

CABINET FOR HEALTH AND FAMILY SERVICES

Office of Inspector General

Division of Health Care

(Amended After Comments)

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~~[216B.010-216B.130, 216B.990]~~

STATUTORY AUTHORITY: KRS 216B.042~~[, 216B.105, 311.560(3), (4), 314.011(8), 314.042(8), 320.210(2), EO 96-862]~~

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~~[and 216B.105 mandate that the Cabinet for Health Services regulate health facilities and health services]. This administrative regulation establishes minimum licensure requirements for the operation of and services provided by~~~~[existing]~~ nursing homes.~~[This administrative regulation does not address the establishment of new nursing homes. Executive Order 96-862, effective July 2, 1996, reorganizes the Cabinet for Human Resources and places the Office of Inspector General and its programs under the Cabinet for Health Services.]~~

Section 1. Definitions.

(1) "Activities of daily living" is defined by KRS 194A.700(1)~~[means activities of self-help (e.g., being able to feed, bathe and dress oneself), communication (e.g., being able to place phone calls, write letters and understand instructions) and socialization (e.g., being able to shop, being considerate of others, working with others and participating in activities)].~~

(2) "Administrator" means a person who has a license to practice long-term care administration~~[is licensed as a nursing home administrator]~~ pursuant to KRS 216A.080.

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

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

~~[(4)]~~ ~~[(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 ~~["Facility" means a nursing home facility.]~~

~~[(4)]~~ ["License" means an authorization issued by the cabinet for the purpose of operating a nursing home and offering nursing home services].

~~[(5)]~~ ~~[(6)]~~ ~~[(5)]~~ "PRN medications" means medications administered as needed.

~~[(6)]~~ ["Qualified dietitian" or "nutritionist" means:]

~~[(a)]~~ [A person who has a bachelor of science degree in foods and nutrition, food service management, institutional management or related services and has successfully completed a dietetic internship or coordinated undergraduate program accredited by the American Dietetic Association (ADA) and is a member of the ADA or is registered as a dietitian by ADA; or]

~~[(b)]~~ [A person who has a masters degree in nutrition and is a member of ADA or is eligible for registration by ADA; or]

~~[(c)] [A person who has a bachelor of science degree in home economics and three (3) years of work experience with a registered dietician.]~~

~~(6) [(7)]~~ "Restraint" means any pharmaceutical agent or physical or mechanical device used to restrict the movement of a ~~[patient or the movement of a]~~portion of a patient's body.

~~Section 2. [Scope of Operations and Services. Nursing homes are establishments with permanent facilities that include inpatient beds. Services provided include medical services, and continuous nursing services. Patients in a nursing home facility require inpatient care but do not currently require inpatient hospital services, and have a variety of medical conditions.]~~

~~[Section 3.]~~ Administration and Operation.

(1) Licensee. The licensee shall:

(a) Be legally responsible for:

1. The operation of the facility; and~~[for]~~

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.]~~

~~[(a)]~~ All facilities shall have an administrator who shall:

(a) Be ~~[who is]~~ 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 ~~[who shall delegate such responsibility in his]~~ absence.

~~[(b)] [The licensee shall contract for professional and supportive services not available in the facility as dictated by the needs of the patient. The contract shall be in writing.]~~

(3) Administrative records.

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

1. Name of each resident;

2. ~~[bound, permanent, chronological patient registry showing]~~Date of admission; and

3. ~~[, name of patient, and]~~Date of discharge.

(b) The facility shall ~~[require and]~~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~~[shall be maintained].~~

(d)

1. The administrator or administrator's designee shall make a written report of any incident or accident involving a:

a. Resident, ~~[patient (]~~including a medication error~~[errors]~~ or drug reaction;

b. ~~[reactions),]~~Visitor; or

c. Staff member.

2. The report shall:

a. Identify ~~[be made and signed by the administrator or nursing service supervisor, and]~~ any staff member who witnessed the incident; and~~[.]~~

b. ~~[The report shall]~~Be filed in an incident file.

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

(a) Address resident ~~[patient]~~ care and services, including~~[to include]~~ physician, nursing, pharmaceutical~~[(including medication stop orders policy)]~~, and residential services;~~[.]~~

- (b) Require ~~Adult and child protection. The facility shall have written policies which assure~~ the reporting of cases of abuse, neglect, or exploitation of adults ~~and children~~ 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;~~Chapters 209 and 620.~~
- (c) Prohibit the use of chemical and physical restraints, except as authorized by KRS 216.515(6); and ~~Use of restraints. The facility shall have a written policy that addresses the use of restraints and a mechanism for monitoring and controlling their use.~~
- (d) ~~Missing patient procedures. The facility shall a written procedure to~~ Specify in a step-by-step manner the actions that~~which~~ shall be taken by staff if~~when~~ a resident~~patient~~ is ~~determined to be~~ lost, unaccounted for, or on other unauthorized absence.
- (5) ~~Resident~~ ~~Patient~~ ~~rights.~~ Resident ~~Patient~~ rights shall be provided for pursuant to KRS 216.510 to 216.525.
- (6) Admission.
- (a) A resident in a nursing home shall:
1. ~~Patients shall~~ Be admitted only upon the referral of a physician;~~;~~
 2. ~~Additionally, the facility shall admit only persons who~~ Have a ~~variety of~~ medical condition that requires;~~conditions and require~~
 - a. Medical services;~~;~~
 - b. Continuous nursing~~medical~~ services;~~;~~ and
 - c. Residential ~~Inpatient~~ care, but ~~do~~ not ~~currently require~~ inpatient hospital services; and~~;~~
 3. Not have ~~The facility shall not admit persons whose~~ care needs that exceed the capability of the facility.
- (b)
1. Upon admission, the facility shall obtain the:
 - a. Resident's ~~patient's~~ medical diagnosis;
 - b. ~~;~~ Physician's orders for the care of the resident;~~patient~~ and ~~the~~
 - c. Transfer form.
 2. Within forty-eight (48) hours after admission, the facility shall obtain a medical evaluation from the resident's~~patient'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 ~~Before~~ admission, the facility shall provide the resident~~patient~~ and a responsible member of the resident's~~his~~ family or other designated representative with written information regarding the facility's policies,~~committee shall be informed in writing of the established policies of the facility~~ including:
1. Services offered and charges; ~~fees, reimbursement;~~
 2. Visitation rights during serious illness;~~;~~
 3. Visiting hours; and~~;~~
 4. Type of diets offered~~and services rendered~~.
- (d) The facility shall ~~provide and~~ maintain a system for:
1. Identifying each resident's~~patient's~~ personal property; and
 2. ~~facilities for~~ Safekeeping ~~of his declared~~ valuables, including assurance that each resident's~~Each patient's~~ clothing and other property is~~shall be~~ reserved for the resident's~~his~~ own use.

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

- (a) ~~patients being~~ Transferred to another health care facility; or
- (b) ~~being~~ Discharged to the home.

(8) Transfer and discharge.

(a) The facility shall:

1. Comply with the requirements of 900 KAR 2:050 ~~upon~~when transferring or discharging a resident; and~~residents.~~

2. ~~[(a)] [The facility shall]~~Have written transfer procedures and agreements for the transfer of a resident~~patients~~ to a higher intensity level of care, if indicated~~other health care facilities which can provide a level of inpatient care not provided by the facility~~.

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

(c) The transfer procedures and agreements shall:

1. Specify the responsibilities each party~~institution~~ assumes in the transfer of residents;~~patients and~~

2. Establish responsibility for notifying the other party~~institution promptly~~ of an ~~the~~ impending transfer; ~~and~~of a patient 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. ~~[(b)]~~ Initiate a transfer through the resident's physician if the resident's ~~When the patient's~~ condition exceeds the scope of services of the facility; ~~the patient, upon physician's orders (except in cases of emergency), shall be transferred promptly to a hospital or a skilled nursing facility;~~ or

2. Contract for services ~~shall be contracted for~~ from another community resource to meet a resident's needs.

(e) ~~[(e)]~~ If a resident's condition improves and the resident may be served ~~When changes and progress occur which would enable the patient to function~~ in a less ~~structured and~~ restrictive environment, ~~and the less restrictive environment cannot be offered at the facility,~~ the facility shall offer assistance in making arrangements for the resident~~patients~~ to be transferred to a lower intensity level of care~~facilities providing appropriate services~~.

(f) ~~[(d)]~~ Except in an emergency, the resident, resident's responsible family member, ~~patient, his next of kin,~~ or guardian, if any, and the attending physician shall be consulted in advance of the transfer or discharge ~~of any patient~~.

(g) ~~[(e)]~~ If a resident transfers ~~When a transfer is~~ to another level of care ~~within the same facility~~, the complete medical record or a current summary of the resident's medical record shall accompany the resident~~thereof shall be transferred with the patient~~.

(h) ~~[(f)]~~ If the resident~~patient~~ is transferred to another health care facility or home to receive ~~be cared for by a~~ home health services~~agency~~, a transfer form shall:

1. Accompany the resident; ~~and~~patient. The transfer form shall

2. Include the following~~at least~~:

a. Physician's orders (if available);~~;~~

b. Current information regarding the resident's~~relative to~~ diagnosis with a history of any health conditions that require~~problems requiring~~ special care;~~;~~

c. A summary of ~~the course of~~ prior treatment, special supplies, or equipment needed for the resident's~~patient~~ care;~~;~~ and

d. Pertinent social information on the resident~~patient~~ and resident's~~his~~ family.

(9) Tuberculosis testing.

(a) All employees of a nursing home~~[and patients]~~ 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~~[, Tuberculosis testing in long term care facilities].~~

(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 [Job descriptions-]~~ written job description~~[descriptions]~~ shall be developed for each category of personnel, including:~~[to include]~~

1. Qualifications;~~;~~
2. Lines of authority; and
3. Specific duty assignments.

(f) ~~[(b)] [Employee records-]~~ Current employee records shall be maintained on each staff member and contain:

1. Name and address;
2. Verification of [shall include a resume of each employee's] training and experience, including evidence of current licensure,~~[or] registration, or certification, if applicable;~~
3. Employee [where required by law,] health records;
4. Annual performance evaluations; and
5. Documentation of compliance with the background check requirements of paragraphs (a) through (c) of this subsection ~~[, records of in-service training and ongoing education, and the employee's name, address and Social Security number].~~

(g) ~~[(e)]~~ Staffing requirements.

1. Staffing in the facility shall be sufficient in number and qualifications~~[have adequate personnel]~~ to meet the personal care, nursing care, supervision, and other needs of each resident~~[the patients]~~ on a twenty-four (24) hour basis.~~[The number and classification of personnel required shall be based on the number of patients and the amount and kind of personal care, nursing care, supervision and program needed to meet the needs of the patients as determined by medical orders and by services required by this administrative regulation.]~~

2. ~~[When the staff to patient ratio does not meet the needs of the patients, the Division for Licensing and Regulation shall determine and inform the administrator in writing how many additional personnel are to be added and of what job classification and shall give the basis for this determination.]~~

~~[3-]~~ A responsible staff member shall be on-site~~[on duty]~~ and awake at all times to assure prompt, appropriate action in cases of injury, illness, fire, or other emergencies.

3. ~~[4-]~~ The use of volunteers shall not be included in the~~[counted to make up]~~ minimum staffing requirements of this paragraph.

(h) ~~[5-]~~ The facility shall have a director of nursing ~~[service-]~~ who:

1. Is a registered nurse and ~~[who-]~~ works full time during the day;~~;~~ and~~[who]~~

2. Devotes full time to the nursing ~~services~~~~[service]~~ 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~~[, so]~~ that there ~~is~~~~[shall be]~~ the equivalent of a full-time director of nursing~~[service]~~.

(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 ~~[The director of the nursing service shall be]~~ responsible for~~[-]~~

~~[a.]~~ developing 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. ~~[b.]~~ Recommend ~~[recommending]~~ to the administrator the number and levels of nursing personnel to be employed;

4. Participate in staff ~~[, participating in their]~~ recruitment and selection or recommend~~[and recommending]~~ termination, ~~if~~~~[of employment when]~~ necessary;~~[-]~~

5. ~~[e.]~~ Assign and supervise ~~[Assigning and supervising]~~ all levels of nursing personnel;~~[-]~~

6. ~~[d.]~~ Participate ~~[Participating]~~ in planning and budgeting for nursing care;~~[-]~~

7. ~~[e.]~~ Participate ~~[Participating]~~ in the development and implementation of resident~~[patient]~~ care policies;~~[-]~~

8. ~~[f.]~~ Coordinate ~~[Coordinating]~~ nursing services with other resident~~[patient]~~ care services;~~[-]~~

9. ~~[g.]~~ Plan and conduct ~~[Planning and conducting]~~ orientation programs for new nursing personnel and annual~~[continuing]~~ in-service education for all nursing personnel;~~[-]~~

10. ~~[h.]~~ Participate ~~[Participating]~~ in the screening of prospective residents~~[patients]~~ in terms of required nursing services;

11. Ensure ~~[Assure]~~ ~~[and nursing skills available.]~~

~~[i.]~~ ~~[Assuring]~~ that a written monthly assessment of the resident's~~[patient's]~~ general condition is completed;~~[-]~~

12. ~~[j.]~~ Ensure ~~[Assure]~~ ~~[assuring]~~ that a nursing care plan ~~is~~~~[shall be]~~

a. Established for each resident;~~[patient]~~ and~~[shall be that his plan shall be]~~

b. Reviewed and modified as necessary;~~[-]~~

13. ~~[k.]~~ Ensure ~~[Assure]~~ that all nurses and unlicensed staff ~~[Assuring that registered nurses, licensed practical nurses, nurses' aides and orderlies]~~ are assigned duties consistent with their training and experience; ~~and~~~~[-]~~

14. ~~[l.]~~ Ensure ~~[Assure]~~ ~~[Assuring]~~ that a monthly review of each resident's~~[patient's]~~ medications is completed and notify~~[notifying]~~ the resident's physician ~~if~~~~[when]~~ changes are appropriate.

(k) ~~[6.]~~ Supervising nurse.

1. The facility shall have a full-time registered nurse who provides or supervises nursing care~~[shall be provided by or under the direction of a full-time registered nurse]~~.

2. The supervising nurse:

a. May be the director of nursing or the assistant director of nursing;

b. ~~[and]~~ 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. ~~The supervising nurse~~ Shall make daily rounds to all nursing units that perform~~performing such~~ functions that include:~~as~~
- (i) Visiting each resident~~patient~~; and
 - (ii) Reviewing medical records, medication cards, patient care plans, and staff assignments;~~;~~ and
- d. If ~~whenever~~ possible, shall accompany the physician during visits with residents~~accompanying physicians when visiting patients~~.
- (l) ~~7.~~ Charge nurse.
1. There shall be at least one (1) registered nurse or licensed practical nurse on duty at all times who shall be~~is~~ responsible for the nursing care of residents~~patients during her tour of duty~~.
 2. If ~~When~~ a licensed practical nurse is on duty, a registered nurse shall be on call.
- (m) ~~8.~~ Pharmacist. The facility shall retain a licensed pharmacist on a full-time, part-time, or consultant basis to direct pharmaceutical services.
- (n) ~~9.~~ Therapists.
1. ~~a.~~ If the facility provides rehabilitative services beyond rehabilitative nursing care,~~are offered, whether~~ directly or through contract, ~~the~~cooperative arrangements with agencies that offer therapeutic services, these services shall be provided or supervised by qualified therapists that~~to~~ include, depending on the service, licensed:
 - a. Physical therapists;
 - b. Speech-language ~~speech~~ pathologists; ~~or~~~~and~~
 - c. Occupational therapists.
 2. ~~b.~~ If ~~When~~ supervision is less than full time, it shall be:
 - a. Provided on a planned basis; ~~and~~~~shall be~~
 - b. Frequent enough, in relation to the ~~staff~~ therapist's training and experience, to ensure~~assure~~ sufficient review of individual treatment plans and progress.
 3. ~~c.~~ In a facility with an organized rehabilitation service using a multidisciplinary team approach to meet all of a resident's~~the~~ needs~~of the patient~~, and if~~where~~ all rehabilitative~~therapists~~ services are administered under the direct supervision of a physician qualified in physical medicine who determines~~will determine~~ the goals and limits of the therapists' work~~;~~ and prescribes modalities and frequency of therapy, persons with qualifications other than licensed therapists~~those described in subsection (9)(e)9a of this section~~ may be assigned duties appropriate to their training and experience.
- (o) ~~10.~~ 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) ~~11.~~ Each facility shall designate one (1) or more staff~~a person for the following areas~~ who shall~~will~~ be responsible for:
1. ~~a.~~ Maintaining medical records;
 2. ~~b.~~ Arranging for social services; and
 3. ~~c.~~ Developing and implementing the activities program and therapeutic recreation.
- (q) ~~12.~~ The facility shall ensure that supportive personnel, consultants, assistants, and volunteers are~~shall be~~ supervised and ~~shall~~ function within the policies and procedures of the facility.
- (r) ~~d.~~ An employee who contracts a communicable or ~~Health requirements. No employee contracting an~~ infectious disease shall:
1. Be immediately excluded from ~~appear at~~ work; and

2. Remain off work until cleared as noninfectious by a health care practitioner acting within the practitioner's scope of practice ~~[until the infectious disease can no longer be transmitted].~~

(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. ~~[(e)] [Orientation program. The facility shall conduct an orientation program for all new employees to include review of all facility policies (that relate to the duties of their respective jobs), services and] 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. ~~[(f)] Other [In-service training.]~~

~~[1.] [All employees shall receive in-service] training and ongoing education that~~[to]~~ correspond with the duties of the staff person's~~[their]~~ respective job~~[jobs.]~~~~

~~[2.] [All nursing personnel shall receive in-service or continuing education programs at least quarterly].~~

(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) [shall develop and maintain a system of records retention and filing to insure completeness and prompt location of each patient's record. The records shall be held confidential. The records shall be in ink or typed and shall be legible. Each entry shall be dated and signed.]~~ Each record shall include:

1. Identification information~~[data]~~ including:

a. Resident's ~~[The patient's]~~ name;~~[-]~~

b. Address;~~[and]~~

c. Social Security, Medicare, and Medical Assistance identification number, if appropriate;~~[(if available);]~~

d. Name, address, and telephone number of the referral agency;

e. Name and telephone number of the resident's~~[personal]~~ physician or health care practitioner;

f. Name, address, and telephone number of the resident's responsible family member, guardian,~~[next of kin]~~ or other responsible person; and

g. Date of admission;~~[-]~~

2. Admitting medical evaluation as required by subsection (6)(b) of this section;~~[by a physician including current medical findings, medical history, physical examination and diagnosis. (The medical evaluation may be a copy of the discharge summary or history and physical report from a hospital, skilled nursing facility if done within five (5) days prior to admission.)]~~

3. Dated and signed orders for medication, diet, or~~[and]~~ therapeutic services;~~[-]~~

4. Physician's progress notes indicating any~~[describing significant]~~ changes in the resident's~~[patient's]~~ condition, documented~~[written]~~ at the time of each visit;~~[-]~~

5. Findings and recommendations of consultants;~~[-]~~

6. A medication sheet that includes~~[which contains]~~ the date, time given, name of each medication dosage, name of the prescribing physician or practitioner as authorized by the scope of practice,~~[advanced practice registered nurse,~~

~~therapeutically certified optometrist, or physician assistant,]~~ and name of nurse or certified medication aide~~[person]~~ who administered the medication;~~[-]~~

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

a. A ~~[, actions, responses, attitudes, appetite, etc. Nursing personnel shall make notation of]~~ response to medications or~~[, response to]~~ 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~~[by]~~ 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~~[patient's]~~ monthly general condition;~~[-]~~

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

10. Changes in the resident's~~[patient'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) ~~[(b)]~~ 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.~~[patient's death or discharge the completed medical record shall be placed in an inactive file and retained for five (5) years or in case of a minor, three (3) years after the patient reaches the age of majority under state law, whichever is the longest.]~~

(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. ~~[Section 4.]~~ Provision of Services.

(1) Physician services.

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

1. Indicated medications;~~[-]~~

2. Treatments;~~[-]~~

3. Rehabilitative services;~~[-]~~

4. Diet;~~[-]~~

5. Special procedures recommended for the health and safety of the resident;~~[patient,]~~

6. Activities;~~[-]~~

7. Plans for continuing care; and

8. Discharge.

(b)

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

2. After ~~[Subsequent to]~~ the 60th day following admission, the physician shall evaluate the resident~~[patients shall be evaluated by a physician]~~ every sixty (60) days unless justified and documented by the attending physician in the resident's~~[patient's]~~ medical record.

3. There shall be evidence in the resident's~~[patient's]~~ medical record of the physician's~~[physician]~~ visits ~~[to the patient]~~ at appropriate intervals.

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

(d)

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

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

3. There shall be established procedures for~~[to be followed in an]~~ emergency situations that ~~[, which cover]~~

a. Address immediate care of the resident~~[patient,]~~

b. Persons to be notified;~~[,]~~ and

c. Reports to be prepared.

(2) Nursing services.

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

(b) Nursing personnel shall include registered nurses, licensed practical nurses, and unlicensed staff members~~[aides and orderlies]~~.

(c) The amount of nursing time available for resident~~[patient]~~ care shall be exclusive of non-nursing~~[nonnursing]~~ duties.

(d) Sufficient nursing time shall be available to assure that each resident~~[patient]~~:

1. Receives ~~[Shall receive]~~ treatments, medication, and diets as prescribed;

2. Receives ~~[Shall receive]~~ proper care to prevent decubiti and is~~[shall be]~~ kept comfortable, clean, and well-groomed;

3. Is ~~[Shall be]~~ protected from accident or~~[and]~~ injury by the adoption of indicated safety measures; and

4. Is ~~[Shall be]~~ treated with kindness and respect.

(3) ~~(b)~~ Rehabilitative nursing care.

(a) There shall be an active program of rehabilitative nursing care that helps~~[directed toward assisting]~~ each resident~~[patient to]~~ achieve and maintain the resident's~~[his]~~ highest level of self-care and independence.

(b) ~~[1.]~~ Rehabilitative nursing care initiated in a~~[the]~~ hospital shall be continued immediately upon admission to the facility.

(c) ~~[2.]~~ Nursing personnel shall:

1. Be taught rehabilitative nursing measures; and

2. Provide rehabilitative nursing care to residents daily, such as ~~[shall practice them in their daily care of patients. These measures shall include]:~~

a. Maintaining good body alignment and proper positioning of bedfast residents~~[patients]~~;

b. Encouraging and assisting bedfast residents~~[patients]~~ 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~~[patients]~~ active and out of bed for reasonable periods of time, except if~~[when]~~ contraindicated by physician's orders;
~~[, and]~~

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

e. ~~[d.]~~ Assisting residents~~[patients]~~ to adjust to their disabilities, to use their prosthetic devices, and to redirect their interests if necessary; and

f. ~~[e.]~~ Assisting residents~~[patients]~~ to carry out prescribed physical therapy exercises between visits of the physical therapist.

(4) ~~[(e)]~~ Dietary supervision.

(a) Nursing personnel shall assure that each resident is~~[patients are]~~ served a diet~~[diets]~~ as prescribed.

(b) A resident in need of ~~[Patients needing]~~ help ~~[in]~~ eating shall be assisted promptly upon receipt of meals.

(c) Food and fluid intake ~~[of patients]~~ 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) ~~[(d)]~~ Nursing care plan.

(a) There shall be a written nursing care plan~~[plans]~~ for each resident~~[patient]~~ based on the:

1. Nature of illness;~~[,]~~
2. Treatment prescribed;~~[,]~~
3. Long and short term goals; and
4. Other pertinent information.

(b) ~~[(1.)]~~ The nursing care plan shall:

1. Be a personalized, daily plan for the resident~~[individual patients. It shall]~~
2. Indicate the resident's~~[what]~~ nursing care needs, including~~[is needed,]~~
 - a. How the nursing care~~[it]~~ can best be accomplished for the resident;
 - b. The resident's ~~[each patient, what are the patients]~~ preferences;~~[, what]~~
 - c. Methods and approaches that are most successful;~~[,]~~ and
 - d. Any ~~[what]~~ modifications that are necessary to ensure~~[insure]~~ best results;~~[,]~~
3. ~~[2.]~~ ~~[Nursing care plans shall]~~ Be available for use by all nursing personnel; and;
~~[,]~~
4. ~~[3.]~~ ~~[Nursing care plans shall]~~ Be reviewed and revised as needed.

(c) ~~[4.]~~ Relevant nursing information from a resident's~~[the]~~ nursing care plan shall be included with other medical information if the resident is~~[when patients are]~~ transferred.

(6) ~~[(3)]~~ Specialized rehabilitative services.

(a) Rehabilitative services shall:

1. Be provided upon written order of the physician;
2. Indicate the ~~[which indicates]~~ anticipated goals; and
3. Prescribe ~~[prescribes]~~ specific modalities to be used, including~~[and]~~ frequency of physical, speech, or~~[and]~~ occupational therapy services.

(b) Therapy services ~~[shall]~~ include:

1. Physical therapy;~~[which includes:]~~
 - ~~[a.]~~ ~~[Assisting the physician in his evaluation of patients by applying muscle, nerve, joint, and functional ability tests;]~~
 - ~~[b.]~~ ~~[Treating patients to relieve pain, develop or restore functions, and maintain maximum performance, using physical means such as exercise, massage, heat, water, light, and electricity.]~~
2. Speech therapy; and~~[which includes:]~~

- [a.] [Service in speech pathology or audiology;]
[b.] [Cooperation in the evaluation of patients with speech, hearing, or language disorders;]
[c.] [Determination and recommendation of appropriate speech and hearing services.]
3. Occupational therapy[~~services which include:~~]
[a.] [Assisting the physician in his evaluation of the patient's level of function by applying diagnostic and prognostic tests;]
[b.] [Guiding the patient in his use of therapeutic creative and self care activities for improving function].
- (c) Therapists shall collaborate with the facility's medical and nursing staff in developing the resident's[~~patient's~~] total plan of care.
- (d) [~~Ambulation and therapeutic equipment.~~] Commonly used ambulation and therapeutic equipment necessary for services [~~offered~~] shall be available, including:
1. [~~for use in the facility such as~~] Parallel bars;[;]
 2. Hand rails;[;]
 3. Wheelchairs;[;]
 4. Walkers;[;]
 5. Walkerettes;[;]
 6. Crutches; and
 7. Canes.
- (e) [~~The~~] Therapists shall advise the administrator concerning the purchase, rental, storage, and maintenance of equipment and supplies.
- (7) [(4)] Personal care services. Personal care services shall include[;] assistance 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) [(5)] Pharmaceutical services.
- (a) The facility shall provide pharmaceutical services, including[~~appropriate methods and~~] procedures that ensure[~~assure~~] the accurate acquiring, receiving,[~~for obtaining,~~] dispensing, and administering of all drugs and biologicals to meet the needs of each resident[, developed with the advice of a licensed pharmacist or a pharmaceutical advisory committee which includes one (1) or more licensed pharmacists].
- (b) [~~If~~] The facility shall employ or obtain the services of[~~has a pharmacy department,~~] 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 [~~be employed to administer the department~~].
- (c) If the facility does not have a pharmacy department, it shall ensure that[~~have provision for promptly obtaining~~] 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[~~does maintain~~] a supply of drugs,[;]
[;] the consultant pharmacist shall:
1. Be responsible for the control of all bulk drugs;[~~and~~]

2. Maintain records of the~~their~~ receipt and disposition of bulk drugs; and~~;~~
3. ~~[2.] [The consultant pharmacist shall]~~ Dispense drugs from the drug supply, properly label them, and make them available to appropriate licensed nursing personnel.

~~[3.] [Provisions shall be made for emergency withdrawal of medications from the drug supply.]~~

(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) [An emergency medication kit approved by the facility's professional personnel shall be kept readily available. The facility shall maintain a record of what drugs are in the kit and document how the drugs are used].

~~(9) [(f)] Medication services.~~

(a) ~~[1.] Medication administered to a resident [All medications administered to patients]~~ shall be ordered in writing by the prescribing:

1. Physician; or

2. Health care practitioner as authorized by the scope of practice [~~advanced practice registered nurse as authorized in KRS 314.011(8) and 314.042(8), therapeutically-certified optometrist in the practice of optometry as defined in KRS 320.210(2), or physician assistant as authorized in KRS 311.560(3) and (4)].~~

(b) If an order is received by telephone, the order~~[orders]~~ 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 [~~given only to a licensed nurse or pharmacist immediately reduced to writing, signed by the nurse and countersigned by the physician, advanced practice registered nurse, therapeutically-certified optometrist, or physician assistant within forty-eight (48) hours].~~

(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 [~~Medications not specifically limited as to time or number of doses, when ordered, shall be automatically stopped in accordance with the facility's written policy on stop orders].~~

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

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

(f) The facility shall release medications to a resident who is discharged upon [~~The patient's attending physician shall be notified of stop order policies and contacted promptly for renewal of such orders so that continuity of the patient's therapeutic regimen is not interrupted. Medications are to be released to patients on discharge only on the]~~ written authorization of the physician or prescribing practitioner.

~~(10) [2.] 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 ~~[All medications shall be administered by licensed medical or nursing personnel in accordance with KRS 311.530 to 311.620 and Chapter 314 or by personnel who have completed a state approved training program from a state approved training provider. The administration of oral and topical medicines by certified medicine technicians shall be under the supervision of licensed medical or nursing personnel].~~

(c) An intramuscular injection~~[injections]~~ shall be administered by a licensed nurse or ~~fa~~ physician.

(d) If an intravenous injection is~~[injections are]~~ necessary, the injection~~[they]~~ shall be administered by a licensed physician or registered nurse.

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

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

(g) ~~fb~~ The facility shall ensure that ~~[In administering medications,]~~ medication cards or other appropriate system is~~[state approved systems shall be]~~ used and checked against the ~~[physician's]~~ orders of a physician or practitioner acting under the scope of practice.

(h) ~~fe~~ A medication that is ~~[Medications]~~ prescribed for one (1) resident~~[patient]~~ shall not be administered to any other resident~~[patient]~~.

(i) ~~fd~~ A resident shall not be allowed to self-administer a medication ~~[Self-administration of medications by patients shall not be permitted]~~ except:

1. On special order of the resident's~~[patient's]~~ physician or prescribing practitioner; or

2. In a pre-discharge program under the supervision of a licensed nurse.

(j) The facility shall assure that a medication error or drug reaction is:

1. ~~fe~~ ~~[Medication errors and drug reactions shall be]~~ Immediately reported to the resident's~~[patient's]~~ physician or practitioner; and

2. Documented in the resident's ~~[an entry thereof made in the patient's]~~ medical record and in~~[as well as on]~~ an incident report.

(k) ~~ff~~ ~~[Up-to-date medication reference texts and sources of information shall be provided for use by the nursing staff (e.g., the American Hospital Formulary Service of the American Society of Hospital Pharmacists, Physicians Desk Reference or other suitable references).]~~

~~[3.] ~~[Labeling and storing medications.]~~~~

~~fa~~ All resident medications shall be plainly labeled with the:

1. Resident's ~~[patient's]~~ name;~~[, the]~~

2. Name of the drug;~~[,]~~

3. Strength;~~[,]~~

4. Name of the pharmacy;[;]
5. Prescription number;[;]
6. Date;[;]
7. Prescriber's ~~[physician]~~ name; and[;]
8. Caution statements and directions for use, unless a~~[except where accepted]~~ modified unit dose distribution system is~~[systems conforming to federal and state laws are]~~ used.

(l) All ~~[The]~~ medications ~~[of each patient shall be]~~ kept by the facility shall be:~~[and]~~

1. Stored in their original containers; and
2. ~~[transferring between containers shall be prohibited. All medicines kept by the facility shall be]~~Kept in a locked place.

(m) The facility shall ensure that:

1. All ~~[and the persons in charge shall be responsible for giving the medicines and keeping them under lock and key.]~~ medications requiring refrigeration are~~[shall be]~~ kept in a separate locked box of adequate size in the refrigerator in the medication area;[;]

2. Drugs for external use are~~[shall be]~~ stored separately from those administered by mouth and injection;[;]

3. ~~[Provisions shall also be made for the locked separate storage of medications of deceased and discharged patients until such medication is surrendered or destroyed in accordance with federal and state laws and regulations.]~~

~~[b.]~~ Medication containers having soiled, damaged, incomplete, illegible, or makeshift labels are~~[shall be]~~ returned to the issuing pharmacist or pharmacy for relabeling or disposal;[;]

4. Containers with~~[having]~~ no labels are appropriately~~[shall be]~~ destroyed~~[in accordance with state and federal laws.];~~

5. ~~[c.]~~ Cabinets are well-lighted~~[shall be well lighted]~~ and of sufficient size to permit storage without crowding; and[;]

6. ~~[d.]~~ Expired medications and medications no longer in use are~~[shall be]~~ disposed of or destroyed appropriately~~[in accordance with federal and state laws and regulations.]~~

~~[e.]~~ ~~[Medications having an expiration date shall be removed from usage and properly disposed of after such date].~~

(11) ~~[4.]~~ Controlled substances.

(a) Controlled substances shall be kept under double lock, for example~~[(e.g.)]~~ 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:~~[, in which is recorded]~~

1. The name of the resident; ~~[patient, the]~~
2. Date, time, kind, dosage, ~~[balance remaining]~~ and method of administration of each ~~[all]~~ controlled substance ~~[substances]; [the]~~
3. Name of the physician or practitioner who prescribed the medications; and
4. Name of the:
 - a. Nurse or CMA ~~[the name of the nurse]~~ who administered the controlled substance; ~~[it,]~~ or
 - b. Staff member who supervised the self-administration.

(e) A staff member with access to controlled substances ~~[In addition, there]~~ 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 ~~[once]~~ per week ~~[by those persons who have access to controlled substances]. [All controlled substances which are left over after the discharge or death of the patient shall be destroyed in accordance with 21 C.F.R. 1307.21.]~~

(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) ~~[5.]~~ Use of restraints.

(a) ~~[a.]~~ Chemical and physical restraints ~~[No restraints]~~ shall not be used, except as authorized ~~[permitted]~~ by KRS 216.515(6).

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

(c) ~~[c.]~~ Emergency use of a restraint ~~[Restraints]~~ 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 safety.

(d) ~~[d.]~~ Restraints shall not be used as: ~~[a]~~

1. Punishment; ~~[, as]~~
2. Discipline; ~~[, as]~~

3. A convenience for ~~the~~ staff;~~;~~ or
4. Retaliation ~~as a mechanism to produce regression~~.
- (13) ~~6.~~ Infection control ~~and communicable diseases~~.
- (a) ~~a.~~ There shall be written infection control policies that address~~, which are consistent with the Centers for Disease Control guidelines including:~~
1. ~~(i) [Policies which address]~~ The prevention of disease transmission; ~~and to and from patients, visitors and employees, including: universal blood and body fluid precautions, precautions for infections which can be transmitted by the airborne route, and work restrictions for employees with infectious diseases.~~
 2. ~~(ii) [Policies which address the]~~ Cleaning, disinfection, and sterilization methods used for equipment and the environment.
- (b) ~~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 ~~patient~~ care.
- (14) ~~e.~~ Sharp wastes.
- (a) ~~(i) [Sharp wastes including needles, scalpels, razors, or other sharp instruments used for patient care procedures,]~~ shall be segregated from other wastes and placed in puncture-resistant~~puncture resistant~~ containers immediately after use.
- (b) ~~(ii) [A needle or other contaminated sharp]~~ Needles shall not be recapped ~~by hand~~, purposely bent, ~~or~~ 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) ~~(iii) [A sharp waste container shall]~~ The containers of sharp wastes shall either be incinerated on or off-site~~off site~~, or be rendered nonhazardous ~~by a technology of equal or superior efficacy, which is approved by both the Cabinet for Health Services and the Natural Resources and Environmental Protection Cabinet~~.
- (d) Any nondisposable sharps shall be placed in a hard walled container for transport to a processing area for decontamination.
- (15) ~~d.~~ Disposable waste.
- (a) ~~(i) [AH]~~ Disposable waste shall be:
1. Placed in a suitable bag~~bags~~ or closed container~~containers~~ so as to prevent leakage or spillage;~~;~~ and ~~shall be~~
 2. Handled, stored, and disposed of in such a way as to minimize direct exposure of personnel to waste materials.
- (b) ~~(ii) [The facility shall establish specific written policies regarding handling and disposal of all waste material]~~ wastes.
- ~~(iii) [The following wastes shall be disposed of by incineration, autoclaved before disposal, or carefully poured down a drain connected to a sanitary sewer: blood, blood specimens, used blood tubes, or blood products.]~~
- ~~(iv) [Any wastes conveyed to a sanitary sewer shall comply with applicable federal, state, and local pretreatment regulations.]~~
- (16) Infectious or communicable diseases.
- (a) ~~e.~~ An individual ~~Patients~~ 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[; and]
22. Typhus.

(b) ~~[f.]~~ A facility may admit a noninfectious~~(noninfectious)~~ tuberculosis resident in accordance with 902 KAR 20:200, Section 4 or Section 8(5)~~[patient under continuing medical supervision for his tuberculosis disease].~~

(c) ~~[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) ~~[Patients with active tuberculosis may be admitted to the facility whose isolation facilities and procedures have been specifically approved by the cabinet].~~

(d) ~~[h.]~~ If a resident~~[, after admission, a patient]~~ is suspected of having a communicable disease that would endanger the health and welfare of other residents~~[patients]~~, the administrator or administrator's designee shall:

1. Contact ~~[assure that]~~ a physician;~~[is contacted]~~ and
2. Ensure that appropriate measures are taken on behalf of the resident, other residents, and staff~~[patient with the communicable disease and the other patients].~~

(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) ~~[(6)]~~ ~~[The facility shall have provisions for obtaining required clinical laboratory, x-ray and other diagnostic services. laboratory services may be obtained from a laboratory which is part of a licensed hospital or a laboratory licensed pursuant to KRS 333.030 and~~

~~any administrative regulations promulgated thereunder. Radiology services shall be obtained from a service licensed or registered pursuant to KRS 211.842 to 211.852 and any administrative regulations promulgated thereunder. If the facility provides its own diagnostic services, the service shall meet the applicable laws and administrative regulations. All diagnostic services shall be provided only on the written order of a physician, advanced practice registered nurse as authorized in KRS 314.011(8) and 314.042(8), therapeutically-certified optometrist in the practice of optometry as defined in KRS 320.210(2), or physician assistant as authorized in KRS 311.560(3) and (4). The physician, advanced practice registered nurse, therapeutically-certified optometrist, or physician assistant shall be notified promptly of the test results. Arrangements shall be made for the transportation of patients, if necessary, to and from the source of service. Simple tests, such as those customarily done by nursing personnel for diabetic patients may be done in the facility. All reports shall be included in the medical record.]~~

~~[(7)]~~ Dental services.

~~(a)~~ The facility shall assist residents in obtaining~~[patients to obtain]~~ regular and emergency dental care.

~~(b)~~ A ~~[Provision for dental care: patients shall be assisted to obtain regular and emergency dental care. An advisory]~~ dentist shall:

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

~~(c)~~ If ~~[The facility, when]~~ necessary, the facility shall arrange for the resident~~[patient]~~ to be transported to the dentist's office.

~~(d)~~ Nursing personnel shall assist the resident with carrying~~[patient to carry]~~ out the dentist's recommendations.

~~(19)~~ ~~[(8)]~~ Social services. ~~[Provision for medically related social needs. The medically related social needs of the patient shall be identified, and services provided to meet them, in admission of the patient, during his treatment and care in the facility, and in planning for his discharge.]~~

~~(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 ~~[As a part of the process of evaluating a patient's need for services in a facility and whether the facility can offer appropriate care, emotional and social factors shall be considered in relation to medical and nursing requirements.]~~

~~[2.]~~ ~~[As soon as possible after admission, there shall be an evaluation, based on medical, nursing and social factors, of the probable duration of the patient's need for care and a plan shall be formulated and recorded for providing such care].~~

~~(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 ~~[Where there are indications that financial help will be needed, arrangements shall be made promptly for referral to an appropriate agency].~~

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

- ~~1.~~ ~~[4.]~~ Illness; ~~[Social and emotional factors related to the patient's illness, to his]~~
2. Response to treatment; ~~or[- and to his]~~
3. Adjustment to care in the facility~~[- shall be recognized and appropriate action shall be taken when necessary to obtain casework services to assist in resolving problems]~~

in these areas].

(e) ~~[5.]~~ The facility shall consider factors such as a resident's ~~[Knowledge of the patient's]~~ home situation, financial resources, community resources ~~[available to assist him]~~, and ~~[pertinent]~~ information related to the resident's ~~[his]~~ medical and nursing care needs in any ~~[requirements shall be used in making]~~ decisions regarding ~~[his]~~ discharge from the facility.

(f) ~~[(b)]~~ ~~[Confidentiality of social data. Pertinent social data, and information about personal and family problems related to the patient's illness and care shall be made available only to the attending physician, appropriate members of the nursing staff, and other key personnel who are directly involved in the patient's care, or to recognized health or welfare agencies. There shall be appropriate policies and procedures for assuring the confidentiality of such information. 1.]~~ The staff member responsible for coordinating social services shall:

1. Participate in clinical staff conferences; ~~[and]~~

2. Confer with the attending physician and nurses ~~[at intervals]~~ during the resident's ~~[patient's]~~ stay in the facility; and ~~[, and there shall be evidence in the record of such conferences.]~~

~~[2.] [The staff member and nurses responsible for the patient's care shall confer frequently and there shall be evidence of effective working relationships between them.]~~

3. Include ~~[Records of pertinent social information and of action taken to meet social needs shall be maintained for each patient.]~~ signed social service summaries in the resident's ~~[shall be entered promptly in the patient's]~~ medical record ~~[for the benefit of all staff involved in the care of the patient].~~

(20) ~~[(9)]~~ 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. ~~[patients shall be provided as an important adjunct to the active treatment program] [and to]~~ Encourage restoration ~~of [to]~~ self-care and resumption of normal activities ~~[. Provision shall be made for purposeful activities which are suited to the needs and interests of patients].~~

(c) ~~[(a)]~~ The activity leader shall use ~~[, to the fullest possible extent,]~~ community, social, and recreational opportunities to the fullest extent possible.

(d) ~~[(b)]~~ Residents ~~[Patients]~~ shall be encouraged but not forced to participate in ~~[such]~~ activities.

(e) The facility shall provide suitable activities for residents who are ~~[provided for patients]~~ unable to leave their rooms.

(f) ~~[(e)]~~ The facility shall permit, and assist if needed, residents ~~[Patients]~~ who are able and ~~[who]~~ wish to ~~[do so shall be assisted to]~~ attend religious services.

(g) ~~[(d)]~~ The facility shall honor a resident's ~~[Patients]~~ request to see their clergymen or church leader and provide ~~[shall be honored and]~~ space ~~[shall be provided]~~ for privacy during visits.

(h) ~~[(e)]~~ The facility shall assure that visiting hours are established in accordance with KRS 216.537 and 216.540 ~~[shall be flexible and posted to permit and encourage visiting friends and relatives].~~

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

1. ~~[patients. Examples of such supplies and equipment are:]~~ Books and magazines; ~~[;]~~

2. Daily newspapers; ~~[;]~~

3. Games; ~~[;]~~

4. Stationery; ~~[;]~~

5. Radio and television; and
6. Craft and hobby supplies ~~[-the like].~~

(21) ~~[(10)]~~ Transportation.

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

1. Special provision shall be made for each resident~~[patients]~~ who uses a wheelchair~~[use wheelchairs]~~.
2. An escort or assistant to the driver shall accompany a resident or residents,~~[be provided in transporting patients to and from the facility]~~ if necessary, to help ensure~~[for the patient's]~~ safety during transport.

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

(22) ~~[(11)]~~ Dietary. ~~[Residential]~~ services.

(a) ~~[Dietary services.]~~The facility shall provide or contract for food services~~[service]~~ to meet the dietary needs of the residents,~~[patients]~~ including:

1. Modified diets; or
2. Dietary restrictions as prescribed by the attending physician.

(b)

1. If ~~[When]~~ a facility contracts for food services~~[service]~~ with an outside food management company, the company shall provide a licensed dietitian~~[qualified]~~ ~~[dietician]~~ ~~[or certified nutritionist]~~ on a full-time, part-time, or consultant basis to the facility.

2. The licensed dietitian~~[qualified]~~ ~~[dietician]~~ ~~[or certified nutritionist]~~ shall make recommendations to~~[have continuing liaison with]~~ the facility's medical and nursing staff ~~[of the facility for recommendations]~~ on dietetic policies affecting resident~~[patient]~~ care.

3. The food management company shall comply with the~~[all of the appropriate requirements for]~~ dietary services requirements of this subsection~~[in this administrative regulation]~~.

(c) ~~[1.]~~ ~~[Therapeutic diets.]~~ If the facility provides therapeutic diets and the staff member responsible for the food services is not a licensed dietitian~~[dietician or certified nutritionist]~~, the responsible staff person shall consult with a licensed dietitian~~[designated person responsible for food service is not a qualified]~~ ~~[dietician or certified nutritionist]~~, consultation by a qualified dietician or qualified nutritionist shall be provided.

(d) The facility shall:

1. ~~[2.]~~ Have ~~[Dietary staffing. There shall be]~~ sufficient number of food service personnel;
2. Ensure that the food service staff schedules are ~~[-employed and their working hours, schedules of hours, on duty and days off shall be]~~ 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) ~~[3.]~~ Menu planning.

1. ~~[a.]~~ Menus shall be planned, written, and rotated to avoid repetition.

2. The facility shall meet the nutrition needs of residents in accordance with a~~[shall be met in accordance with the current recommended dietary allowances of the Food and Nutrition Board of the National Research Council adjusted for age, sex and activity, and in accordance with]~~ physician's orders.

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

4. Menus shall~~[must]~~ be planned and posted one (1) week in advance.

5. If ~~[When]~~ changes in the menu are necessary:
 - a. Substitutions shall provide equal nutritive value;~~[and]~~
 - b. The changes shall be recorded on the menu; ~~and~~~~[all]~~
 - c. Menus shall be kept on file for at least thirty (30) days.
6. ~~[e.] [The daily menu shall include daily diet for all modified diets served within the facility based on an approved diet manual. The diet manual shall be a current manual with copies available in the dietary department, that has the approval of the professional staff of the facility. The diet manual shall indicate nutritional deficiencies of any diet. The dietician shall correlate and integrate the dietary aspects of the patient care with the patient and patient's chart through such methods as patient instruction, recording diet histories and participation in rounds and conference.]~~
 - ~~[4.]~~ 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 ~~[Records]~~ of food purchased for preparation shall be on file for thirty (30) days.
 - c. ~~[b.]~~ 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;~~[as authorized in KRS 314.011(8) and 314.042(8),]~~ or
 - (iii) Physician assistant~~[as authorized in KRS 311.560(3) and (4)].~~
 - e. ~~[e.]~~ At least three (3) meals per day shall be served with not more than a fourteen (14)~~[fifteen (15)]~~ hour span between the substantial evening meal and breakfast.
 - f. Between-meal snacks and beverages, including~~[to include]~~ an evening snack before bedtime, shall be available at all times for each resident, unless~~[offered to all patients. Adjustments shall be made when]~~ medically contraindicated as documented by a physician in the resident's record~~[indicated]~~.
 - g. ~~[d.]~~ Foods shall be:
 - (i) Prepared by methods that conserve nutritive value, flavor, and appearance; and
 - (ii) ~~[shall be attractively]~~Served at the proper temperature~~[temperatures,]~~ and in a form to meet~~[the]~~ 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~~[patient]~~ refuses foods served, nutritional substitutions shall be offered.
 - k. ~~[e.]~~ All opened containers or left over food items shall be covered and dated when refrigerated.
 7. ~~[5.]~~ Serving of food.
 - a. If a resident ~~[When a patient]~~ cannot be served in the dining room, trays shall:
 - (i) Be provided for bedfast patients; ~~and~~~~[shall]~~
 - (ii) Rest on firm supports such as overbed tables.
 - b. Sturdy tray stands of proper height shall be provided for residents~~[patients]~~ able to be out of bed.
 - c. ~~[a.]~~ Direct care staff shall be responsible for correctly positioning a resident to eat meals served on a tray ~~[Correct positioning of the patient to receive his tray shall be the responsibility of the direct patient care staff].~~

d. A resident who requires help with ~~[Patients requiring help in]~~ eating shall be assisted within a reasonable length of time.

e. ~~[b.]~~ The facility shall provide adaptive feeding equipment if needed by a resident ~~[self-help devices shall be provided to contribute to the patient's independence in eating].~~

f. ~~[6.]~~ Food services shall be provided in accordance with ~~[Sanitation. All facilities shall comply with all applicable provisions of KRS 219.011 to KRS 219.081 and]~~ 902 KAR 45:005.

(23) ~~[(b)]~~ Housekeeping and maintenance services.

(a) ~~[1.]~~ The facility shall:

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

2. Ensure that ~~[.]~~ odors are ~~[shall be]~~ eliminated at their source by prompt and thorough cleaning of commodes, urinals, bedpans, and other ~~[obvious]~~ sources.

(b) The facility shall:

1. ~~[2.]~~ Have available at all times an adequate supply of clean linen essential to the proper care and comfort of residents;

2. Ensure that ~~[shall be on hand at all times.]~~ soiled clothing and linens ~~[shall]~~ receive immediate attention and ~~[shall]~~ not be allowed to accumulate;

3. Ensure that ~~[.]~~ clothing and linens ~~[or bedding]~~ used by one (1) resident ~~[patient]~~ shall not be used by another resident unless ~~[until]~~ it has been laundered or dry cleaned; and ~~[.]~~

4. ~~[3.]~~ Ensure that soiled clothing and linens ~~[linen]~~ 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) ~~[4.]~~ 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) ~~[5.]~~ Clean linen shall be sorted, dried, ironed, folded, transported, stored, and distributed in a sanitary manner.

(g) ~~[6.]~~ Clean linen shall be stored in clean linen closets on each floor, close to the nurses' station.

(h) ~~[7.]~~ Personal laundry ~~[of patients or staff]~~ shall be:

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

2. ~~[8.]~~ ~~[Patients' personal clothing shall be]~~ Laundered as often as ~~[is]~~ necessary; ~~[.]~~

3. ~~[Laundering of patients' personal clothing shall be]~~ The responsibility of the facility unless the resident or resident's ~~[patient or the patient's]~~ family accepts this responsibility; and ~~[.]~~

4. ~~[Patient's personal clothing laundered by or through the facility shall be]~~ Marked or labeled to identify the resident so that it may be ~~[patient-owner and]~~ returned to the correct resident ~~[patient]~~.

(24) ~~[9.]~~ Maintenance. The premises shall be well kept and in good repair as established in this subsection. ~~[Requirements shall include:]~~

(a) ~~[a.]~~ The facility shall ensure ~~[insure]~~ 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) ~~{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) ~~{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) ~~{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) ~~{e.}~~ Room accommodations.
- (a) A facility shall provide each resident with:
1. A bed that is ~~{Each patient shall be provided a standard size bed or the equivalent}~~ at least thirty-six (36) inches wide;
 2. ~~{, equipped with substantial springs,}~~ A clean, comfortable mattress with a support mechanism;~~{,}~~
 3. A mattress cover;~~{,}~~
 4. Two (2) sheets and a pillow;~~{,}~~ and ~~{such}~~
 5. Bed covering ~~{as is required}~~ to keep the resident~~{patients}~~ comfortable.
- (b) Each bed ~~{Rubber or other impervious sheets shall be placed over the mattress}~~ ~~{cover whenever necessary. Beds occupied by patients}~~ shall be placed so that a resident does not~~{no patient may}~~ experience discomfort because of proximity to a radiator, heat outlet, or~~{radiators, heat outlets, or by}~~ exposure to drafts.
- (c) ~~{2.}~~ 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. ~~{dressers with mirrors,}~~ A night light;~~{,}~~ and
 6. Storage space for clothing and other possessions.
- (d) ~~{3.}~~ A resident ~~{Patients}~~ 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~~{unapproved rooms or unapproved detached buildings}~~.
- (e) ~~{4.}~~ Basement rooms shall not be used for sleeping rooms for residents~~{patients}~~.
- (f) ~~{5.}~~ Residents ~~{Patients}~~ may have personal items and furniture, if~~{when it is physically}~~ feasible~~{,}~~
- ~~{6.}~~ ~~{There shall be a sufficient number of tables provided that can be rolled over a patient's bed or be placed next to a bed to serve patients who cannot eat in the dining room}.~~
- (26) Living and dining area.
- (a) ~~{7.}~~ 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) ~~{8.}~~ Dining room furnishings shall be adequate in number, well constructed, and of satisfactory design for the patients.
- ~~{9.}~~ ~~{Each patient shall be permitted to have his own radio and television set in his room unless it interferes with or is disturbing to other patients.}~~

DAVID T. LOVELY, Acting Inspector General
ERIC C. FRIEDLANDER, Secretary

APPROVED BY AGENCY: March 13, 2024

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.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Valerie Moore

(1) Provide a brief summary of:

(a) What this administrative regulation does:

This administrative regulation establishes minimum licensure requirements for the operation of and services provided by nursing homes.

(b) The necessity of this administrative regulation:

This administrative regulation is necessary to comply with KRS 216B.042, which requires the Cabinet for Health and Family Services to promulgate administrative regulations necessary for the proper administration of the licensure function, including licensure standards and procedures to ensure safe, adequate, and efficient health services.

(c) How this administrative regulation conforms to the content of the authorizing statutes:

This administrative regulation conforms to the content of KRS 216B.042 by establishing standards for licensed nursing homes.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes:

This administrative regulation assists in the effective administration of the statutes by establishing standards for licensed nursing homes.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation:

This amendment requires unlicensed staff who administer medications to nursing home residents under the delegation of a nurse to be a certified medication aide (CMA) I or Kentucky medication aide, or be a CMA II. This amendment also makes technical changes to comply with the drafting requirements of KRS Chapter 13A to help improve clarity and flow. Other needed updates include the addition of: 1. A cross-reference to KRS 216.532 to ensure compliance with the requirement nurse aide and home health aide abuse registry checks; 2. A cross-reference to KRS 209.030 to ensure compliance with the requirement for caregiver misconduct registry checks; 3. A cross-reference to KRS 216.789 and 216.793 to ensure compliance with the requirement for criminal background checks; 4. New language related to the confidentiality and security of resident records to ensure compliance with the Health Insurance Portability and Accountability Act of 1996; 5. New language that aligns with the requirements of 201 KAR 2:370 regarding the storage and administration of medications from emergency medication kits; and 6. New language to allow a CMA to administer controlled substances under the delegation of a nurse, including a controlled substance ordered on a PRN basis under certain conditions. The Amended After Comments version deletes “certified nutritionist” and all references throughout the regulation. The amendment corrects spelling from “dietician” to industry standard “dietitian”.

(b) The necessity of the amendment to this administrative regulation:

This amendment is necessary to align with the 2023 passage of SB 110, which amended KRS 194A.705(2)(c) to require all long-term care facilities that provide basic health and health-related services or dementia care services to ensure that

unlicensed staff who administer oral or topical medications, or preloaded injectable insulin to residents under the delegation of a nurse to have successfully completed a medication aide training and skills competency evaluation program approved by the Kentucky Board of Nursing (KBN).

(c) How the amendment conforms to the content of the authorizing statutes:

This amendment conforms to the content of KRS 194A.705(2)(c) because the statute applies to all long-term care facilities, including nursing homes.

(d) How the amendment will assist in the effective administration of the statutes:

This amendment will assist in the effective administration of the statutes by establishing standards that align with the statutory requirements for licensed nursing homes.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation:

This administrative regulation impacts licensed nursing homes. Currently, there are 27 nursing homes.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment:

Nursing homes must ensure that unlicensed staff who administer oral or topical medications to residents under the delegation of a nurse be a CMA I or Kentucky medication aide, or be a CMA II to administer preloaded injectable insulin to residents.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3):

No additional costs will be incurred to comply with this amendment because nursing homes already use certified medication aides.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3):

The use of properly trained and competent certified medication aides leads to fewer errors with drug use and medication administration, thereby helping ensure fewer negative outcomes for residents. Moreover, this amendment expands the scope of certified medication aides by allowing them to administer preloaded injectable insulin if they have a CMA II credential. CMAs are currently restricted to administering oral and topical medications.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially:

There are no additional costs to the Office of Inspector General for implementation of this amendment.

(b) On a continuing basis:

There are no additional costs to the Office of Inspector General for implementation of this amendment on a continuing basis.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation:

The source of funding used for the implementation and enforcement of the licensure function is from federal funds and state matching funds of general and agency appropriations.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment:

No increase in fees or funding is necessary to implement this amendment.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees:

This amendment does not establish or increase any fees.

(9) TIERING: Is tiering applied?

Tiering is not applicable as compliance with this administrative regulation applies equally to all nursing homes regulated by it.

FISCAL NOTE

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation?

This administrative regulation impacts the Cabinet for Health and Family Services, Office of Inspector General, and licensed nursing homes.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation.

KRS 216B.042

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year?

This amendment will not generate any additional revenue.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years?

This amendment will not general any additional revenue during subsequent years.

(c) How much will it cost to administer this program for the first year?

This amendment imposes no additional costs on the administrative body.

(d) How much will it cost to administer this program for subsequent years?

This amendment imposes no additional costs on the administrative body during subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

(4) Estimate the effect of this administrative regulation on the expenditures and cost savings of regulated entities for the first full year the administrative regulation is to be in effect.

(a) How much cost savings will this administrative regulation generate for the regulated entities for the first year?

This administrative regulation will not generate cost savings for regulated entities during the first year.

(b) How much cost savings will this administrative regulation generate for the regulated entities for subsequent years?

This administrative regulation will not generate cost savings for regulated entities during subsequent years.

(c) How much will it cost the regulated entities for the first year?

This administrative regulation imposes no additional costs on regulated entities.

(d) How much will it cost the regulated entities for subsequent years?

This administrative regulation imposes no additional costs on regulated entities.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Cost Savings (+/-):

Expenditures (+/-):

Other Explanation:

(5) Explain whether this administrative regulation will have a major economic impact, as defined below.

"Major economic impact" means an overall negative or adverse economic impact from an administrative regulation of five hundred thousand dollars (\$500,000) or more on state or local government or regulated entities, in aggregate, as determined by the promulgating administrative bodies. [KRS 13A.010(13)] This amendment is not expected to have a major economic impact on the regulated entities.

FEDERAL MANDATE ANALYSIS COMPARISON

(1) Federal statute or regulation constituting the federal mandate.

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

(2) State compliance standards.

KRS 216B.042

(3) Minimum or uniform standards contained in the federal mandate.

21 C.F.R. Part 1317 sets forth the Drug Enforcement Administration's rules for the safe disposal and destruction of damaged, expired, returned, recalled, unused, or otherwise unwanted controlled substances. 29 C.F.R. 1910.1030(d)(2)(vii) establishes universal precautions for preventing contact with blood or other potentially infectious materials. 45 C.F.R. 160, 164, and 42 U.S.C. 1320d-2 – 1320d-8 establish the HIPAA privacy rules to protect individuals' medical records and other personal health information. In accordance with KRS 194A.705(2)(c) and 201 KAR 20:700, this amendment requires nursing homes to ensure that any unlicensed staff who administer oral or topical medications to residents under the delegation of a nurse be a certified medication aide I or Kentucky medication aide, or be a certified medication aide II to administer preloaded injectable insulin to residents.

(4) Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate?

This administrative regulation does not impose requirements that are more strict than federal laws or regulations.

(5) Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements.