility's practice of admission and retention of residents meet the resident's identified needs for care and/or treatment.

12-006.09A1 Admission Criteria: The facility must establish and implement written criteria for admission to the facility. The written criteria must include how eligibility for admission is determined based on:

1. Identification of resident need in relationship to care and treatment, including severity of presenting problem; and
2. Need for supervision and other issues related to providing care and treatment and facility resources.

12-006.09A2 Retention of Residents: The facility must continue to provide care and treatment to residents as long as the facility can continue to meet the identified needs for care, treatment, and supervision, and other issues related to providing care and treatment.

12-006.09B Resident Assessment: The facility must conduct initially and periodically a comprehensive, accurate, and reproducible assessment of each resident's functional capacity to identify the resident's abilities and needs. The assessment must include documentation of:

1. Medical conditions (diagnoses) and prior medical history;
2. Medical status measurements, including:
  - a. Height;
  - b. Weight;
  - c. Blood pressure; and
  - d. Laboratory findings (i.e., hemoglobin, hemocrit, sodium, potassium, blood sugar, etc.);
3. The resident's capability to perform daily life functions and significant impairments in functional capacity;
4. Physical and mental functional status;
5. Sensory and physical impairments;
6. Nutritional status and requirements, including:
  - a. Observations for signs of nutritional deficiency;
  - b. Feeding and swallowing problems;
  - c. Food preferences and tolerances;
  - d. Nutritional implications of medicines prescribed; and
  - e. Evaluation of the current height and weight status;
7. Special treatments or procedures;
8. Mental and psychosocial status, including:
  - a. Medically related social services needs of resident;
  - b. Evaluation of resident's physical, mental and psychosocial functioning, and social service support needs; and
  - c. Evaluation of outside contacts, frequency of visitors, use of free time, communication, orientation, and behavior;
9. Discharge potential, including:
  - a. Status of independent functioning;
  - b. Availability of support personnel at home;
  - c. Services needed; and
  - d. Financial resources;

10. Dental condition;
11. Activities potential, including:
  - a. Individual activity interests and physical, mental, and psychosocial abilities;
  - b. Preadmission hobbies and interests;
  - c. Participation in activities;
  - d. Daily activity needs to stimulate and promote physical, spiritual, social, emotional, and intellectual well-being of each resident; and
  - e. The interest and needs of bedridden residents and those otherwise unable or unwilling to participate in group activities;
12. Rehabilitation potential;
13. Cognitive status; and
14. Medication therapy.

12-006.09B1 Frequency: The facility must ensure that a comprehensive assessment is completed:

1. No later than 14 days after the date of admission;
2. By the end of the 14<sup>th</sup> calendar day following the determination that a significant change has occurred; and
3. In no case less often than once every twelve months.

12-006.09B2 Review of Assessments: The facility must complete an assessment of each resident no less than once every 3 months, and as appropriate, revise the resident's assessment to ensure accuracy of the assessment.

12-006.09C Comprehensive Care Plans: The facility must develop and implement a comprehensive interdisciplinary care plan for each resident to ensure that there is provision of quality care. The comprehensive care plan must be designed to permit achievement and maintenance of optimal functional status and independence. The care plan must include and specify:

1. An interdisciplinary evaluation of resident needs;
2. Measurable objectives and timetables to meet a resident's medical, nursing, mental, and psychosocial needs that are identified in the comprehensive assessment;
3. The services that are to be furnished to attain or maintain the resident's highest practicable well-being;
4. Goals for the residents that are time limited and measurable;
5. A discharge plan based on the needs of the individual; and
6. The discipline(s) responsible for providing specific care and the frequency of the interventions.

12-006.09C1 Frequency of Care Plans: The facility must develop and implement care plans in accordance with the following time frames:

12-006.09C1a Preliminary Nursing Care Plan: The facility must develop a preliminary nursing assessment and nursing care plan in accordance with the medical practitioner's admission orders within 24 hours of the resident's admission.

12-006.09C1b Comprehensive Care Plan: The facility must develop a comprehensive interdisciplinary care plan and discharge plan within seven days after the completion of the comprehensive assessment.

12-006.09C1c Review and Revision: The facility must review and revise the care plan at least quarterly or with change in condition or services provided. Review of the care plan must include an interdisciplinary evaluation of the resident's progress relative to the goals established.

12-006.09C2 Discharge Planning: The facility must develop a post discharge plan of care for any resident when there is anticipated discharge to a home, same level, or a different level of care. The discharge plan of care must be developed with the participation of the resident and resident's family. The post discharge plan of care is developed to assist the resident in planning for post discharge needs and assist the resident to adjust to new living environment.

12-006.09C3 Discharge Summary: When the facility discharges a resident, the facility must have a discharge summary. The facility must ensure the discharge summary includes the resident's status at time of discharge, which is available for release to authorized persons and agencies with the consent of the resident or resident's designee. The discharge summary must include:

1. Resident's full name;
2. Medical record number;
3. Admission date;
4. Discharge date;
5. Name of attending medical practitioner;
6. Date and time of discharge;
7. Recapitulation of resident's stay;
8. Final diagnosis;
9. Date summary completed; and
10. Signature of the person completing the summary.

12-006.09C3a Discharge to Another Setting: When the facility discharges a resident to a different facility setting or service, in addition to 1-10 above, the discharge summary must also include:

1. Medically defined conditions;
2. Medical status measurement;
3. Functional status;
4. Sensory and physical impairments;

5. Nutritional status and requirements;
6. Special treatments and procedures;
7. Psychosocial status;
8. Discharge potential;
9. Dental condition;
10. Activities potential;
11. Rehabilitation potential;
12. Cognitive status; and
13. Drug therapy, including education.

12-006.09D Provision of Care and Treatment: The facility must provide the necessary care and treatment to permit achievement and maintenance of optimal mental, physical, and psychosocial functional status and independence in accordance with the comprehensive assessment and plan of care for each resident.

12-006.09D1 Resident Abilities: The facility must ensure care and treatment is provided to improve or maintain a resident's abilities when the resident is capable of some level of independence in performing these abilities. When the resident is not capable of independent functioning, the facility must be responsible for provision of these cares.

12-006.09D1a Diminished Abilities: The facility must ensure a resident receives the appropriate standards of care and treatment to prevent a diminution of the resident's abilities unless circumstances of the individual's medical condition demonstrates the diminution was unavoidable. This includes the resident's ability to:

1. Bathe, dress and groom;
2. Transfer and ambulate;
3. Toilet;
4. Eat; and
5. Use speech, language, or other functional communication systems.

12-006.09D1b Maintenance or Improvement in Abilities: The facility must ensure a resident is given the appropriate standards of care and treatment to maintain or improve his abilities as described in 006.09D1a.

12-006.09D1c Inability to Self-Perform: The facility must ensure a resident who is unable to carry out activities of daily living receives the appropriate standards of care and treatment to maintain good nutrition, grooming, and personal and oral hygiene.

12-006.09D1d Vision and Hearing: The facility must ensure that residents receive appropriate standards of care and treatment and assistive devices to maintain vision and hearing abilities. The facility must, if necessary, assist the resident in:

1. Making appointments, and
2. Arranging for transportation to and from the office of a practitioner/professional specializing in hearing and vision and/or provision of vision or hearing assistive devices.

12-006.09D2 Skin Integrity: The facility must ensure that a resident receives appropriate standards of care and treatment to maintain or improve skin integrity.

12-006.09D2a Prevent Pressure Sores: The facility must identify and implement appropriate standards of care and treatment to prevent a resident who enters the facility without a pressure sore from developing pressure sores unless the individual's clinical condition demonstrates that they were unavoidable.

12-006.09D2b Promote Healing: The facility must identify and implement standards of care and treatment for each resident with a pressure sore to promote healing, prevent infection and prevent other areas from occurring.

12-006.09D2c Other Open Areas: The facility must identify and implement standards of care and treatment to prevent a resident from developing skin excoriation, skin tears, other open areas unless the individual's condition demonstrates that they were unavoidable.

12-006.09D3 Urinary/Bowel Function: The facility must identify and implement standards of care and treatment for residents who have or are at risk for elimination problems. Care and treatment must be provided to:

1. Prevent urinary tract infection;
2. Restore bladder/bowel function unless the resident's condition demonstrates that the loss in bladder/bowel function is unavoidable;
3. Keep residents free of odors not caused by a clinical condition;
4. Keep residents free from skin breakdown related to bladder or bowel incontinence;
5. Keep residents free of fecal impactions and signs of discomfort from bowel constipation; and
6. Ensure a resident who enters the facility without an indwelling catheter does not receive an indwelling catheter unless the resident's clinical condition demonstrates that catheterization was necessary.

12-006.09D4 Range of Motion: The facility must identify and implement standards of care and treatment to improve or maintain each resident's range of motion unless the resident's clinical condition demonstrates a decline in range of motion was unavoidable.

12-006.09D5 Mental and Psychosocial Functioning: The facility must identify and implement appropriate standards of care and treatment to promote each resident's mental and psychosocial functioning.

12-006.09D5a Social Service Support: The facility must identify and implement methods to assist the resident in meeting treatment goals, address resident needs, and provide social service support in meeting each resident's needs and individuality including but not limited to:

1. Decreased social interaction; or
2. Increased withdrawn, angry or depressive behaviors.

12-006.09D5b Provision of Activities: The facility must identify and provide for daily activities to stimulate and promote the physical, spiritual, social, emotional, and intellectual well-being of each resident. The activity program must promote the resident's self-respect, self-expression, and choice.

12-006.09D6 Special Needs: The facility must identify and implement standards of care and treatment to prevent complications, infections, discomfort, and skin excoriations to residents receiving the following special services:

1. Gastric tubes;
2. Colostomy, ureterostomy, or ileostomy care;
3. Parenteral and enteral fluids;
4. Injections;
5. Tracheostomy care;
6. Tracheal suctioning;
7. Respiratory care;
8. Foot care; and
9. Prostheses.

12-006.09D7 Accidents: The facility must identify and implement standards of care and treatment to prevent resident accidents.

12-006.09D7a The facility's environment must be free from hazards over which the facility has control.

12-006.09D7b The facility must establish and implement policies and procedures which address:

1. Investigation, including documentation of the accidents to include identification and evaluation of individual resident causal factors;
2. Method for tracking and identification of trends;
3. Development of interventions to prevent the accident from recurring; and,

4. Reevaluation of the effectiveness of the interventions.

12-006.09D8 Nutrition: The facility must identify and implement standards of care and treatment to maintain nutritional status of each resident. This includes:

12-006.09D8a Food Service: The facility must provide each resident with a nourishing, palatable, well-balanced diet that meets the daily nutritional and special dietary needs of each resident. In the event that a facility contracts for the services of an outside food service management company, the facility remains responsible for compliance with the applicable regulations.

12-006.09D8b Unplanned Weight Loss: The facility must ensure that residents do not incur an unplanned significant weight loss or other indicator of malnourishment unless the resident's clinical condition demonstrates that this is not possible.

12-006.09D8b1 The facility must evaluate current height and weight status. Each resident must have a recorded weight no less than monthly with follow-up on unexplained gains and losses. Alternative methods of anthropometric assessment may be used.

12-006.09D8c Assistive Devices: The facility must provide special eating equipment and utensils for residents who need them.

12-006.09D9 Hydration: The facility must provide each resident with sufficient fluid intake to maintain proper hydration and health.

12-006.10 Administration of Medication: The facility must establish and implement policies and procedures to ensure residents receive medications only as legally prescribed by a medical practitioner in accordance with the five rights and prevailing professional standards.

12-006.10A Methods of Administration of Medication: When the facility is responsible for the administration of medication, it must be accomplished by the following methods:

12-006.10A1 Self-Administration: The facility must allow residents of the facility to self-administer medication, with or without supervision, when resident assessment determines resident is capable of doing so.

12-006.10A2 Licensed Health Care Professional: When the facility utilizes licensed health care professionals for whom medication administration is included in the scope of practice, the facility must ensure the medications are properly administered in accordance with prevailing professional standards.

12-006.10A3 Provision of Medication by a Person Other Than a Licensed Health Care Professional: When the facility utilizes persons other than a Licensed Health Care Professional in the provision of medications, the facility must follow 172 NAC 95 and 96. Each facility must establish and implement policies and procedures:

1. To ensure that medication aides who provide medications are trained and have demonstrated the minimum competency standards specified in 172 NAC 95-004;
2. To ensure that competency assessments and/or courses for medication aides have been completed in accordance with the provisions of 172 NAC 96-005;
3. That specify how direction and monitoring will occur when the facility allows medication aides to perform the routine/acceptable activities authorized by 172 NAC 95-005 and as follows:
  - a. Provide routine medication; and
  - b. Provide medications by the following routes:
    - (1) Oral, which includes any medication given by mouth, including sublingual (placing under the tongue) and buccal (placing between the cheek and gum) routes and oral sprays;
    - (2) Inhalation, which includes inhalers and nebulizers, including oxygen given by inhalation;
    - (3) Topical application of sprays, creams, ointments, and lotions and transdermal patches; and
    - (4) Instillation by drops, ointments, and sprays into the eyes, ears, and nose;
4. That specify how direction and monitoring will occur when the facility allows medication aides to perform the additional activities authorized by 172 NAC 95-007, which include but are not limited to:
  - a. Provision of PRN medications;
  - b. Provision of medications by additional routes including but not limited to gastrostomy tube, rectal, and vaginal; and/or;
  - c. Participation in monitoring;
5. That specify how competency determinations will be made for medication aides to perform routine and additional activities pertaining to medication provision;
6. That specify how written direction will be provided for medication aides to perform the additional activities authorized by 172 NAC 95-009;
7. That specify how records of medication provision by medication aides will be recorded and maintained; and

8. That specify how medication errors made by medication aides and adverse reactions to medications will be reported. The reporting must be:
  - a. Made to the identified person responsible for direction and monitoring;
  - b. Made immediately upon discovery; and
  - c. Documented in the resident's medical record.

12-006.10A4 When the facility is not responsible for the administration/provision of medications, the facility must maintain overall responsibility for the supervision, safety and welfare of the resident.

12-006.10B Medication Record: Each resident must have an individual medication administration record, which must include:

1. The name of the facility;
2. The name of the resident;
3. The room and bed number of the resident;
4. Resident identification number;
5. The name of the medication prescribed;
6. The strength of the individual dose;
7. Directions for administration of the medication;
8. Name of physician; and
9. Drug allergies and sensitivities.

12-006.10B1 Medication Documentation: The dose administered to the resident must be properly documented on the medication record by the person who administered the drug, after the drug is administered. For oral medications, the actual act of swallowing must be observed.

12-006.10B1a If the resident refuses the medication, the refusal must be documented as refused on the medication record.

12-006.10C Medications must be administered by the same person who prepared the dose, except under single unit dose package distribution systems.

12-006.10D Medication Errors: The facility must ensure that it is free of medication error rates of 5% or greater, and residents are free of any significant medication errors.

12-006.10D1 The facility must have a method of recording, reporting, and reviewing medication administration errors. All medication administration errors must be reported to the prescribing medical practitioner in accordance with standards of care.

12-006.10E The facility must have policies and procedures for reporting any adverse reaction to a medication as in accordance with standards of care, to the

resident's medical practitioner and for documenting such event in the resident's medical record.

12-006.11 Dietary Services: The facility must provide each resident with a nourishing, palatable, well-balanced diet that meets the daily nutritional and special dietary needs of each resident. In the event that a facility contracts for the services of an outside food service management company, the facility remains responsible for compliance with the applicable regulations.

12-006.11A Menus and Nutritional Adequacy: The facility's menus must:

12-006.11A1 Be developed and implemented to meet the nutritional needs of residents in accordance with the recommended dietary allowances of the Food and Nutrition Board of the National Research Council, with provision for ensuring adequate intake of calories and fluids;

12-006.11A2 Be designed to be compatible with the food preferences of the majority of the residents of the facility, with the physicians' orders, and with the physical needs of each resident;

12-006.11A3 Offer substitutes of similar nutritive value to residents who refuse food; and

12-006.11A4 Include therapeutic diets when prescribed by the medical practitioner.

12-006.11B Frequency of Meals: The facility must provide at least three meals daily, at regular times comparable to normal mealtimes in the community.

12-006.11B1 The facility must ensure that no more than 14 hours elapse between a substantial evening meal and breakfast the following day. Sixteen hours may elapse if a nourishing snack is offered at bedtime daily.

12-006.11C Food Supply: The facility must maintain supplies of staple foods for a minimum of a seven day period and perishable foods for a three day period on the premises. Food must be procured from sources approved or considered satisfactory by federal, state, or local authorities.

12-006.11D Food Preparation: The facility must ensure foods are prepared by methods that conserve the food's nutritive value, flavor, and appearance. Foods must be attractively served at the proper temperatures. Recipe resources must be available.

12-006.11E Sanitary Conditions: The facility must comply with the provisions of the Food Code.

12-006.12 Pharmacotherapy Services: The facility must provide routine and emergency drugs, devices and biologicals to its residents, or obtain them under an agreement. The

storage, control, handling, administration, and provision of drugs, devices, and biologicals must be in accordance with state laws and regulations relating to same, and to the practice of pharmacy and medicine and surgery.

12-006.12A Procedures: The facility must develop and implement appropriate policies and procedures for accurate acquiring, receiving, and administering of all medications to meet the needs of each resident.

12-006.12B Pharmacotherapy Services Supervision: The facility must employ or obtain the services of a Nebraska-licensed pharmacist to provide for the development, coordination, and supervision of all pharmaceutical services. The pharmacist is responsible for:

1. Consultation on all aspects of the provision of pharmacotherapy services in the facility;
2. Ensuring that the pharmacotherapy service has procedures for control and accountability of all medications throughout the facility;
3. Ensuring that medication records are in order and that an account of all Schedule II and III controlled substances is maintained and reconciled;
4. Maintaining records of receipt and disposition of all controlled substances in sufficient detail to enable an accurate reconciliation; and
5. Reviewing the drug regimen of each resident at least monthly and reporting any irregularities to the primary medical practitioner and Director of Nursing Services in accordance with standards of care. The drug regimen review must include a signed and dated statement that:
  - a. No potential problems were found;
  - b. A problem was found but it was deemed not significant; or
  - c. A significant problem was found.

The statement must include a description of the situation and the information that was communicated to the individual with the authority to correct it, usually the medical practitioner.

12-006.12C Controlled Substances and Prescription Drugs: The facility must comply with all state laws and regulations related to the procurement, storage, administration and destruction of drugs, devices, and biologicals and of those medications subject to the Nebraska Uniform Controlled Substance Act.

12-006.12C1 The possession of a controlled substance or prescription drug is prohibited except as may be ordered by a medical practitioner by prescription for a resident.

12-006.12D Bulk Supply: Any duly licensed facility may purchase bulk quantities of non-prescription drugs, devices, and biologicals e.g., aspirin, milk of magnesia, and certain cough syrups, and may administer these medications to individual residents in the facility only on the order of a medical practitioner.

12-006.12E Drug Accountability and Disposition: The facility must establish and implement procedures for storing and disposing of drugs, devices and biologicals in accordance with State and local laws.

12-006.12E1 Drug Storage: The facility must have all drugs, devices, and biologicals stored in locked areas and stored in accordance with the manufacturer's or pharmacist's instructions for temperature, light, humidity, or other storage instructions. Only authorized personnel who are designated by the facility responsible for administration or provision of medications must have access to the medications.

12-006.12E1a Controlled Substance Storage: The facility must provide separately locked, permanently affixed compartments for storage of controlled medications listed in Schedule II of Neb. Rev. Stat. § 28-405, and other medications subject to abuse, except when the facility uses single unit package drug distribution systems in which the quantity stored is minimal and a missing dose can be readily detected.

12-006.12E1b Controlled Substance Count: A shift count of all controlled substances in Schedules II and III must be completed by two persons with each initialing the separate medication control sheet for each medication when the count is completed. The individual medication administration record can serve as a record of the receipt and disposition of all other Controlled Substances.

12-006.12E2 Compounding and Dispensing: Only the pharmacist, or a pharmacy intern under the direct supervision of the pharmacist, may compound or dispense drugs, devices or biologicals or make label changes.

12-006.12E3 The facility must ensure drugs, devices and biologicals are stored in the container in which they are received from the pharmacy.

12-006.12E4 Discontinued, Outdated, Deteriorated Drugs, Devices and Biologicals: The facility must ensure no discontinued, outdated, or deteriorated drugs, devices and biologicals are available for use in the facility.

12-006.12E5 Separate Storage Requirement: Drugs, devices and biologicals for external use, as well as poisons, must be stored separately from all other medications.

12-006.12E6 Emergency Box Drug: Authorized personnel of the facility may administer medications to residents of the institution from the contents of emergency boxes located within such facility if such drugs and boxes meet all of the requirements as set out in the Emergency Box Drug Act.

12-006.12E7 Medication Integrity and Labeling: The facility must ensure all medications used in the facility are labeled in accordance with currently accepted professional standards of care, and include the appropriate

accessory and cautionary instructions, and the expiration date when applicable.

12-006.12E8 Disposition of Prescription Medications: The facility must ensure the proper disposal of all prescription medications.

12-006.12E8a Discharged Resident Medications: The facility may send prescribed medication with a resident upon discharge only with the order of a medical practitioner and all medication containers must be properly labeled by the dispensing pharmacy.

12-006.12E8b Discontinued Medications: When any prescription medication is discontinued permanently or the resident has expired, the facility must either:

1. Return the medication to the dispensing pharmacy for credit in accordance with Neb. Rev. Stat. § 71-2421; or
2. Properly dispose of any residue. The disposal must be performed by a pharmacist assisted by a licensed nurse employed by the facility according to the following terms:
  - a. The disposal must take place on the site of the facility; and
  - b. Medication name, strength and quantity disposed of must be recorded in the resident's medical record, dated and signed by the pharmacist.

12-006.12E8c Shared Medication Usage: The facility must ensure that no medications are saved for use by other residents.

12-006.13 Specialized Rehabilitative Services: All nursing facilities and skilled nursing facilities must provide specialized rehabilitative services as ordered by the medical practitioner and identified in the resident's comprehensive plan of care. The specialized rehabilitative services must be designed to maintain and improve the resident's ability to function independently, to prevent, as much as possible, advancement of progressive disabilities, and to restore maximum function, independence and self-determination.

12-006.14 Dental Services: The facility must assist residents in obtaining routine and 24-hour dental care to meet the needs of each resident. The facility must, if necessary, assist the resident in:

1. Making appointments;
2. Arranging transportation to and from the dentist's office; and
3. Referring residents with lost or damaged dentures, chewing difficulties, oral ulcerations, or oral pain to a medical practitioner.

12-006.15 Outside Resources: If the facility does not employ a qualified professional person to furnish a specific service required to meet the needs of a resident, the facility must have the services furnished to residents by a person or agency outside the facility

under an arrangement/agreement. The facility is responsible for obtaining services that meet professional standards that apply to professionals and the timeliness of the services. This includes such services as laboratory and radiology and other diagnostic services.

12-006.16 Record-Keeping Requirements: The facility must maintain and safeguard clinical and other records.

12-006.16A Clinical Records: The facility must maintain clinical records on each resident in accordance with accepted professional standards and practice. Clinical records must contain at a minimum:

1. Sufficient information to identify the resident;
2. A record of the resident's assessments, including those assessments performed by services under agreement with the facility;
3. The plan of care and services including medication administration, provided by facility staff and services provided under agreement with the facility;
4. Interdisciplinary progress notes to include effect of care provided, residents' response to treatment, change in condition, and changes in treatment;
5. Medical practitioner orders which are signed and dated;
6. Allergies;
7. Person to contact in an emergency situation;
8. Name of attending medical practitioner; and
9. Advanced directives if available.

12-006.16B The clinical record must be:

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

12-006.16C Clinical Record Safeguards: The facility must safeguard clinical record information against loss, destruction, or unauthorized use.

12-006.16C1 If the facility maintains a resident's record by computer, electronic signatures are acceptable. If attestation is done on computer records, safeguards to prevent unauthorized access, and to provide for reconstruction of information must be in place.

12-006.16C2 The facility must protect the confidentiality of all information contained in the resident's records, regardless of the form or storage method of the records, except when release is authorized by:

1. Transfer agreement to another health care facility or health care service;

2. Law;
3. Third party payment contract; or
4. The resident or designee.

12-006.16C3 Records are subject to inspection by authorized representatives of the Department.

12-006.16D Record Retention and Preservation: Resident clinical records must be maintained and preserved for a period of at least five years or, in case of a minor, five years after the resident becomes of age under Nebraska law. In cases in which a facility ceases operation, all records of each resident must be transferred to the health care facility to which the resident moves. All other resident records of a facility ceasing operation must be disposed of by shredding, burning, or other similar protective measures in order to preserve the resident's rights of confidentiality. Records or documentation of the actual fact of resident medical record destruction must be permanently maintained.

12-006.16E Other Resident Records: The facility must maintain records pertaining to resident personal funds accounts as applicable, financial matters, resident possessions, and statements of resident rights and responsibilities.

12-006.16E1 Resident possessions must be inventoried at time of admission, updated as needed, and accounted for upon discharge from the facility.

12-006.16F Chronological Resident Register: The facility must maintain a chronological resident register. This register, if kept on computer, must be reproducible and safeguarded from destruction. The register must identify:

1. Name of resident;
2. Date of admission;
3. Date of birth;
4. Social Security number;
5. Admission number;
6. Gender;
7. Names of medical practitioner and dentist; and
8. Date of discharge and destination.

12-006.16G Other Facility Records: The facility must have and maintain the following records:

12-006.16G1 Daily Census Record: A count of residents must be taken at the same hour each day, and must be noted and totaled at the end of 365 days. The total represents the number of "individual care days for the past 12 months."

12-006.16G2 Written policies and procedures that govern all services provided by the facility. Policies and procedures must address the following areas but are not limited to:

1. Admission of residents to facility which ensure that only individuals whose needs can be met by the facility or by providers of care under contract to the facility are admitted;
2. Transfer and discharge;
3. Methods the facility uses to receive complaints and recommendations from its residents and ensuring facility response;
4. Clinical record protection;
5. Care and services provided by facility staff and contracted services; and
6. All areas identified in 175 NAC 12-006.09, 12-006.10, and 12-006.12.

12-006.16G3 Written disaster plan;

12-006.16G4 Records of each orientation and inservice or other training program, including names of staff attending, subject matter of the training, names and qualifications of instructors, dates of training, length of training sessions and any written materials provided;

12-006.16G5 Current employment records for each staff person. Information kept in the record must include information on the length of service; orientation; inservice; licensure, certification, registration, or other credentials; performance; health history screening; and previous work experience;

12-006.16G6 Contracts with outside resources to furnish required facility services not provided directly by the facility; and

12-006.16G7 Records regarding operation and maintenance of the facility.

12-006.16H Inspection of Records: Records required by 175 NAC 12 must be available for inspection and copying by authorized representatives of the Department.

12-006.17 Infection Control: The facility must maintain facility practices to provide a sanitary environment and to avoid sources and transmission of infections and communicable diseases. This includes the establishment and maintenance of an infection control program for the prevention, control, and investigation of infections and communicable disease.

12-006.17A Infection Control Program Requirements: The facility must ensure the infection control program has provisions for and implementation of practices for:

1. Identifying, reporting, investigating, and controlling infections and communicable diseases of residents and staff;
2. Early detection of infection that identifies trends so any outbreaks may be contained to prevent further spread of infection;

3. Monitoring treatment of infection for appropriateness and for alteration of treatment when necessary;
4. Decisions on what procedures, such as isolation, must be applied to an individual resident with suspected infections; and
5. Maintenance of a record to include observation of unsafe and unsanitary practices, incidents, and corrective action related to infections or transmission of infections. The record must include a system of surveillance of infections for uniform facility use and identification.

12-006.17B Prevention of Cross-Contamination: The facility must prevent cross-contamination between residents in provision of care, sanitation of equipment and supplies, and cleaning of resident's rooms.

12-006.17C Disease Transmission: The facility must prohibit employees known to be infected with any disease in communicable form to work in any area of the facility in a capacity in which there is a likelihood of the employee transmitting disease to residents or to other facility personnel, food, or food contact surfaces with pathogenic organisms.

12-006.17D Handwashing Requirement: The facility must require staff to wash their hands after each direct resident contact for which handwashing is indicated by acceptable professional practice.

12-006.18 Environmental Services: The facility must provide a safe, clean, comfortable, and homelike environment, allowing the resident to use his or her personal belongings to the extent possible.

12-006.18A Housekeeping and Maintenance: The facility must provide the necessary housekeeping and maintenance services to protect the health and safety of residents, including:

1. The facility must keep its buildings and grounds, and resident living and common areas, clean, safe and in good repair.
2. The facility must dispose of all garbage and rubbish in a manner to prevent the attraction of rodents, flies, and all other insects and vermin and to minimize odor and the transmission of infectious diseases.
3. The facility must provide and maintain in all areas adequate lighting, environmental temperatures, and sound levels that are conducive to the care and treatment provided.
4. The facility must maintain and equip the premises to prevent the entrance, harborage, or breeding of rodents, flies, and all other insects and vermin.

12-006.18B Equipment, Fixtures, and Furnishings: The facility must keep all equipment, fixtures, and furnishings clean, safe and in good repair.

12-006.18B1 Equipment: The facility must provide equipment adequate for meeting resident needs as specified in each resident's care plan.

12-006.18B2 Furnishings: Common areas and resident sleeping areas must be furnished with beds, chairs, sofas, tables, and storage items that are comfortable and reflective of resident needs and preferences. Furnishings may be provided by either the facility or the family.

12-006.18B3 Preventive Maintenance: The facility must establish and implement a process designed for routine and preventive maintenance of equipment and furnishing to ensure that such equipment and furnishings are safe and function to meet their intended use.

12-006.18C Linens: The facility is responsible for providing each resident with an adequate supply of clean bed, bath and other linens as necessary for care and treatment of residents. The linens must be in good repair.

12-006.18C1 Storage and Handling: The facility must establish and implement procedures for the storage and handling of soiled and clean linens.

12-006.18C2 Laundry Water Temperatures: When the facility launders bed and bath linens, water temperatures to laundry equipment must exceed 140 degrees Fahrenheit if laundry is not appropriately sanitized or disinfected by other acceptable methods in accordance with the manufacturer's instructions or other documentation.

12-006.18D Pets: The facility must assure that a facility-owned pet does not negatively affect the residents residing in the facility. The facility must establish and implement policies and procedures regarding pets that include:

1. An annual examination by a licensed veterinarian;
2. Current vaccinations as recommended by the licensed veterinarian which must include rabies for dogs, cats, and ferrets;
3. Provision of pet care necessary to prevent the acquisition and spread of fleas, ticks, and other parasites; and
4. Responsibility for care and supervision of the pet by facility staff.

12-006.18E Environmental Safety: The facility is responsible for maintaining the environment in a manner that minimizes accidents.

12-006.18E1 Environmental Hazards: The facility must maintain the environment to protect the health and safety of residents by keeping surfaces smooth and free of sharp edges, mold or dirt; keeping floors free of objects and slippery or uneven surfaces and keeping the environment free of other conditions which may pose a potential risk.

12-006.18E2 Passageways: The facility must maintain all doors, stairways, passageway, aisles or other means of exit to provide safe and adequate means of exit and access for care and treatment.

12-006.18E3 Water Temperatures: The facility must provide water for bathing and handwashing at safe and comfortable temperatures to protect residents from potential for burns or scalds.

12-006.18E3a The facility must establish and implement policies and procedures to monitor and maintain water temperatures that accommodate resident comfort and preferences but do not exceed the following temperatures:

1. Water temperatures at resident bathing and therapy fixtures must not exceed 110 degrees Fahrenheit; and
2. Water at handwashing fixtures must not exceed 120 degrees Fahrenheit.

12-006.18E4 The facility must establish and implement policies and procedures to ensure hazardous/poisonous materials are properly handled and stored to prevent accidental ingestion, inhalation or consumption of the hazardous/poisonous materials by residents.

12-006.18E5 The facility must restrict access to mechanical equipment which may pose a danger to residents.

12-006.18F Disaster Preparedness and Management: The facility must establish and implement disaster preparedness plans and procedures to ensure that residents' care and treatment, safety, and well-being are provided and maintained during and following instances of natural (tornado, flood, etc.) and other disasters, disease outbreaks, or other similar situations. Such plans and procedures must address and delineate:

1. How the facility will maintain the proper identification of each resident to ensure that care and treatment coincide with the resident's needs;
2. How the facility will move residents to points of safety or provide other means of protection when all or part of the building is damaged or uninhabitable due to natural or other disaster;
3. How the facility will protect residents during the threat of exposure to the ingestion, absorption, or inhalation of hazardous substances or materials;
4. How the facility will provide food, water, medicine, medical supplies, and other necessary items for care and treatment in the event of a natural or other disaster; and
5. How the facility will provide for the comfort, safety, and well-being of residents in the event of 24 or more consecutive hours of:
  - a. Electrical or gas outage;

- b. Heating, cooling, or sewer system failure; or
- c. Loss or contamination of water supply.

12-007 PHYSICAL PLANT STANDARDS: The facility must be designed, constructed and maintained in a manner that is safe, clean, and functional for the type of care and treatment to be provided. The physical plant standards for facilities, which include support services, care and treatment areas, construction standards, building systems and waivers, are set forth below.

12-007.01 Support Areas: The facility may share the following support service areas among the detached structures, care and treatment suites, and with other licensed facilities:

12-007.01A Dietary: If food preparation is provided on site, the facility must dedicate space and equipment for the preparation of meals. Food service physical environment and equipment must comply with the Food Code, except when used only for training or activity purposes.

12-007.01B Laundry: The facility must provide laundry services. Such service may be provided by contract or on-site by the facility.

12-007.01B1 Contract: If contractual services are used, the facility must have areas for soiled linen awaiting pickup and separate areas for storage and distribution of clean linen.

12-007.01B2 On-Site: If on-site services are provided, the facility must have areas dedicated to laundry.

12-007.01B2a If the facility provides personal laundry areas, the areas must be equipped with a washer and dryer for use by residents. In new construction, the facility must provide a conveniently located sink for soaking and hand washing of laundry.

12-007.01B2b When the facility launders items for more than one resident together, the bulk laundry area must be divided into separate soiled (sort and washer areas) and clean (drying, folding, and mending areas) rooms. In new construction and new facilities, a separate soaking and hand washing sink and housekeeping room must be provided in the laundry area.

12-007.01B2c Separate clean linen supply storage areas must be conveniently located in each care and treatment location.

12-007.01C Waste Processing: The facility must provide areas to collect, contain, process, and dispose of medical and general waste produced within the facility in such a manner as to prevent the attraction of rodents, flies, and all other insects and vermin, and to minimize the transmission of infectious diseases.

12-007.01D Housekeeping Room: The facility must have a room with a service

sink and space for storage of supplies and housekeeping equipment.

12-007.02 Care and Treatment Areas: The facility must provide a physical environment that facilitates and supports the safety and dignity of residents and accommodates the needs of the resident population.

12-007.02A Care and treatment areas must contain a control point, medication station, and clean storage/utility room. The facility must not share these areas among detached structures.

12-007.02A1 Control Point: The facility must provide an area(s) for charting and resident records, space for storage of emergency equipment and supplies, and call and alarm annunciation systems.

12-007.02A2 Medication Station: The facility must provide a medication station for storage and distribution of drugs and routine medications. Distribution may be done from a medicine preparation room or unit, from a self-contained medicine-dispensing unit, or by another system. If used, a medicine preparation room or unit must be under visual control of nursing staff and must contain a work counter, sink, refrigerator, and double-locked storage for controlled substances.

12-007.02A3 Clean Storage/Utility Room: The facility must have separate areas for soiled and clean materials. The area for soiled materials must contain a fixture for disposing waste and a handwashing sink.

12-007.02B Equipment and Supplies: The facility must have services and space to distribute, maintain, clean and sanitize durable medical instruments, equipment, and supplies required for the care and treatment performed in the facility.

12-007.02B1 Durable Medical Equipment: The facility must ensure that durable medical equipment is tested and calibrated in accordance with the manufacturer's recommendations.

12-007.02B2 Equipment Storage: The facility must have space to store equipment, stretchers, wheelchairs, supplies, and linen out of the path of normal traffic.

12-007.02C Rehabilitative: If the facility provides rehabilitative services, the facility must have at least one treatment room or cubicle, an area for specialized treatment and care, handwashing sink(s), storage for equipment and supplies, a call system, and areas to allow for resident toileting, dressing, and consultation.

12-007.02D Psychiatric or Mental Health: If the facility provides a specialized area or unit designated for psychiatric or mental health services, the facility must provide space and equipment that allows for resident and staff safety. The area must provide at least separate quiet and noisy activity areas, dining areas, private and group areas for specialized treatment and care, handwashing sink(s), storage for

equipment and supplies, and security systems. In rooms where care and treatment is provided to abusive or suicidal residents, the rooms must have:

1. Tamper-resistant air distribution devices, lighting fixtures, sprinkler heads, and safety devices;
2. Ventilation, exhaust, heating and cooling components that are inaccessible to residents;
3. Bedroom, toilet, and bathing room doors that are not lockable or capable of being obstructed from within; and
4. Electrical outlets protected by ground fault interrupting devices.

12-007.02E Alzheimer's, Dementia, and Related Conditions: If a facility provides a specialized area/unit for Alzheimer's, dementia, and related conditions, the area must have personalized resident bedrooms, activity areas, separate dining areas, features that support resident orientation to their surroundings, handwashing sinks, and call and security systems.

12-007.02F Outpatient Areas: Areas of the facility designated for the care and treatment of residents not residing in the facility must comply with the following standards:

1. Areas must not interfere with residents currently residing in the facility;
2. Furniture and equipment must meet care and treatment needs;
3. Toilets must be easily accessible from all program areas; and
4. Sufficient inside and outside space that accommodates the full range of program activities and services.

12-007.03 Construction Standards: The facility must be designed, constructed, and maintained in a manner that is safe, clean, and functional for the type of care and treatment to be provided. The standards are set forth below.

12-007.03A Codes and Guidelines

12-007.03A1 New construction must comply with the following codes and guidelines to provide a safe and accessible environment that is conducive to the care and treatment to be provided:

1. Building: Building Construction Act, Neb. Rev. Stat. §§ 71-6401 to 71-6407;
2. Plumbing: Plumbing Ordinance or Code, Neb. Rev. Stat. § 18-1915;
3. Electrical: State Electrical Act, Neb. Rev. Stat. §§ 81-2101 to 81-2143;
4. Elevators: Nebraska Elevator Code, Neb. Rev. Stat. § 48-418.12 and Department of Labor Regulations, 230 NAC 1;
5. Boiler: Boiler Inspection Act, Neb. Rev. Stat. §§ 48-719 to 48-743;
6. Accessibility: Nebraska Accessibility Requirements, State Fire Marshal Regulations, 156 NAC 1 to 12;

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7. Guidelines for Design and Construction of Hospitals and Health Care Facilities, Chapter 8, 2001 edition, published by the American Institute of Architects; and
8. Energy: Nebraska Energy Code, Neb. Rev. Stat. §§ 81-1608 to 81-1626, for construction initiated on or after July 1, 2005.

12-007.03A2 The facility must comply with the following applicable codes and standards to provide a safe environment:

1. Fire Codes: Nebraska State Fire Code Regulations, State Fire Marshal, 153 NAC 1; and
2. The Food Code, Neb. Rev. Stat. § 81-2,244.01, as published by the Nebraska Department of Agriculture, except for compliance and enforcement provisions.

12-007.03A3 Existing and new facilities must comply with the physical plant standards contained in 175 NAC 12-007. The facility must maintain all building materials and structural components so that total loads imposed do not stress materials and components more than one and one-half times the working stresses allowed in the building code for new buildings of similar structure, purpose, or location.

12-007.03B Conflicts in Standards: In situations where the referenced codes and guidelines conflict with 175 NAC 12, the adopted rules and regulations of the Department and the Nebraska State Fire Marshal will prevail.

12-007.03C Interpretations: All dimension, sizes, and quantities noted herein must be determined by rounding fractions to the nearest whole number.

12-007.03D Floor Area: Floor area is the space with ceilings at least seven feet in height and excludes enclosed storage, toilets and bathing rooms, corridors, and halls. The space beyond the first two feet of vestibules and alcoves less than five feet in width is not included in the required floor area. In rooms with sloped ceilings, at least half of the ceiling must be at least seven feet in height. Areas less than five feet in height are not included in the required floor area.

12-007.03E Dining Areas: Dining areas must have an outside wall with windows for natural light and ventilation. Dining areas must:

1. Be furnished with tables and chairs that accommodate or conform to resident needs;
2. Have a floor area of 15 square feet per resident in existing facilities and 20 square feet per resident in new construction;
3. Allow for group dining at the same time in either separate dining areas or a single dining area, dining in two shifts, or dining during open dining hours; and
4. Not be used for sleeping, offices, or corridors.

12-007.03F Activity Areas: The facility must have space for resident socialization and leisure time activities. Activity areas must:

1. Have an outside wall with windows for natural light and ventilation;
2. Have furnishings to accommodate group and individual activities;
3. Have a floor area of at least 15 square feet per resident residing in bedrooms and may be combined with dining areas;
4. Not be used for sleeping, offices, or corridors; and
5. Be available to all residents.

12-007.03G Bathing Rooms: The facility must provide a bathing room consisting of a tub and/or shower adjacent to each bedroom, or a central bathing room on each sleeping floor. Tubs and showers, regardless of location, must be equipped with hand grips or other assistive devices as needed or desired by the resident.

12-007.03G1 In new construction where a central bathing room is provided, the room must open off the corridor and contain a toilet and sink or have an adjoining toilet room.

12-007.03G2 The facility must have one bathing fixture per 30 licensed beds.

12-007.03H Toilet Rooms: The facility must provide at least one room with a toilet and sink for resident use.

12-007.03H1 Existing facilities must have a toilet and sink adjoining each bedroom or shared toilet facilities may be provided as follows:

1. One toilet and sink per eight licensed beds in existing facilities; and
2. One toilet and sink per four licensed beds in new facilities and new construction.

12-007.03H2 New construction must have a toilet room provided adjoining each resident bedroom or in each apartment or dwelling.

12-007.03I Resident Room Requirements: The facility must provide bedrooms which allow for sleeping, afford privacy, provide access to furniture and belongings, and accommodate the care and treatment provided to the resident. All bedrooms must:

1. Not be located in any garage, storage area, shed, or similar detached building;
2. Be a single room located within an apartment, dwelling, or dormitory-like structure;
3. Not be accessed through a bathroom, food preparation area, laundry, or another bedroom;
4. Be located on an outside wall with an operable window with a minimum glass size of eight square feet per resident. The window must provide

- an unobstructed view of at least ten feet;
5. Contain at least 45 cubic feet of enclosed storage volume per resident in dressers, closets or wardrobes;
  6. Be located within 150 feet of a control point if nursing services are provided in the room; and
  7. Allow for an accessible arrangement of furniture providing a minimum of three feet between the heads of the beds in multiple bedrooms;

12-007.0311 Existing or New Facility Floor Areas: Resident rooms in existing and new facilities must have at least the following floor areas:

1. Single bedrooms: 100 square feet;
2. Multiple bedrooms: 80 square feet with a maximum of 4 beds; and
3. Apartments or dwellings: 110 square feet for one resident plus 100 square feet for each additional resident.

12-007.0312 New Construction Floor Areas: Resident rooms in new construction must have at least the following floor areas:

1. Single bedrooms: 120 square feet;
2. Multiple bedrooms: 100 square feet per bed with a maximum of 2 beds; and
3. Apartments or dwellings: 120 square feet for one resident plus 110 square feet for each additional resident.

12-007.03J Isolation Rooms: The number and type of isolation rooms in the facility must be based upon infection control risk assessment of the facility.

12-007.03J1 The facility must make provisions for isolating residents with infectious diseases.

12-007.03J2 In new construction, if the facility provides a designated isolation room, the isolation room must be equipped with handwashing and gown changing facilities at the entrance of the room.

12-007.03K Examination Rooms: If the facility has an examination room, it must have a minimum floor area of 80 square feet and a minimum of 3 feet clear dimension around 3 sides of the examination table or chair.

12-007.03L Treatment Rooms: If the facility has a treatment room for procedures performed under topical, local, or regional anesthesia without pre-operative sedation, the room must have a minimum floor area of 120 square feet and a minimum of 10 feet clear dimension.

12-007.03M Corridors: The facility's corridors must be wide enough to allow passage and be equipped as needed for the residents to minimize injury. All stairways and ramps must have handrails.

12-007.03N Doors: The facility's doors must be wide enough to allow passage and be equipped for privacy, safety, and with assistive devices to minimize resident injury.

12-007.03N1 All bedroom, toilet, and bathing room doors must provide privacy yet not create seclusion or prohibit staff access for routine or emergency care.

12-007.03N2 In new construction, all resident-used toilet and bathing rooms with less than 50 square feet of clear floor area must not have doors that swing solely inward.

12-007.03O Outdoor Areas: The facility must provide an outdoor area for resident usage. It must be equipped and situated to allow for resident safety and abilities.

12-007.03P Handwashing Sinks: The facility must provide a handwashing sink equipped with towel and soap dispenser in all examination, treatment, isolation, and toilet rooms.

12-007.03Q Emergency Telephone: The facility must provide non-coin operated telephone(s) with emergency numbers for use by residents.

12-007.03R Privacy: In multiple bed resident rooms, visual privacy and window curtains must be provided for each resident. In new facilities, the curtain layout must totally surround each care and treatment location and not restrict access to the entrance to the room, lavatory, toilet, or enclosed storage.

12-007.03S Finishes: The facility must provide washable room finishes in isolation rooms, clean workrooms, and food preparation areas with smooth non-absorptive surfaces that are not physically affected by routine housekeeping cleaning solutions and methods. Acoustic lay-in ceilings, if used, must not interfere with infection control. Perforated, tegular, serrated cut, or highly textured tiles are not acceptable.

12-007.04 Building Systems: Facilities must have building systems that are designed, installed, and maintained to remain operational.

12-007.04A Water and Sewer Systems: The facility must have and maintain an accessible, adequate, safe, and potable supply of water. Where an authorized public water supply of satisfactory quantity, quality, and pressure is available, the facility must be connected to it and its supply used exclusively.

12-007.04A1 The system for collection, treatment, storage, and distribution of potable water in a facility that regularly serves 25 or more individuals must be constructed, maintained, and operated in accordance with all provisions of the Nebraska Safe Drinking Water Act and Title 179 Regulations Governing Public Water Systems.

12-007.04A2 The system for collection, treatment, storage and distribution of potable water system in a facility that serves less than 25 individuals on a regular basis must be maintained and operated as if it were a public water system in accordance with 179 NAC 2-002, 3 and 4. These facilities must report to the Department the result of all tests that indicate the water is in violation of the standards set out in 179 NAC 2-002 or 3. These facilities must construct all water wells in accordance with 178 NAC 12, Water Well Construction, Pump Installation, and Water Well Decommissioning.

12-007.04A3 The water distribution system must have an anti-siphon device and air-gaps to prevent potable water system and equipment contamination.

12-007.04A4 The facility must provide continuously circulated, filtered, and treated water systems as required for the care and treatment equipment used in the facility.

12-007.04A5 The facility must maintain a sanitary and functioning sewage system.

12-007.04B Hot Water System: The facility must maintain hot and cold water to all handwashing and bathing locations. The hot water system must have the capacity to provide continuous hot water in a temperature range as required by these regulations.

12-007.04C Heating and Cooling Systems: The facility must provide a heating and air conditioning system capable of maintaining the following:

12-007.04C1 In existing and new facilities, a temperature of at least 70 degrees Fahrenheit during heating conditions and that does not exceed 85 degrees Fahrenheit during cooling conditions.

12-007.04C2 In new construction, a temperature of at least 75 degrees Fahrenheit during heating conditions and that does not exceed 80 degrees Fahrenheit during cooling conditions.

12-007.04C3 In new construction, central air distribution and return systems must be equipped with the following percent dust spot rated filters:

1. General areas: 30+% pre-filters; and,
2. Nursing care and treatment areas: 80+% pre-filters.

12-007.04C4 Airflow must move from clean to soiled locations. In new construction, air movement must be designed to reduce the potential of contamination of clean areas.

12-007.04C5 Openings to the heating and cooling system must not be located where subject to wet cleaning methods or body fluids.

12-007.04D Ventilation System: The facility must provide ventilation that prevents the concentrations of contaminants that impair health or cause discomfort to residents and employees.

12-007.04D1 New construction must provide a mechanical exhaust ventilation system for windowless toilets, baths, laundry rooms, housekeeping rooms, kitchens, and similar rooms at ten air changes per hour (ACH); for care and treatment areas at five ACH; and for procedure and respiratory isolation areas at 15 ACH.

12-007.04E Electrical System: The facility must have an electrical system that has sufficient capacity to maintain care and treatment services provided. The electrical system must be properly grounded.

12-007.04E1 New construction and new facilities must have outlets that are ground fault circuit interrupter-protected in wet areas and within six feet of sinks.

12-007.04E2 The facility must provide minimum illumination levels as follows:

1. General purpose areas: 5 foot candles;
2. General corridors and resident living areas: 10 foot candles;
3. Personal care and dining areas: 20 foot candles;
4. Reading and activity areas: 30 foot candles;
5. Food preparation areas: 40 foot candles;
6. Hazardous work surfaces: 50 foot candles;
7. Care and treatment locations: 70 foot candles;
8. Examination task lighting: 100 foot candles; and
9. Reduced night lighting in resident rooms where nursing services are provided and resident-used toilet and bathing rooms and corridors.

Light levels are measured at 30 inches above the floor in multiple areas in the room being evaluated and the readings are averaged.

12-007.04F Essential Power System: The facility must have an emergency power generator for any care and treatment location with electrical life support equipment.

12-007.04F1 Existing and new facilities must maintain emergency power for essential care and treatment equipment and lighting, medical gas systems, and nurse call systems.

12-007.04F2 New construction must maintain emergency power for essential care and treatment equipment, lighting, nurse call systems, ventilation, heating, and medical gas systems.

12-007.04F3 Facilities with electrical life support equipment must provide and maintain an essential power system with an on-site fuel source. The minimum

fuel source capacity must allow for non-interrupted system operation.

12-007.04G Call Systems: The facility must have a call system that is operable from resident beds and resident-used toilet and bathing areas. The system must transmit a receivable (visual, audible, tactile, or other) signal to on-duty staff which readily notifies and directs the staff to the location where the call was activated.

12-007.04G1 In new construction, the call systems must have a dedicated device which allows activation by a resident from each exam and treatment room or cubicle, and toilet and bathing fixture.

12-007.04H Medical Gas System: The facility must safely provide medical gas and vacuum by means of portable equipment or building systems as required by residents receiving care and treatment.

12-007.04H1 The installation, testing, and certification of nonflammable medical gas, clinical vacuum, and air systems must comply with the requirements of 153 NAC 1, Nebraska State Fire Code Regulations.

12-007.04H2 The facility must identify portable and system components, and periodically test and approve all medical gas piping, alarms, valves, and equipment for resident care and treatment. The facility must document such approvals for review and reference.

12-007.05 Waivers: The Department may waive any provision of 175 NAC 12 relating to construction or physical plant requirements of a licensed facility upon proof by the licensee satisfactory to the Department that:

1. The waiver would not unduly jeopardize the health, safety, or welfare of the persons residing in the facility;
2. The provision would create an unreasonable hardship for the facility; and
3. The waiver would not cause the State of Nebraska to fail to comply with any applicable requirements of Medicare or Medicaid so as to make the state ineligible for the receipt of all funds to which it might otherwise be entitled.

12-007.05A Unreasonable Hardship: In evaluating the issue of unreasonable hardship, the Department will consider the following:

1. The estimated cost of the modification or installation;
2. The extent and duration of the disruption of the normal use of areas used by persons residing in the facility resulting from construction work;
3. The estimated period over which the cost would be recovered through reduced insurance premiums and increase reimbursement related to costs;
4. The availability of financing; and
5. The remaining useful life of the building.

12-007.05B Waiver Terms and Conditions: A waiver may be granted under terms and conditions and for a period of time as are applicable and appropriate to the waiver. Terms and conditions and period of waiver include but are not limited to:

1. Waivers that are granted to meet the special needs of a resident remain in effect as long as required by the resident;
2. Waivers may be granted for a period of time that ends at the time the conditions of approval no longer exist;
3. Waivers may be granted to permit a facility time to come into compliance with the physical plant standards for a period of one year. Upon submission of proof of ongoing progress, the waiver may be continued for an additional year; and
4. An applicant or licensee must submit any request for waiver of any construction or physical plant requirements set forth in 175 NAC 12. An applicant for a waiver may construct a request for waiver form or obtain a form from the Department.

12-007.05C Denial of Waiver: If the Department denies a facility's request for waiver, the facility may request an administrative hearing as provided in the Administrative Procedure Act and the Department's rules and regulations adopted and promulgated under the APA.

## 12-008 DENIAL, REFUSAL TO RENEW, AND DISCIPLINARY ACTION

### 12-008.01 Grounds for Denial, Refusal to Renew, or Disciplinary Action

12-008.01A The Department may deny or refuse to renew a facility license for failure to meet the requirements for licensure, including:

1. Failing an inspection specified in 175 NAC 12-005;
2. Having had a license revoked within the two-year period preceding an application; or
3. Any of the grounds specified in 175 NAC 12-008.01B.

12-008.01B The Department may take disciplinary action against a facility license for any of the following grounds:

1. Violation of any of the provisions of the Health Care Facility Licensure Act, the Nebraska Nursing Home Act, or 175 NAC 12;
2. Committing, permitting, aiding, or abetting the commission of any unlawful act;
3. Conduct or practices detrimental to the health or safety of a facility resident or employee;
4. A report from an accreditation body or public agency sanctioning, modifying, terminating, or withdrawing the accreditation or certification of the facility;
5. Failure to allow an agent or employee of the Department of Health and Human Services, the Department of Health and Human Services

- Finance and Support, or the Department of Health and Human Services Regulation and Licensure access to the facility for the purposes of inspection, investigation, or other information collection activities necessary to carry out the duties of the departments;
6. Discrimination or retaliation against a facility resident or employee who has submitted a complaint or information to the Department of Health and Human Services, the Department of Health and Human Services Finance and Support, or the Department of Health and Human Services Regulation and Licensure;
  7. Discrimination or retaliation against a facility resident or employee who has presented a grievance or information to the office of the state long-term care ombudsman;
  8. Failure to allow a state long-term care ombudsman or an ombudsman advocate access to the facility for the purposes of investigation necessary to carry out the duties of the office of the state long-term care ombudsman as specified in 15 NAC 3;
  9. Violation of the Emergency Box Drug Act;
  10. Failure to file a report of payment made or action taken due to a liability claim or an alleged violation, as required by Neb. Rev. Stat. § 71-168.02;
  11. Violation of the Medication Aide Act; or
  12. Failure to file a report of suspected abuse or neglect as required by Neb. Rev. Stat. §§ 28-372 and 28-711.

12-008.02 Procedures for Denial, Refusal to Renew, or Disciplinary Action

12-008.02A If the Department determines to deny, refuse renewal of, or take disciplinary action against a license, the Department will send a notice to the applicant or licensee by certified mail to the last address shown on its records. The notice will state the determination, including a specific description of the nature of the violation and the statute or regulation violated, and the type of disciplinary action pending.

12-008.02B The denial, refusal to renew, or disciplinary action becomes final 15 days after the mailing of the notice unless the applicant or licensee, within the 15-day period, makes a written request to the Director for an informal conference or an administrative hearing.

12-008.02C Informal Conference

12-008.02C1 At the request of the applicant or licensee, the Department will hold an informal conference within 30 days of the receipt of the request. The conference may be held in person or by other means, at the request of the applicant or licensee.

If the pending action is based on an inspection, the Department's representative at the conference will not be the individual who did the inspection.

12-008.02C2 Within 20 working days of the conference, the Department representative will state in writing the specific reasons for affirming, modifying, or dismissing the notice. The representative will send a copy of the statement to the applicant or licensee by certified mail to the last address shown in the Department's records and a copy to the Director.

12-008.02C3 If the applicant or licensee successfully demonstrates at the informal conference that the deficiencies should not have been cited in the notice, the Department will remove the deficiencies from the notice and rescind any sanction imposed solely as a result of those cited deficiencies.

12-008.02C4 If the applicant or licensee contests the affirmed or modified notice, the applicant or licensee must submit a request for hearing in writing to the Director within five working days after receipt of the statement.

#### 12-008.02D Administrative Hearing

12-008.02D1 When an applicant or a licensee contests the notice and requests a hearing, the Department will hold a hearing in accordance with the Administrative Procedure Act (APA) and the Department's rules and regulations adopted and promulgated under the APA. Either party may subpoena witnesses, who must be allowed fees at the rate prescribed by Neb. Rev. Stat. §§ 33-139 and 33-139.01.

12-008.02D2 On the basis of evidence presented at the hearing, the Director will affirm, modify, or set aside the determination. The Director's decision will:

1. Be in writing;
2. Be sent by registered or certified mail to the applicant or licensee;  
and
3. Become final 30 working days after mailing unless the applicant or licensee, within the 30-day period, appeals the decision.

12-008.02D3 An applicant or a licensee's appeal of the Director's decision must be in accordance with the Administrative Procedure Act.

#### 12-008.03 Types of Disciplinary Action

12-008.03A The Department may impose any one or a combination of the following types of disciplinary action against the license:

1. A fine not to exceed \$10,000 per violation;
2. A prohibition on admissions or re-admissions, a limitation on enrollment, or a prohibition or limitation on the provision of care or treatment;
3. A period of probation not to exceed two years during which the facility may continue to operate under terms and conditions fixed by the order of probation;

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4. A period of suspension not to exceed three years during which the facility may not operate; and
5. Revocation, which is a permanent termination of the license. The licensee may not apply for a license for a minimum of two years after the effective date of the revocation.

12-008.03B In determining the type of disciplinary action to impose, the Department will consider:

1. The gravity of the violation, including the probability that death or serious physical or mental harm will result;
2. The severity of the actual or potential harm;
3. The extent to which the provisions of applicable statutes, rules, and regulations were violated;
4. The reasonableness of the diligence exercised by the facility in identifying or correcting the violation;
5. Any previous violations committed by the facility; and
6. The financial benefit to the facility of committing or continuing the violation.

12-008.03C If the licensee fails to correct a violation or to comply with a particular type of disciplinary action, the Department may take additional disciplinary action as described in 175 NAC 12-008.03.

12-008.03D Temporary Suspension or Temporary Limitation: If the Department determines that residents of the facility are in imminent danger of death or serious physical harm, the Director may:

1. Temporarily suspend or temporarily limit the facility license, effective when the order is served upon the facility. If the licensee is not involved in the daily operation of the facility, the Department will mail a copy of the order to the licensee, or if the licensee is a corporation, to the corporation's registered agent;
2. Order the immediate removal of residents; and
3. Order the temporary closure of the facility pending further action by the Department.

The Department will simultaneously institute proceedings for revocation, suspension, or limitation of the license, and will conduct an administrative hearing no later than ten days after the date of the temporary suspension or temporary limitation.

12-008.03D1 The Department will conduct the hearing in accordance with the Administrative Procedure Act and the Department's rules and regulations adopted and promulgated under the APA. Either party may subpoena witnesses, who must be allowed fees at the rate prescribed by Neb. Rev. Stat. §§ 33-139 and 33-139.01.

12-008.03D2 If a written request for continuance of the hearing is made by the licensee, the Department will grant a continuance, which may not exceed 30 days.

12-008.03D3 On the basis of evidence presented at the hearing, the Director will:

1. Order the revocation, suspension, or limitation of the license; or
2. Set aside the temporary suspension or temporary limitation.

If the Director does not reach a decision within 90 days of the date of the temporary suspension or temporary limitation, the temporary suspension or temporary limitation will expire.

12-008.03D4 Any appeal of the Department's decision after hearing must be in accordance with the APA.

12-008.04 Reinstatement from Disciplinary Probation or Suspension, and Re-Licensure After Revocation

12-008.04A Reinstatement at the End of Probation or Suspension

12-008.04A1 Reinstatement at the End of Probation: A license may be reinstated at the end of probation after the successful completion of an inspection, if the Department determines an inspection is warranted.

12-008.04A2 Reinstatement at the End of Suspension: A license may be reinstated at the end of suspension following;

1. Submission of an application to the Department for renewal that conforms to the requirements of 175 NAC 12-003.02;
2. Payment of the renewal fee as specified in 175 NAC12-004.09; and
3. Successful completion of an inspection.

The Department will reinstate the license when it finds, based on an inspection as provided for in 175 NAC 12-005, that the facility is in compliance with the operation, care, treatment, and physical plant requirements of 175 NAC 12-006 and 12-007.

12-008.04B Reinstatement Prior to Completion of Probation or Suspension

12-008.04B1 Reinstatement Prior to the Completion of Probation: A licensee may request reinstatement prior to the completion of probation and must meet the following conditions:

1. Submit a petition to the Department stating:
  - a. The reasons why the license should be reinstated prior to the probation completion date; and

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- b. The corrective action taken to prevent recurrence of the violation(s) that served as the basis of the probation; and
2. Successfully complete any inspection the Department determines necessary.

12-008.04B2 Reinstatement Prior to Completion of Suspension: A licensee may request reinstatement prior to the completion of suspension and must meet the following conditions:

1. Submit a petition to the Department stating:
  - a. The reasons why the license should be reinstated prior to the suspension completion date; and
  - b. The corrective action taken to prevent recurrence of the Violation(s) that served as the basis of the suspension;
2. Submit a written renewal application to the Department as specified 175 NAC 12-003.02;
3. Pay the renewal fee as specified in 175 NAC 12-004; and
4. Successfully complete an inspection.

12-008.04B3 The Director will consider the petition submitted and any results of the inspection or investigation conducted by the Department and:

1. Grant full reinstatement of the license;
2. Modify the probation or suspension; or
3. Deny the petition for reinstatement.

12-008.04B4 The Director's decision is final 30 days after mailing the decision to the licensee unless the licensee requests a hearing within the 30-day period. The requested hearing will be held according to rules and regulations of the Department for administrative hearings in contested cases.

12-008.04C Re-Licensure After Revocation: A facility license that has been revoked is not eligible for re-licensure until two years after the date of revocation.

12-008.04C1 A facility seeking re-licensure must apply for an initial license and meet the requirements for initial licensure in 175 NAC 12-003.01.

12-008.04C2 The Department will process the application for re-licensure in the same manner as specified in 175 NAC 12-003.01.

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