CABINET FOR HEALTH AND FAMILY SERVICES
Office of Inspector General
Division of Health Care
(Amendment)

902 KAR 20:048. Operation and services; nursing homes.

RELATES TO: KRS 194A.700(1), 194A.705(2)(c), 209.030, 209.032, 216.510-216.525, 216.532, 216.537, 216.540, 216.789, 216.793, 216A.080, 310.021, 310.031, 315.035, 333.030, 21 C.F.R. Part 1317, 29 C.F.R. 1910.1030(d)(2)(vii), 45 C.F.R. Parts 160, 164, 42 U.S.C. 1320d-2 – 1320d-8

STATUTORY AUTHORITY: KRS 216B.042

NECESSITY, FUNCTION, AND CONFORMITY: KRS 216B.042 requires the Cabinet for Health and Family Services to promulgate administrative regulations necessary for the proper administration of the licensure function, which includes establishing licensure standards and procedures to ensure safe, adequate, and efficient health facilities and health services. This administrative regulation establishes minimum licensure requirements for the operation of and services provided by nursing homes.

Section 1. Definitions.

(1) "Activities of daily living" is defined by KRS 194A.700(1).

(2) "Administrator" means a person who has a license to practice long-term care administration pursuant to KRS 216A.080.

(3) "Certified nutritionist" means a health care professional who is certified pursuant to KRS 310.031.

(4) "Licensed dietician" means a health care professional who is licensed pursuant to KRS 310.021.

(5) "Nursing home" means an establishment located in a permanent building that has resident beds and provides:

(a) Medical services; and

(b) Continuous nursing services.

(6) "PRN medications" means medications administered as needed.

(7) "Restraint" means any pharmaceutical agent or physical or mechanical device used to restrict the movement of a portion of a patient's body.

Section 2. Administration and Operation.

(1) Licensee. The licensee shall:

(a) Be legally responsible for:

1. The operation of the facility; and

2. Compliance with federal, state and local laws, and administrative regulations pertaining to the operation of the facility; and

(b) Contract for professional and supportive services not available in the facility as dictated by the needs of each resident.

(2) Administrator.All facilities shall have an administrator who shall:

(a) Be responsible for the day-to-day operation of the facility; and

(b) Designate one (1) or more staff to act on behalf of the administrator or to perform the administrator's responsibilities in the administrator's absence.

(3) Administrative records.

(a) The facility shall maintain a resident registry that documents the:

1. Name of each resident;

2. Date of admission; and

3. Date of discharge.

(b) The facility shall maintain a record of written recommendations or comments from consultants regarding the program and its development on a per visit basis.

(c) The facility shall maintain menu and food purchase records.

(d)

1. The administrator or administrator's designee shall make a written report of any incident or accident involving a:
   a. Resident, including a medication error or drug reaction;
   b. Visitor; or
   c. Staff member.
2. The report shall:
   a. Identify any staff member who witnessed the incident; and
   b. Be filed in an incident file.

(4) Policies. The facility shall have written policies and procedures that govern all services provided by the facility. The policies shall:

(a) Address resident care and services, including physician, nursing, pharmaceutical, and residential services;

(b) Require the reporting of cases of abuse, neglect, or exploitation of adults pursuant to KRS 209.030, including evidence that all allegations of abuse, neglect, or exploitation shall be thoroughly investigated internally to prevent further potential abuse while the investigation is in progress;

(c) Prohibit the use of chemical and physical restraints, except as authorized by KRS 216.515(6); and

(d) Specify in a step-by-step manner the actions that shall be taken by staff if a resident is lost, unaccounted for, or on other unauthorized absence.

(5) Resident rights. Resident rights shall be provided for pursuant to KRS 216.510 to 216.525.

(6) Admission.

(a) A resident in a nursing home shall:
1. Be admitted only upon the referral of a physician;
2. Have a medical condition that requires:
   a. Medical services;
   b. Continuous nursing services; and
   c. Residential care, but not inpatient hospital services; and
3. Not have care needs that exceed the capability of the facility.

(b)

1. Upon admission, the facility shall obtain the:
   a. Resident's medical diagnosis;
   b. Physician's orders for the care of the resident; and
   c. Transfer form.
2. Within forty-eight (48) hours after admission, the facility shall obtain a medical evaluation from the resident's physician including:
   a. Current medical findings;
   b. Medical history; and
   c. Physical examination.
3. The medical evaluation may be a copy of the discharge summary or history and physical report from a hospital or nursing facility, if done within five (5) days prior to admission.

(c) Upon admission, the facility shall provide the resident and a responsible member of the resident's family or other designated representative with written information regarding the facility's policies, including:
1. Services offered and charges;
2. Visitation rights during serious illness;

3. Visiting hours; and
4. Type of diets offered.

(d) The facility shall maintain a system for:

1. Identifying each resident's personal property; and
2. Safekeeping valuables, including assurance that each resident's clothing and other property is reserved for the resident's own use.

(7) Discharge planning. The facility shall have a discharge planning program to assure the continuity of care for residents who are:

(a) Transferred to another health care facility; or

(b) Discharged to the home.

(8) Transfer and discharge.

(a) The facility shall:

1. Comply with the requirements of 900 KAR 2:050 upon transferring or discharging a resident; and
2. Have written transfer procedures and agreements for the transfer of a resident to a higher intensity level of care, if indicated.

(b) A facility that does not have a transfer agreement in effect, but has attempted in good faith to enter into an agreement shall be considered to be in compliance with the requirements of paragraph (a)2. of this subsection.

(c) The transfer procedures and agreements shall:

1. Specify the responsibilities each party assumes in the transfer of residents;
2. Establish responsibility for notifying the other party of an impending transfer; and
3. Arrange for appropriate and safe transportation of the resident and resident's files.

(d) Except in cases of emergency, the administrator shall:

1. Initiate a transfer through the resident's physician if the resident's condition exceeds the scope of services of the facility; or
2. Contract for services from another community resource to meet a resident's needs.

(e) If a resident's condition improves and the resident may be served in a less restrictive environment, the facility shall offer assistance in making arrangements for the resident to be transferred to a lower intensity level of care.

(f) Except in an emergency, the resident, resident's responsible family member,or guardian, if any, and the attending physician shall be consulted in advance of the transfer or discharge.

(g) If a resident transfers to another level of care, the complete medical record or a current summary of the resident's medical record shall accompany the resident.

(h) If the resident is transferred to another health care facility or home to receive home health services, a transfer form shall:

1. Accompany the resident; and
2. Include the following:
   a. Physician's orders (if available);
   b. Current information regarding the resident's diagnosis with a history of any health conditions that require special care;
   c. A summary of prior treatment, special supplies, or equipment needed for the resident's care; and
   d. Pertinent social information on the resident and resident's family.

(9) Tuberculosis testing.

(a) All employees of a nursing home shall be screened and tested for tuberculosis in accordance with the provisions of 902 KAR 20:205.

(b) Residents of a nursing home shall be screened and tested in accordance with 902 KAR 20:200.

(10) Personnel.

(a) In accordance with KRS 216.532, a nursing home shall not employ or be operated by an individual who is listed on the nurse aide and home health aide abuse registry established by 906 KAR 1:100.
(b) In accordance with KRS 209.032, a nursing home shall not employ or be operated by an individual who is listed on the caregiver misconduct registry established by 922 KAR 5:120.
(c) A nursing home shall obtain a criminal record check on each applicant for initial employment in accordance with KRS 216.789 and 216.793.
(d) A nursing home may participate in the Kentucky National Background Check Program established by 906 KAR 1:190 to satisfy the background check requirements of paragraphs (a) through (c) of this subsection.
(e) A written job description shall be developed for each category of personnel, including:
1. Qualifications;
2. Lines of authority; and
3. Specific duty assignments.
(f) Current employee records shall be maintained on each staff member and contain:
1. Name and address;
2. Verification of training and experience, including evidence of current licensure, registration, or certification, if applicable;
3. Employee health records;
4. Annual performance evaluations; and
5. Documentation of compliance with the background check requirements of paragraphs (a) through (c) of this subsection.
(g) Staffing requirements.
1. Staffing in the facility shall be sufficient in number and qualifications to meet the personal care, nursing care, supervision, and other needs of each resident on a twenty-four (24) hour basis.
2. A responsible staff member shall be on-site and awake at all times to assure prompt, appropriate action in cases of injury, illness, fire, or other emergencies.
3. The use of volunteers shall not be included in the minimum staffing requirements of this paragraph.
(h) The facility shall have a director of nursing who:
1. Is a registered nurse and works full time during the day; and
2. Devotes full time to the nursing services of the facility.
(i) If the director of nursing has administrative responsibility for the facility, there shall be an assistant director of nursing to ensure that there is the equivalent of a full-time director of nursing.
(j) The director of nursing shall:
1. Be trained or experienced in areas of nursing service, administration, rehabilitation nursing, psychiatric, or geriatric nursing;
2. Be responsible fordeveloping and maintaining:
a. Nursing service objectives;
b. Standards of nursing practice;
c. Nursing procedure manuals; and
d. Written job descriptions for each level of nursing personnel;
3. Recommend to the administrator the number and levels of nursing personnel to be employed;
4. Participate in staff recruitment and selection or recommend termination, if necessary;
5. Assign and supervise all levels of nursing personnel;
6. Participate in planning and budgeting for nursing care;

7. Participate in the development and implementation of resident care policies;
8. Coordinate nursing services with other resident care services;
9. Plan and conduct orientation programs for new nursing personnel and annual in-service education for all nursing personnel;
10. Participate in the screening of prospective residents in terms of required nursing services;
11. Assure that a written monthly assessment of the resident's general condition is completed;
12. Assure that a nursing care plan is:
a. Established for each resident; and
b. Reviewed and modified as necessary;
13. Assure that all nurses and unlicensed staff are assigned duties consistent with their training and experience; and
14. Assure that a monthly review of each resident's medications is completed and notify the resident's physician if changes are appropriate.

(k) Supervising nurse.
1. The facility shall have a full-time registered nurse who provides or supervises nursing care.
2. The supervising nurse:
a. May be the director of nursing or the assistant director of nursing;
b. Shall be trained or experienced in the areas of:
(i) Nursing administration and supervision;
(ii) Rehabilitative nursing;
(iii) Psychiatric nursing; or
(iv) Geriatric nursing;
c. Shall make daily rounds to all nursing units that perform functions that include:
(i) Visiting each resident; and
(ii) Reviewing medical records, medication cards, patient care plans, and staff assignments; and
d. If possible, shall accompany the physician during visits with residents.

(l) Charge nurse.
1. There shall be at least one (1) registered nurse or licensed practical nurse on duty at all times who shall be responsible for the nursing care of residents.
2. If a licensed practical nurse is on duty, a registered nurse shall be on call.

(m) Pharmacist. The facility shall retain a licensed pharmacist on a full-time, part-time, or consultant basis to direct pharmaceutical services.

(n) Therapists.
1. If the facility provides rehabilitative services beyond rehabilitative nursing care, directly or through contract, the services shall be provided or supervised by qualified therapists that include, depending on the service, licensed:
a. Physical therapists;
b. Speech-language pathologists; or
c. Occupational therapists.
2. If supervision is less than full time, it shall be:
a. Provided on a planned basis; and
b. Frequent enough, in relation to the therapist's training and experience, to assure sufficient review of individual treatment plans and progress.
3. In a facility with an organized rehabilitation service using a multidisciplinary team approach to meet all of a resident's needs and if all rehabilitative services are administered under the direct supervision of a physician qualified in physical medicine who determines the goals and limits of the therapists' work and prescribes

modalities and frequency of therapy, persons with qualifications other than licensed therapists may be assigned duties appropriate to their training and experience.

(o) Dietary. Each facility shall have a full-time staff person designated by the administrator who shall be:

1. Responsible for the total food service operation of the facility; and
2. On duty a minimum of thirty-five (35) hours each week.

(p) Each facility shall designate one (1) or more staff who shall be responsible for:

1. Maintaining medical records;
2. Arranging for social services; and
3. Developing and implementing the activities program and therapeutic recreation.

(q) The facility shall ensure that supportive personnel, consultants, assistants, and volunteers are supervised and function within the policies and procedures of the facility.

(r) An employee who contracts a communicable or infectious disease shall:

1. Be immediately excluded from work; and
2. Remain off work until cleared as noninfectious by a health care practitioner acting within the practitioner's scope of practice.

(s) In-service training.

1. Each facility employee shall receive orientation and annual in-service training that corresponds with the staff member's job duties.
2. Documentation of orientation and in-service training shall be maintained in the employee's record and shall include:
   a. Policies regarding the responsibilities of specific job duties;
   b. Services provided by the facility;
   c. Emergency and disaster procedures;
   d. Procedures for the reporting of cases of adult abuse, neglect, or exploitation pursuant to KRS 209.030;
   e. Residents rights established by KRS 216.510 to 216.525; and
   f. Other training and ongoing education that correspond with the duties of the staff person's respective job.

(11) Medical records.

(a) The facility administrator or staff member in charge of medical records shall assure that a complete medical record is kept for each resident with all entries current, dated, and signed.

(b) Each record shall include:

1. Identification information, including:
   a. Resident's name;
   b. Address;
   c. Social Security, Medicare, and Medical Assistance identification number, if appropriate;
   d. Name, address, and telephone number of the referral agency;
   e. Name and telephone number of the resident's physician or health care practitioner;
   f. Name, address, and telephone number of the resident's responsible family member, guardian, or other responsible person; and
   g. Date of admission;
2. Admitting medical evaluation as required by subsection (6)(b) of this section;
3. Dated and signed orders for medication, diet, or therapeutic services;
4. Physician's progress notes indicating any changes in the resident's condition, documented at the time of each visit;
5. Findings and recommendations of consultants;

6. A medication sheet that includes the date, time given, name of each medication dosage, name of the prescribing physician or practitioner as authorized by the scope of practice, and name of nurse or certified medication aide who administered the medication;

7. Nurse's notes indicating any changes in the resident's condition, including:

a. A response to medications or treatments;

b. Mode and frequency of PRN medications administered;

c. Condition necessitating administration of PRN medication;

d. Reaction following PRN medication;

e. Visits from the physician and phone calls to the physician;

f. Medically prescribed diets; and

g. Preventive maintenance or rehabilitative nursing measures;

8. Written assessment of the resident's monthly general condition;

9. Documentation of dental, laboratory, and x-ray services (if applicable);

10. Changes in the resident's response to the activity and therapeutic recreation program; and

11. A discharge summary, signed and dated by the attending physician within one (1) month of discharge from the facility.

(12) Retention of records. After death or discharge, the completed medical record shall be placed in an inactive file and retained for at least six (6) years.

(13) Confidentiality and Security: Use and Disclosure.

(a) The facility shall maintain the confidentiality and security of resident records in compliance with the Health Insurance Portability and Accountability Act of 1996 (HIPAA), 42 U.S.C. 1320d-2 through 1320d-8, and 45 C.F.R. Parts 160 and 164, as amended, including the security requirements mandated by subparts A and C of 45 C.F.R. Part 164, and as provided by applicable federal or state law.

(b) The facility may use and disclose resident records. Use and disclosure shall be as established or required by HIPAA, 42 U.S.C. 1320d-2 through 1320d-8, and 45 C.F.R. Parts 160 and 164, or as established in this administrative regulation.

(c) The facility may establish higher levels of confidentiality and security than those required by HIPAA, 42 U.S.C. 1320d-2 to 1320d-8, and 45 C.F.R. Parts 160 and 164.

Section 3. Provision of Services.

(1) Physician services.

(a) The health care of each resident shall be under the supervision of a physician who, based on an evaluation of the resident's immediate and long-term needs, prescribes a planned regimen of medical care that covers:

1. Indicated medications;

2. Treatments;

3. Rehabilitative services;

4. Diet;

5. Special procedures recommended for the health and safety of the resident;

6. Activities;

7. Plans for continuing care; and

8. Discharge.

(b)

1. Each resident shall be evaluated by a physician at least one (1) time every thirty (30) days for the first sixty (60) days following admission.

2. After the 60th day following admission, the physician shall evaluate the resident every sixty (60) days unless justified and documented by the attending physician in the resident's medical record.

3. There shall be evidence in the resident's medical record of the physician's visits at appropriate intervals.

(c) There shall be evidence in the resident's medical record that the attending physician has made arrangements for the medical care of the resident in the physician's absence.

(d)

1. The facility shall have an arrangement with one (1) or more physicians who shall be available to furnish necessary medical care in case of an emergency if the physician responsible for the care of the resident is not immediately available.

2. A schedule listing the names and telephone numbers of physicians and the specific days each is on call shall be posted in each nursing station.

3. There shall be established procedures for emergency situations that:

a. Address immediate care of the resident;

b. Persons to be notified; and

c. Reports to be prepared.

(2) Nursing services.

(a) There shall be twenty-four (24) hour nursing services with a sufficient number of nursing personnel on duty at all times to meet the total needs of residents.

(b) Nursing personnel shall include registered nurses, licensed practical nurses, and unlicensed staff members.

(c) The amount of nursing time available for resident care shall be exclusive of non-nursing duties.

(d) Sufficient nursing time shall be available to assure that each resident:

1. Receives treatments, medication, and diets as prescribed;

2. Receives proper care to prevent decubiti and is kept comfortable, clean, and well-groomed;

3. Is protected from accident or injury by the adoption of indicated safety measures; and

4. Is treated with kindness and respect.

(3) Rehabilitative nursing care.

(a) There shall be an active program of rehabilitative nursing care that helps each resident achieve and maintain the resident's highest level of self-care and independence.

(b) Rehabilitative nursing care initiated in a hospital shall be continued immediately upon admission to the facility.

(c) Nursing personnel shall:

1. Be taught rehabilitative nursing measures; and

2. Provide rehabilitative nursing care to residents daily, such as:

a. Maintaining good body alignment and proper positioning of bedfast residents;

b. Encouraging and assisting bedfast residents to change positions at least every two (2) hours, day and night, to stimulate circulation and prevent decubiti and deformities;

c. Making every effort to keep residents active and out of bed for reasonable periods of time, except if contraindicated by physician's orders;

d. Encouraging residents to achieve independence in activities of daily living by teaching self-care, transfer, and ambulation activities;

e. Assisting residents to adjust to their disabilities, to use their prosthetic devices, and to redirect their interests if necessary; and

f. Assisting residents to carry out prescribed physical therapy exercises between visits of the physical therapist.

(4) Dietary supervision.

(a) Nursing personnel shall assure that each resident is served a diet as prescribed.

(b) A resident in need of help eating shall be assisted promptly upon receipt of meals.

(c) Food and fluid intake shall be observed and deviations from normal shall be reported to the charge nurse.
(d) Persistent unresolved problems shall be reported to the physician.
(5) Nursing care plan.
(a) There shall be a written nursing care plan for each resident based on the:
1. Nature of illness;
2. Treatment prescribed;
3. Long and short term goals; and
4. Other pertinent information.
(b) The nursing care plan shall:
1. Be a personalized, daily plan for the resident;
2. Indicate the resident's nursing care needs, including:
a. How the nursing care can best be accomplished for the resident;
b. The resident's preferences;
c. Methods and approaches that are most successful; and
d. Any modifications that are necessary to ensure best results;
3. Be available for use by all nursing personnel; and;
4. Be reviewed and revised as needed.
(c) Relevant nursing information from a resident's nursing care plan shall be included with other medical information if the resident is transferred.
(6) Specialized rehabilitative services.
(a) Rehabilitative services shall:
1. Be provided upon written order of the physician;
2. Indicate the anticipated goals; and
3. Prescribe specific modalities to be used, including frequency of physical, speech, or occupational therapy services.
(b) Therapy services include:
1. Physical therapy;
2. Speech therapy; and
3. Occupational therapy.
(c) Therapists shall collaborate with the facility's medical and nursing staff in developing the resident's total plan of care.
(d) Commonly used ambulation and therapeutic equipment necessary for services shall be available, including:
1. Parallel bars;
2. Hand rails;
3. Wheelchairs;
4. Walkers;
5. Walkerettes;
6. Crutches; and
7. Canes.
(e) Therapists shall advise the administrator concerning the purchase, rental, storage, and maintenance of equipment and supplies.
(7) Personal care services. Personal care services shall includeassistance with:
(a) Bathing;
(b) Shaving;
(c) Cleaning and trimming of fingernails and toenails;
(d) Cleaning of the mouth and teeth; and
(e) Washing, grooming, and cutting of hair.
(8) Pharmaceutical services.
(a) The facility shall provide pharmaceutical services, including procedures that assure the accurate acquiring, receiving, dispensing, and administering of all drugs and

biologicals to meet the needs of each resident.

(b) The facility shall employ or obtain the services of a licensed pharmacist who shall:

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

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

3. Determine that drug records are in order; and

4. Ensure that an account of all controlled drugs is maintained and reconciled.

(c) If the facility does not have a pharmacy department, it shall ensure that prescribed drugs and biologicals may be obtained from a community or institutional pharmacy holding a valid pharmacy permit issued by the Kentucky Board of Pharmacy pursuant to KRS 315.035.

(d) If the facility does not have a pharmacy department, but maintains a supply of drugs, the consultant pharmacist shall:

1. Be responsible for the control of all bulk drugs;

2. Maintain records of the receipt and disposition of bulk drugs; and

3. Dispense drugs from the drug supply, properly label them, and make them available to appropriate licensed nursing personnel.

(e) A facility that stores and administers non-controlled substances in an emergency medication kit (EMK) shall comply with the limitation on the number and quantity of medications established by 201 KAR 2:370, Section 2(4)(b).

(f) A facility that stores and administers non-controlled substances from a long-term care facility drug stock shall comply with the limitation on the number and quantity of medications established by 201 KAR 2:370, Section 2(5)(a).

(9) Medication services.

(a) Medication administered to a resident shall be ordered in writing by the prescribing:

1. Physician; or

2. Health care practitioner as authorized by the scope of practice.

(b) If an order is received by telephone, the order shall be:

1. Recorded in the resident's medical record; and

2. Signed by the physician or other health care practitioner as authorized under the practitioner's scope of practice within fourteen (14) days.

(c) If an order for medication does not include a specific time limit or a specific number of dosages, the facility shall notify the physician or prescribing practitioner that the medication will be stopped at a certain date unless the medication order is continued.

(d) A registered nurse or pharmacist shall review each resident's medication profile at least monthly.

(e) The prescribing physician or other prescribing practitioner shall review the resident's medication profile at least every two (2) months.

(f) The facility shall release medications to a resident who is discharged upon written authorization of the physician or prescribing practitioner.

(10) Administration of medications.

(a) A licensed health professional may:

1. Administer medications as authorized under the professional's scope of practice; or

2. Delegate medication administration tasks in accordance with paragraph (b) of this subsection.

(b) A facility may allow an unlicensed staff person to administer medication in accordance with KRS 194A.705(2)(c) and 201 KAR 20:700 as follows:

1. Medication administration is delegated to the unlicensed staff person by an available nurse;
2. If administration of oral or topical medication is delegated, the unlicensed staff person shall have a:
a. Certified medication aide (CMA) I credential from a training and skills competency evaluation program approved by the Kentucky Board of Nursing (KBN); or
b. Kentucky medication aide credential from the Kentucky Community and Technical College System; and
3. If administration of a preloaded insulin injection is delegated, the unlicensed staff person shall have a CMA II credential from a training and skills competency evaluation program approved by KBN.

(c) An intramuscular injection shall be administered by a licensed nurse or physician.

(d) If an intravenous injection is necessary, the injection shall be administered by a licensed physician or registered nurse.

(e) Each medication administered shall be recorded in the resident's medical record.

(f) The nursing station shall have readily available items necessary for the proper administration of medications.

(g) The facility shall ensure that medication cards or other appropriate system is used and checked against the orders of a physician or practitioner acting under the scope of practice.

(h) A medication that is prescribed for one (1) resident shall not be administered to any other resident.

(i) A resident shall not be allowed to self-administer a medication except:
1. On special order of the resident's physician or prescribing practitioner; or
2. In a predischarge program under the supervision of a licensed nurse.

(j) The facility shall assure that a medication error or drug reaction is:
1. Immediately reported to the resident's physician or practitioner; and
2. Documented in the resident's medical record and in an incident report.

(k) All resident medications shall be plainly labeled with the:
1. Resident's name;
2. Name of the drug;
3. Strength;
4. Name of the pharmacy;
5. Prescription number;
6. Date;
7. Prescriber's name; and
8. Caution statements and directions for use, unless a modified unit dose distribution system is used.

(l) All medications kept by the facility shall be:
1. Stored in their original containers; and
2. Kept in a locked place.

(m) The facility shall ensure that:
1. All medications requiring refrigeration are kept in a separate locked box of adequate size in the refrigerator in the medication area;
2. Drugs for external use are stored separately from those administered by mouth and injection;
3. Medication containers having soiled, damaged, incomplete, illegible, or makeshift labels are returned to the issuing pharmacist or pharmacy for relabeling or disposal;
4. Containers with no labels are appropriately destroyed;
5. Cabinets are well-lighted and of sufficient size to permit storage without crowding; and

6. Expiredmedications and medications no longer in use are disposed of or destroyed appropriately.

(11) Controlled substances.

(a) Controlled substances shall be kept under double lock, for example in a locked box in a locked cabinet, and keys or access to the locked box and locked cabinet shall be accessible to designated staff only.

(b) A nurse may delegate administration of a regularly scheduled controlled substance to a CMA if the medication has been prescribed and labeled in a container for a specific resident.

(c) For a controlled substance ordered on a PRN basis, a nurse may delegate administration to a CMA if:

1. The medication has been prescribed and labeled in a container for a specific resident;

2. The nurse assesses the resident, in person or virtually, prior to administration of the PRN controlled substance;

3. The nurse assesses the resident, in person or virtually, following the administration of the PRN controlled substance; and

4. The nurse documents administration of the PRN controlled substance by a CMA in the resident's record.

(d) There shall be a controlled substances bound record book with numbered pages that includes:

1. The name of the resident;

2. Date, time, kind, dosage, and method of administration of each controlled substance;

3. Name of the physician or practitioner who prescribed the medications; and

4. Name of the:

a. Nurse or CMA who administered the controlled substance; or

b. Staff member who supervised the self-administration.

(e) A staff member with access to controlled substances shall be responsible for maintaining a recorded and signed:

1. Schedule II controlled substances count daily; and

2. Schedule III, IV, and V controlled substances count at least one (1) time per week.

(f) All expired or unused controlled substances shall be disposed of, or destroyed in accordance with 21 C.F.R. Part 1317 no later than thirty (30) days:

1. After expiration of the medication; or

2. From the date the medication was discontinued.

(g) If controlled substances are destroyed on-site:

1. The method of destruction shall render the drug unavailable and unusable;

2. The administrator or staff person designated by the administrator shall be responsible for destroying the controlled substances with at least one (1) witness present; and

3. A readily retrievable record of the destroyed controlled substances shall be maintained for a minimum of eighteen (18) months from the date of destruction and contain the:

a. Date of destruction;

b. Resident name;

c. Drug name;

d. Drug strength;

e. Quantity;

f. Method of destruction;

g. Name of the person responsible for the destruction; and

h. Name of the witness.

(h) A facility that stores and administers controlled substances in an emergency medication kit (EMK) shall comply with the:

1. Requirements for storage and administration established by 902 KAR 55:070, Section 2(2), (5), and (7) through (9); and

2. Limitation on the number and quantity of medications established by 902 KAR 55:070, Section 2(6).

(12) Use of restraints.

(a) Chemical and physical restraints shall not be used, except as authorized by KRS 216.515(6).

(b) Restraints that require lock and key shall not be used.

(c) Emergency use of a restraint shall be applied only by appropriately trained personnel if:

1. A resident poses an imminent risk of harm to self or others; and

2. The emergency restraint is the least restrictive intervention to achieve safely.

(d) Restraints shall not be used as:

1. Punishment;

2. Discipline;

3. A convenience for staff; or

4. Retaliation.

(13) Infection control.

(a) There shall be written infection control policies that address:

1. The prevention of disease transmission; and

2. Cleaning, disinfection, and sterilization methods used for equipment and the environment.

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

(14) Sharp wastes.

(a) Sharp wastes shall be segregated from other wastes and placed in puncture-resistant containers immediately after use.

(b) A needle or other contaminated sharp shall not be recapped, purposely bent, broken, or otherwise manipulated by hand as a means of disposal, except as permitted by Centers for Disease Control and Occupational Safety and Health Administration guidelines at 29 C.F.R. 1910.1030(d)(2)(vii).

(c) A sharp waste container shall be incinerated on or off-site, or be rendered nonhazardous.

(d) Any nondisposable sharps shall be placed in a hard walled container for transport to a processing area for decontamination.

(15) Disposable waste.

(a) Disposable waste shall be:

1. Placed in a suitable bag or closed container so as to prevent leakage or spillage; and

2. Handled, stored, and disposed of in such a way as to minimize direct exposure of personnel to waste materials.

(b) The facility shall establish specific written policies regarding handling and disposal of all waste material.

(16) Infectious or communicable diseases.

(a) An individual infected with one (1) of the following diseases shall not be admitted to the facility:

1. Anthrax;

2. Campylobacteriosis;

3. Cholera;

4. Diphtheria;
5. Hepatitis A;
6. Measles;
7. Pertussis;
8. Plague;
9. Poliomyelitis;
10. Rabies (human);
11. Rubella;
12. Salmonellosis;
13. Shigellosis;
14. Typhoid fever;
15. Yersiniosis;
16. Brucellosis;
17. Giardiasis;
18. Leprosy;
19. Psittacosis;
20. Q fever;
21. Tularemia; or
22. Typhus.

(b) A facility may admit a noninfectious tuberculosis resident in accordance with 902 KAR 20:200, Section 4 or Section 8(5).

(c) A resident with symptoms or an abnormal chest x-ray consistent with tuberculosis shall be isolated and evaluated in accordance with 902 KAR 20:200, Section 6(4).

(d) If a resident is suspected of having a communicable disease that would endanger the health and welfare of other residents, the administrator or administrator's designee shall:

1. Contact a physician; and

2. Ensure that appropriate measures are taken on behalf of the resident, other residents, and staff.

(17) Laboratory, radiology, and other diagnostic services.

(a) Laboratory services.

1. The facility shall provide or obtain laboratory services to meet the needs of its residents from a laboratory that is:

a. Part of a hospital; or

b. Licensed in accordance with KRS 333.030.

2. The facility shall provide or obtain laboratory services if ordered by a physician or other health care practitioner acting within the practitioner's scope of practice.

3. The facility shall:

a. Assist the resident in making transportation arrangements to and from the source of service, if applicable; and

b. File in the resident's record a copy of each laboratory report with the:

(i) Date of the service; and

(ii) Name and address of the testing laboratory.

(b) Radiology and other diagnostic services. The facility shall:

1. Provide or obtain radiology and other diagnostic services if ordered by a physician or other health care practitioner acting within the practitioner's scope of practice;

2. Assist the resident in making transportation arrangements to and from the source of service, if applicable; and

3. File in the resident's record a copy of the signed and dated report of x-ray and other diagnostic services.

(18) Dental services.

(a) The facility shall assist residents in obtaining regular and emergency dental care.

(b) A dentist shall:

1. Provide consultation;
2. Participate in in-service education;
3. Recommend policies concerning oral hygiene; and
4. Be available in case of emergency.

(c) If necessary, the facility shall arrange for the resident to be transported to the dentist's office.

(d) Nursing personnel shall assist the resident with carrying out the dentist's recommendations.

(19) Social services.

(a) The facility shall provide social services to:

1. Meet the medically-related social service needs of each resident;
2. Meet the physical, mental, and psycho-social well-being of each resident; and
3. Assist each resident in attaining or maintaining the highest practicable level of functioning.

(b) Upon admission, the facility shall evaluate a resident's need for social services.

(c) If the resident appears eligible for financial assistance necessary to remain in the facility, the facility shall make a referral for a full evaluation of need.

(d) The facility shall take appropriate action to obtain any needed social services to help resolve issues related to a resident's:

1. Illness;
2. Response to treatment; or
3. Adjustment to care in the facility.

(e) The facility shall consider factors such as a resident's home situation, financial resources, community resources, and information related to the resident's medical and nursing care needs in any decisions regarding discharge from the facility.

(f) The staff member responsible for coordinating social services shall:

1. Participate in clinical staff conferences;
2. Confer with the attending physician and nurses during the resident's stay in the facility; and
3. Include signed social service summaries in the resident's medical record.

(20) Patient activities.

(a) The facility shall provide activities as an adjunct to the active treatment program.

(b) Activities shall:

1. Be suited to the needs and interests of residents; and
2. Encourage restoration of self-care and resumption of normal activities.

(c) The activity leader shall usecommunity, social, and recreational opportunities to the fullest extent possible.

(d) Residents shall be encouraged but not forced to participate in activities.

(e) The facility shall provide suitable activities for residents who are unable to leave their rooms.

(f) The facility shall permit, and assist if needed, residents[who are able and wish to attend religious services.

(g) The facility shall honor a resident's request to see their clergymen or church leader and provide space for privacy during visits.

(h) The facility shall assure that visiting hours are established in accordance with KRS 216.537 and 216.540.

(i) The facility shall make available a variety of supplies and equipment adequate to satisfy the individual interests of residents, such as:

1. Books and magazines;
2. Daily newspapers;

3. Games;
4. Stationery;
5. Radio and television; and
6. Craft and hobby supplies.

(21) Transportation.

(a) If transportation of residents is provided by the facility to community agencies or other activities, the following shall apply:

1. Special provision shall be made for each resident who uses a wheelchair.

2. An escort or assistant to the driver shall accompany a resident or residents, if necessary, to help ensure safety during transport.

(b) The facility shall arrange for appropriate transportation in case of a medical emergency.

(22) Dietary services.

(a) The facility shall provide or contract for food services to meet the dietary needs of the residents, including:

1. Modified diets; or

2. Dietary restrictions as prescribed by the attending physician.

(b)

1. Ifa facility contracts for food services with an outside food management company, the company shall provide a licensed dietician or certified nutritionist on a full-time, part-time, or consultant basis to the facility.

2. The licensed dietician or certified nutritionist shall make recommendations to the facility's medical and nursing staff on dietetic policies affecting resident care.

3. The food management company shall comply with the dietary services requirements of this subsection.

(c) If the facility provides therapeutic diets and the staff member responsible for the food services is not a licensed dietician or certified nutritionist, the responsible staff person shall consult with a licensed dietician or certified nutritionist.

(d) The facility shall:

1. Have sufficient number of food service personnel;

2. Ensure that the food service staff schedules are posted; and

3. If any food service personnel are assigned duties outside the dietary department, the duties shall not interfere with the sanitation, safety, or time required for regular dietary assignments.

(e) Menu planning.

1. Menus shall be planned, written, and rotated to avoid repetition.

2. The facility shall meet the nutrition needs of residents in accordance with a physician's orders.

3. Except as established in subparagraph 5. of this paragraph, meals shall correspond with the posted menu.

4. Menus shall be planned and posted one (1) week in advance.

5. If changes in the menu are necessary:

a. Substitutions shall provide equal nutritive value;

b. The changes shall be recorded on the menu; and

c. Menus shall be kept on file for at least thirty (30) days.

6. Food preparation and storage.

a. There shall be at least a three (3) day supply of food to prepare well balanced, palatable meals.

b. A record of food purchased for preparation shall be on file for thirty (30) days.

c. Food shall be prepared with consideration for any individual dietary requirement.

d. Modified diets, nutrient concentrates, and supplements shall be given only on the written orders of a:
(i) Physician;
(ii) Advanced practice registered nurse; or
(iii) Physician assistant.
e. At least three (3) meals per day shall be served with not more than a fourteen (14) hour span between the substantial evening meal and breakfast.
f. Between-meal snacks and beverages, including an evening snack before bedtime, shall be available at all times for each resident, unless medically contraindicated as documented by a physician in the resident's record.
g. Foods shall be:
(i) Prepared by methods that conserve nutritive value, flavor, and appearance; and
(ii) Served at the proper temperature and in a form to meet individual needs.
h. A file of tested recipes, adjusted to appropriate yield, shall be maintained.
i. Food shall be cut, chopped, or ground to meet individual needs.
j. If a resident refuses foods served, nutritional substitutions shall be offered.
k. All opened containers or left over food items shall be covered and dated when refrigerated.

7. Serving of food.
a. If a resident cannot be served in the dining room, trays shall:
(i) Be provided for bedfast patients; and
(ii) Rest on firm supports such as overbed tables.
b. Sturdy tray stands of proper height shall be provided for residents able to be out of bed.
c. Direct care staff shall be responsible for correctly positioning a resident to eat meals served on a tray.
d. A resident who requires help with eating shall be assisted within a reasonable length of time.
e. The facility shall provide adaptive feeding equipment if needed by a resident.
f. Food services shall be provided in accordance with 902 KAR 45:005.

(23) Housekeeping and maintenance services.
(a) The facility shall:
1. Maintain a clean and safe facility free of unpleasant odors; and
2. Ensure that odors are eliminated at their source by prompt and thorough cleaning of commodes, urinals, bedpans, and other sources.

(b) The facility shall:
1. Have available at all times an adequate supply of clean linen essential to the proper care and comfort of residents;
2. Ensure that soiled clothing and linens receive immediate attention and not be allowed to accumulate;
3. Ensure that clothing and linens used by one (1) resident shall not be used by another resident unless it has been laundered or dry cleaned; and
4. Ensure that soiled clothing and linens shall be:
a. Placed in washable or disposable containers;
b. Transported in a sanitary manner; and
c. Stored in separate, well-ventilated areas in a manner to prevent contamination and odors.

(c) Equipment or areas used to transport or store soiled linen shall not be used for handling or storing of clean linen.
(d) Soiled linen shall be sorted and laundered in the soiled linen room in the laundry area.

(e) Hand-washing facilities with hot and cold water, soap dispenser, and paper towels shall be provided in the laundry area.

(f) Clean linen shall be sorted, dried, ironed, folded, transported, stored, and distributed in a sanitary manner.

(g) Clean linen shall be stored in clean linen closets on each floor, close to the nurses' station.

(h) Personal laundry shall be:

1. Collected, transported, sorted, washed, and dried in a sanitary manner separate from bed linens;
2. Laundered as often as necessary;
3. The responsibility of the facility unless the resident or resident's family accepts this responsibility; and
4. Marked or labeled to identify the resident so that it may bereturned to the correct resident.

(24) Maintenance. The premises shall be well kept and in good repair as established in this subsection.

(a) The facility shall ensure that the grounds are well kept and the exterior of the building, including the sidewalks, steps, porches, ramps, and fences are in good repair.

(b) The interior of the building, including walls, ceilings, floors, windows, window coverings, doors, plumbing, and electrical fixtures, shall be in good repair. Windows and doors shall be screened.

(c) Garbage and trash shall be stored in areas separate from those used for the preparation and storage of food and shall be removed from the premises regularly. Containers shall be cleaned regularly.

(d) A pest control program shall be in operation in the facility. Pest control services shall be provided by maintenance personnel of the facility or by contract with a pest control company. The compounds shall be stored under lock.

(25) Room accommodations.

(a) A facility shall provide each resident with:

1. A bed that is at least thirty-six (36) inches wide;
2. A clean, comfortable mattress with a support mechanism;
3. A mattress cover;
4. Two (2) sheets and a pillow; and
5. Bed covering to keep the resident comfortable.

(b) Each bed shall be placed so that a resident does not experience discomfort because of proximity to a radiator, heat outlet, or exposure to drafts.

(c) The facility shall provide:

1. Window coverings;
2. Bedside tables with reading lamps, if appropriate;
3. Comfortable chairs;
4. A chest or dresser with a mirror for each resident;
5. A night light; and
6. Storage space for clothing and other possessions.

(d) A resident shall not be housed in a room, detached building, or other enclosure that has not been previously inspected and approved for residential use by the Office of Inspector General and the Department of Housing, Buildings and Construction.

(e) Basement rooms shall not be used for sleeping rooms for residents.

(f) Residents may have personal items and furniture, if feasible.

(26) Living and dining area.

(a) Each living room or lounge area and recreation area shall have an adequate number of:

1. Reading lamps; and

2. Tables and chairs or settees of sound construction and satisfactory design.

(b) Dining room furnishings shall be adequate in number, well constructed, and of satisfactory design for the patients.

ADAM MATHER, Inspector General
ERIC C. FRIEDLANDER, Secretary

APPROVED BY AGENCY: November 6, 2023

FILED WITH LRC: November 13, 2023 at 1:25 p.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on January 22, 2024, at 9:00 a.m. using the CHFS Office of Legislative and Regulatory Affairs Zoom meeting room. The Zoom invitation will be emailed to each requestor the week prior to the scheduled hearing. Individuals interested in attending this virtual hearing shall notify this agency in writing by January 12, 2024, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends virtually will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on this proposed administrative regulation until January 31, 2024. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to the contact person. Pursuant to KRS 13A.280(8), copies of the statement of consideration and, if applicable, the amended after comments version of the administrative regulation shall be made available upon request.

CONTACT PERSON: Krista Quarles, Policy Analyst, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; phone 502-564-7476; fax 502-564-7091; email CHFSregs@ky.gov.