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

902 KAR 20:086. Operation and services; intermediate care facilities for individuals with intellectual disabilities.

RELATES TO: KRS 194A.705(2)(c), 209.030, 209.032, 216.510 – 216.525, 216.532, 216.789, 216.793, 216A.080, 310.031, 315.035, 620.030, 21 C.F.R. Part 1317, 29 C.F.R. 1910.1030(d)(2)(vii), 34 C.F.R. 300.8(c)(6), 42 C.F.R. 483.400 – 483.480, 45 C.F.R. 1325.3, 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 and services provided by intermediate care facilities for individuals with intellectual disabilities (ICF/IID).

Section 1. Definitions.

(1) "Active treatment" means the delivery of resident-specific specialized and generic training, treatment, health services, and related services directed toward the:

(a) Acquisition of behaviors necessary for the resident to function with as much self-determination and independence as possible; and

(b) Prevention or deceleration of regression or loss of current optimal functional status.

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

(3) "Aversive stimuli" means things or events that the resident finds unpleasant or painful that are used to immediately discourage undesired behavior.

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

(5) "Developmental disability" is defined by 45 C.F.R. 1325.3.

(6) "Developmental nursing services" means treatment of an individual's needs by designing interventions to modify the rate or direction of the individual's development in the areas of:

(a) Self-help skills;

(b) Personal hygiene; and

(c) Sex education.

(7) "Intellectual disability" is defined by 34 C.F.R. 300.8(c)(6).

(8) "Interdisciplinary team" means the group of people assembled by the facility who represent the professions, disciplines, or service areas that are relevant to:

(a) Identify the resident's needs; and

(b) Make recommendations for:

1. The resident's individual program plan; and

2. Services designed to meet the resident's needs.

(9) "Normalization principle" means making available to all people with disabilities patterns of life and conditions of everyday living that are as close as possible to the regular circumstances and ways of life or society .

(10) "Qualified social worker" means a person who:

(a) Meets the requirements of 42 C.F.R. 483.430(b)(5)(vi); or

(b) Has a bachelor's degree in a field other than social work and at least three (3) years of social work experience under the supervision of a social worker who meets the requirements of 42 C.F.R. 483.430(b)(vi).

(11) "A qualified intellectual disability professional (QIDP)" is defined by 42 C.F.R. 483.430(a).

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

(13) "Seclusion" means the involuntary separation of a resident from other residents and the placement of the resident alone in an area from which the resident is prevented from leaving..

(14) "Time-out" means a procedure that involves removing an individual from a reinforcing situation for a period of time if the individual engages in a specified inappropriate behavior.

Section 2. Scope of Operation and Services.

(1) An ICF/IID shall provide services for all age groups on a twenty-four (24) hour basis, seven (7) days per week in an establishment located in a permanent building with resident beds for individuals with intellectual disabilities or related conditions who require developmental nursing services and a planned program of active treatment.

(2) The facility shall provide programs as indicated by a resident's individual program plan to maximize the resident's mental, physical, and social development in accordance with the normalization principle.

(3) The facility shall comply with the facility specification requirements of 902 KAR 20:056.

Section 3. Administration and Operation.

(1) Licensee. The licensee shall be legally responsible for:

(a) The operation of the facility; and

(b) Compliance with federal, state and local laws, and administrative regulations pertaining to the operation of the facility.

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

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

(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; and

(c) Not be the nursing services supervisor.

(3) Contracted services. The licensee shall contract for professional and supportive services not available in the facility as dictated by the needs of each resident.

(4) 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 written recommendations or comments from consultants regarding the active treatment 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.

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

(a) Address resident services, including medical, nursing, habilitation, pharmaceutical, and residential services;

(b) Require the reporting of cases of abuse, neglect, or exploitation of adults or children pursuant to KRS 209.030 or 620.030, 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 process;

(c) Ensure that residents are:

1. Free from unnecessary drugs and physical restraints; and

2. Provided active treatment to reduce dependency on drugs and physical restraints; 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.

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

(7) Admission.

(a) A resident of an ICF/IID shall:

1. Be admitted only upon the referral of a physician; and

2. Have a condition that requires developmental nursing services and a planned program of active treatment.

(b) The interdisciplinary team shall consist of:

1. A physician;

2. A psychologist;

3. A registered nurse;

4. A qualified social worker; and

5. Other professionals, at least one (1) of whom is a QIDP.

(c) Prior to admission, the interdisciplinary team shall:

1. Conduct a comprehensive evaluation of the individual no less than ninety (90) days before the date of admission;

2. Assess the individual's physical, emotional, social, and cognitive status; and

3. Determine the need for services, including a review of all available programs of care, treatment, and training.

(d) Admission decisions shall be made in accordance with 42 C.F.R. 483.440.

(e) Upon admission, the facility shall provide the resident and a responsible family member or guardian, if applicable, 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.

(f) The facility shall maintain a system for:

1. Identifying each resident's personal property; and

2. Safekeeping valuables, includingassurance that each resident's clothing and other property is reserved for the resident's own use.

(8) Discharge planning.

(a) The facility shall have a discharge planning program thatidentifies other settings and support services that may enable a resident to live in a less restrictive environment.

(b) If a resident is to be transferred or discharged, the facility shall comply with requirements of 42 C.F.R. 483.440(4) and (5).

(9) Transfer procedures and agreements.

(a) The facility shall 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) of this subsection.
(c) The facility's transfer procedures and agreements shall:
1. Specify the responsibilities of each party in the transfer of a resident;
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 the 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 other community resource, a transfer form shall:
1. Accompany the resident;
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.
(10) Medical records.
(a) The facility shall maintain a record for each resident that includes documentation of:
1. Planning and continuous evaluation of the resident's habilitation program, including evidence of the resident's progress; and
2. Protecting the resident's rights.
(b) Each entry in a resident's record shall be legible, dated, and signed.
(c) Each record shall include:
1. Identifying information, including:
a. Resident's name;
b. Date of admission;
c. Birth date and place of birth;
d. Citizenship status;
e. Marital status;
f. Social Security number;
g. Father's name and birthplace;
h. Mother's maiden name and birthplace;
i. Parents' marital status;
j. Address of parents, guardian, or responsible family member, if applicable; and

k. Sex, race, height, weight, color of hair, color of eyes, identifying marks, and recent photograph;

2. Reason for admission or referral;

3. Type and legal status of admission;

4. Legal competency status;

5. Language spoken or understood;

6. Sources of support, including Social Security, veterans' benefits, or insurance;

7. Religious affiliation, if any;

8. Documentation of the preadmission evaluation; and

9. Documentation of assessments and any other previous evaluations.

(d) Within thirty (30) days after admission, the facility shall enter the following in the resident's record:

1. A report of assessments or reassessments performed by the interdisciplinary team to supplement the preadmission evaluation;

2. The resident's specific developmental and behavioral management needs; and

3. A comprehensive functional assessment and individual program plan developed by the interdisciplinary team.

(e) The facility shall enter the following information in a resident's record:

1. A written report of any accident, seizure, or illness, and treatment services provided;

2. Documentation of immunizations;

3. Documentation of the use of any restraint on the resident, including an explanation of and authorization for the restraint;

4. Documentation of the interdisciplinary team's annual review and evaluation of the resident's individual program plan, developmental progress, and status;

5. Observations regarding the resident's response to the individual program plan used to evaluate its effectiveness;

6. A record of significant behavior incidents;

7. Documentation of family visits and contacts;

8. Documentation of any incident in which the resident is lost, unaccounted for, or on other unauthorized absence;

9. Correspondence pertaining to the resident;

10. Updates as needed to the information initially recorded at the time of admission; and

11. A record of any applicable authorizations or consent.

(f) The facility shall enter a discharge summary in the resident's record at the time of discharge.

(11) 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.

(12) Personnel.

(a) In accordance with KRS 216.532, an ICF/IID 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, an ICF/IID shall not employ or be operated by an individual who is listed on the caregiver misconduct registry established by 922 KAR 5:120.

(c) An ICF/IID shall obtain a criminal record check on each applicant for initial employment in accordance with KRS 216.789 and 216.793.

(d) An ICF/IID 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.

(13) Staffing requirements.

(a) 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.

(b) The licensee shall have a QIPD who is responsible for:

1. Supervising the delivery of each resident's individual program plan;
2. Supervising the delivery of training and habilitation services;
3. Integrating the various aspects of the facility's program;
4. Recording each resident's progress; and
5. Initiating review of each individual program plan for necessary changes.

(c) Each residential living unit shall maintain direct care staff-to-resident ratios in accordance with 42 C.F.R. 483.430(d) .

(d) A responsible staff member shall be on duty and awake at all times to assure prompt, appropriate action in case of injury, illness, fire, or other emergency.

(e) The use ofvolunteers shall not be:

1. Included in the minimum staffing requirements of this subsection; or
2. Relied upon to perform direct care services for the facility.

(14) Nurse staffing.

(a) The facility shall have a registered nurse or licensed practical nurse during the day shift, seven (7) days per week to supervise nursing services.

(b) The supervising nurse shall have training and experience in the field of intellectual and developmental disabilities.

(c) If a licensed practical nurse serves as the supervisor, a registered nurse shall provide consultation at regular intervals, not less than four (4) hours weekly.

(d) The supervising nurse's responsibilities shall include developing and maintaining:

1. Nursing service objectives;
2. Standards of nursing practice;
3. Nursing procedure manuals; and
4. A written job description for each level of nursing personnel.

(e) Nursing service personnel at all levels of experience and competence shall:

1. Be assigned responsibilities in accordance with their qualifications;

2. Delegate tasks as authorized under the nurse's scope of practice;
3. Provide appropriate professional nursing supervision; and
4. Participate in the development and implementation of resident care policies.

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

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

(a) Responsible for the total food service operation of the facility; and

(b) On duty a minimum of thirty-five (35) hours each week.

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

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

(a) Be immediately excluded from work; and

(b) Remain off work until cleared as noninfectious by a health care practitioner acting within the practitioner's scope of practice.

(19) All employees of an ICF/IID shall be screened and tested for tuberculosis in accordance with the provisions of 902 KAR 20:205.

(20) In-service training.

(a) Each facility shall have a staff training program adequate for the size and nature of the facility with a staff person who is assigned responsibility for staff development and training.

(b) The training program shall include:

1. Orientation to acquaint each new employee with the philosophy, organization, program, practices, and goals of the facility;

2. Follow-up training for any employee who has not achieved the desired level of competence;

3. Continuing in-service training held at least annually for all employees to update and improve their skills; and

4. Supervisory and management training for each employee who is in, or a candidate for, a supervisory position.

Section 4. Provision of Services.

(1) The interdisciplinary team shall assure that:

(a) The health needs of each resident are met; and

(b) Each resident has an individual program plan developed in accordance with the requirements of 42 C.F.R. 483.440(c) through (f).

(2) Infection control.

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

1. The prevention of disease transmission, including:

a. Universal blood and body fluid precautions;

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

c. Work restrictions for employees with infectious diseases; 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.

(c) Sharp wastes.

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

2. 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 the Centers for Disease Control and Occupational Safety and Health Administration guidelines at 29 C.F.R. 1910.1030(d)(2)(vii).

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

4. Any non-disposable sharps be placed in a hard walled container for transport to a processing area for decontamination.

(d) Disposable waste.

1. All disposable waste shall be:

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

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

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

(e) Infectious or communicable diseases. 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.

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

(g) 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).

(3) Resident behavior and facility practices.

(a) Each facility shall develop and implement written policies and procedures for the management of conduct between staff and clients in accordance with 42 C.F.R. 483.450(a).

(b) The facility shall:

1. Develop and implement written policies and procedures that govern the management of inappropriate resident behavior in accordance with 42 C.F.R. 483.450(b); and

2. Not allow corporal punishment or seclusion of a resident.

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

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

(e) 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.

(f) A restraint shall not be used as:

1. Punishment;
2. Discipline;
3. Convenience for staff; or
4. Retaliation..

(g) An order for physical restraint shall:

1. Be by a physician or other licensed health care practitioner who is acting within the scope of practice and trained in the use of emergency safety interventions;
2. Be carried out by trained staff;
3. Be the least restrictive safety intervention that is most likely to be effective in resolving the emergency safety situation based on consultation with staff; and
4. Not be in effect longer than twelve (12) hours.

(h) Appropriately trained staff shall check a resident placed in a physical restraint at least every thirty (30) minutes and document each check.

(i) A resident who is in a physical restraint shall be given an opportunity for motion and exercise for a period of not less than ten (10) minutes during each two (2) hours of restraint.

(j) A mechanical device used for physical restraint shall be designed and used in a way that:

1. Avoids physical injury; and
2. Results in the least possible physical discomfort.

(k) A mechanical support used as a protective device shall be designed and applied:

1. Under the supervision of a qualified professional trained in the use of emergency safety interventions; and
2. In accordance with principles of good body alignment, concern for circulation, and allowance for change of position.

(l) Behavior modification programs involving the use of aversive stimuli or time-out devices shall be:

1. Reviewed and approved by the facility's human rights committee or a QIPD;
2. Conducted only with the consent of the affected resident's parents, responsible family member, or guardian; and
3. Described in written plans that are kept on file in the facility.

(m) A physical restraint used as a time-out device may be applied only:

1. During a behavior modification exercise; and
2. In the presence of the trainer.

(n) A time-out device or aversive stimuli shall:

1. Not be used for longer than one (1) hour; and
2. Used only during a behavior modification program under the supervision of the trainer.

(4) Medical supervision of residents.

(a) Each facility shall maintain policies and procedures to ensure that each resident is under the medical supervision of a physician.

(b) The facility shall permit the resident, resident's responsible family member, or guardian to have a choice of physicians.

(c) The physician shall visit each resident at least every sixty (60) days or as often as necessary, unless justified and documented by the attending physician.

(d) No less than ninety (90) days prior to the date of admission, each resident shall have a complete medical evaluation to assess the resident'ssocial, physical, emotional, and cognitive status.

(e) After admission, each resident shall have a medical evaluation at least annually.

(f) The facility shall have formal arrangements to ensure that a physician or health care practitioner acting within the scope practice is available to provide necessary medical care in case of medical emergency.

(5) Health services.

(a) Health services shall includethe establishment of a nursing care plan that:

1. Is part of the total habilitation program for each resident;
2. Shall be reviewed and modified as necessary, but no less than quarterly; and
3. Shall include goals and nursing care needs.

(b) Nursing care shall help enable each resident achieve and maintain the highest degree of function, self-care, and independence, including:

1. Positioning and turning in which nursing personnel shall encourage and assist residents in maintaining good body alignment while standing, sitting, or lying in bed to prevent decubiti;
2. Exercises in which nursing personnel shall assist residents in maintaining maximum range of motion;
3. Bowel and bladder training in which nursing personnel shall make every effort to train incontinent residents to gain bowel and bladder control;
4. Training in habits of personal hygiene, family life, and sex education that includes family planning and venereal disease counseling;
5. Ambulation in which nursing personnel shall assist and encourage residents with daily ambulation unless otherwise ordered by the physician; and
6. Administration of medications and appropriate treatment.

(c) A written monthly assessment of the resident's general condition with any changes in the resident's condition, actions, responses, attitudes, or appetite shall be recorded in the resident's record by licensed personnel.

(6) 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).

(7) 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 the 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.

(8) 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 (KMA) credential from the Kentucky Community and Technical College System (KCTCS); 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) Each medication administered shall be recorded in the resident's medical record.

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

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

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

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

(h) 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 as a part of the resident's treatment plan.

(i) 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.

(j) 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;

8. Caution statements and directions for use, unless a modified unit dose distribution system is used.

(k) All medications kept by the facility shall be:

1. Stored in their original containers; and

2. Kept in a locked place.

(l) 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 injection; and

3. Medication containers having soiled, damaged, incomplete, illegible, or makeshift labels are returned to the issuing pharmacist or pharmacy for relabeling or disposal.

(9) 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 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).

(10) Personal care services.

(a) Each resident shall receive training in personal skills essential for privacy and independence, including:
1. Bathing in which the facility shall:
a. Provide soap, clean towels, and wash cloths for each resident; and
b. Ensure that toilet articles such as brushes and combs shall not be used in common;
2. Personal hygiene;
3. Dental hygiene;
4. Dressing;
5. Grooming;
6. Self-feeding; and
7. Communication of basic needs..

(b) If a resident does not eliminate appropriately and independently, the facility shall:
1. Provide a toilet training program; and
2. Document the resident's progress.

(c) A resident who is incontinent shall be bathed or cleaned immediately upon voiding or soiling and all soiled items shall be changed.

(d) The staff shall train and if necessary, assist a resident with dressing.

(11) Dental services.

(a) The facility shall provide or make arrangements for dental services, comprehensive dental diagnostic services, and comprehensive dental treatment in accordance with 42 C.F.R. 483.460(e) through (g).

(b) The facility shall maintain documentation of dental services in accordance with 42 C.F.R. 483.460(h).

(c) A dental professional shall participate, as appropriate, on the facility's interdisciplinary team.

(d) A dentist shall be responsible for ensuring that direct care staff are instructed in the proper use of oral hygiene methods for residents.

(12) Social services.

(a) The facility shall provide social services directly or by contract to residents and their families, including:

1. Evaluation and counseling with referral to, and use of, other planning for community placement; and

2. Discharge and follow up services rendered by or under the supervision of a qualified social worker.

(b) A facility's social worker shall be under the supervision of a:

1. Qualified social worker; or

2. QIDP.

(c) Social services shall be integrated with other elements of the individual program plan.

(d) A plan for social services shall be recorded in the resident's record and evaluated in conjunction with resident's individual program plan.

(13) Recreation services. The facility shall:

(a) Coordinate recreational services with other services and programs that are provided to each resident;

(b) Provide recreation equipment and supplies in a quantity and variety that is sufficient to carry out the stated objectives of the activities programs;

(c) Maintain in the resident's record a review conducted at least annually of each resident's recreational interests, including a determination of the extent and level of the resident'sparticipation in the recreation program; and

(d) Have enough qualified staff who meet the requirements of 42 C.F.R. 483.430(b)(5)(viii) and support personnel available to carry out the various recreation services.

(14) Speech-language pathology and audiology services. The facility shall provide speech-language pathology and audiology services:

(a) By an individual who meets the requirements of 42 C.F.R. 483.430(b)(5)(vii); and

(b) As needed to maximize the communication skills of each resident in need of services.

(15) Occupational therapy.

(a) The facility shall provide occupational therapy by or under the supervision of an occupational therapist who meets the requirements of 42 C.F.R. 483.430(b)(5)(i) to meet a resident's need for services.

(b) The occupational therapist or occupational therapy assistant shall provide services in accordance with the individual program plan designed by the interdisciplinary team.

(16) Physical therapy.

(a) The facility shall provide physical therapy by or under the supervision of a licensed physical therapist who meets the requirements of 42 C.F.R. 483.430(b)(5)(iii) to meet a resident's need for services.

(b) The physical therapist or physical therapy assistant shall provide services in accordance with the individual program plan designed by the interdisciplinary team.

(17) Psychological services.

(a) The facility shall provide psychological services as needed by a psychologist who meets the requirements of 42 C.F.R. 483.430(b)(5)(v).

(b) The psychologist shall participate in evaluation of each resident, individual treatment, and consultation and training of direct care staff as a member of the interdisciplinary team.

(18) 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.

(19) Residential care services.

(a) All facilities shall provide residential care services to all residents including:

1. Room accommodations;

2. Housekeeping and maintenances services; and

3. Dietary services.

(b) Room accommodations.

1. The facility shall provide each resident with:

a. A bed that is at least thirty-six (36) inches wide;

b. A clean, comfortable mattress with a support mechanism;

c. A mattress cover;

d. Two (2) sheets and a pillow; and

e. Bed covering to keep the resident comfortable.

2. 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.

3. The facility shall provide:

a. Window coverings;

b. Bedside tables with reading lamps, if appropriate;

c. Comfortable chairs;

d. A chest or dresser with a mirror for each resident;

e. A night light; and

f. Storage space for clothing and other possessions.

4. 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 for Housing, Building, and Construction.

5. Basement rooms shall not be used for sleeping rooms for residents.

6. Residents may have personal items and furniture, if feasible.

7. Each living room or lounge area shall have an adequate number of:

a. Reading lamps; and

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

8. Dining room furnishings shall be adequate in number, well-constructed, and of satisfactory design for the residents.

(c) Housekeeping and maintenance services.

1. The facility shall:

a. Maintain a clean and safe facility free of unpleasant odors; and

b. Ensure that odors are eliminated at their source by prompt and thorough cleaning of commodes, urinals, bedpans, and other sources.

2. The facility shall:

a. Have available at all timesan adequate supply of clean linen essential to the proper care and comfort of residents;

b. Ensure that soiled clothing and linens receive immediate attention and not be allowed to accumulate;

c. Ensure that clothing and linens used by one resident shall not be used by another unless it has been laundered or dry cleaned; and

d. Ensure that soiled clothing and linens shall be:

(i) Placed in washable or disposable containers;

(ii) Transported in a sanitary manner; and

(iii) Stored in separate, well-ventilated areas in a manner to prevent contamination and odors.

3. Equipment or areas used to transport or store soiled linen shall not be used for handling or storing of clean linen.

4. Soiled linen shall be sorted and laundered in the soiled linen room in the laundry area.

5. Handwashing facilities with hot and cold water, soap dispenser, and paper towels shall be provided in the laundry area.

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

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

8. Personal laundry shall be:

a. Collected, transported, sorted, washed, and dried in a sanitary manner separate from bed linens;

b. Laundered as often as necessary;

c. Laundered by the facility unless the resident or the resident's family accepts this responsibility; and

d. Marked or labeled to identify the resident so that it may be returned to the correct resident.

(20) Maintenance. The premises shall be well kept and in good repair as established in paragraphs (a) through (d) of this subsection.

(a) The facility shall ensure that the grounds are well kept and the exterior of the building, including the sidewalks, wide walks, 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.

(21) 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. If a 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 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 a 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 from 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.

(f) Food preparation and storage.

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

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

3. Modified diets, nutrient concentrates, and supplements shall be given only on the written orders of a:

a. Physician;

b. Advanced practice registered nurse; or

c. Physical assistant.

4. At least three (3) meals per day shall be served with not more than a fifteen (15) hour span between the evening meal and breakfast.

5. 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.

6. Foods shall be:

a. Prepared by methods that conserve nutritive value, flavor, and appearance; and

b. Served at the proper temperature and in a form to meet individual needs.

7. A file of tested recipes, adjusted to appropriate yield shall be maintained.

8. Food shall be cut, chopped, or ground to meet individual needs.

9. If a resident refuses the food served, nutritious substitutions shall be offered.

10. All opened containers or leftover food items shall be covered and dated when refrigerated.

(g) Serving of food.

1. If a resident cannot be served in the dining room, trays shall:

a. Be provided; and

b. Rest on firm supports.

2. Sturdy tray stands of proper height shall be provided for residents able to be out of bed.

3. Direct care staff shall be responsible for correctly positioning a resident to eat meals served on a tray.

4. A resident in need of help eating shall be assisted promptly upon receipt of meals.
5. The facility shall provide adaptive feeding equipment if needed by a resident.
6. Food services shall be provided in accordance with 902 KAR 45:005.

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.