Title 15 - Mississippi Department of Health

Part III – Office of Health Protection

Subpart 01 – Health Facilities Licensure and Certification

CHAPTER 45 MINIMUM STANDARDS FOR INSTITUTIONS FOR THE AGED OR INFIRM

PART I GENERAL NURSING HOMES

100 LEGAL AUTHORITY

100.01 **Adoption of Rules, Regulations, and Minimum Standards**. By virtue of authority vested in it by Mississippi Code Annotated §43-11-1 through §43-11-17, or as otherwise amended, the Mississippi Department of Health (otherwise known as the licensing agency), does hereby adopt and promulgate the following Rules, Regulations, and Minimum Standards for Institutions for the Aged or Infirm (hereinafter referred to as facility/ies). Upon adoption of these Rules, Regulations, and Minimum Standards for Institutions for the Aged or Infirm, any former rules, regulations and minimum standards, in conflict therewith, previously adopted by the licensing agency are hereby repealed.

100.02 **Codes and Ordinances**. Every facility located inside the boundaries of a municipality shall comply with all local municipal codes and ordinances applicable thereto. In addition, each facility shall comply with all applicable state and federal laws.

100.03 **Fire Safety**. No facility may be licensed until it shows conformance to the safety regulations providing minimum standards for prevention and detection of fire as well as for protection of life and property against fire.

100.04 **Duty to Report**. All fires, explosions, natural disasters, avoidable deaths or avoidable, serious, or life-threatening injuries to residents shall be reported by telephone to the Licensure and Certification Branch of the licensing agency by the next working day after the occurrence. The licensing agency will provide the appropriate forms to the facility which shall be completed and returned within fifteen (15) calendar days of the occurrence. All reports shall be complete and thorough and shall record, at a minimum the causal factors, date and time of occurrence, exact location of occurrence within or without the facility, and attached thereto shall be all police, fire, or other official reports.

101 DEFINITIONS

101.01 **Administrator**. The term "administrator" shall mean a person who is delegated the responsibility for the interpretation, implementation, and proper application of policies and programs established by the governing authority and is delegated

responsibility for the establishment of safe and effective administrative management, control, and operation of the services provided. The administrator may be titled manager, superintendent, director, or otherwise. The administrator shall be duly licensed by the Mississippi State Board of Nursing Home Administrators.

101.02 **Bed Capacity**. The term "bed capacity" shall mean the largest number which can be installed or set up in a facility at any given time for use of residents, as printed on the certificate of licensure. The bed capacity shall be based upon space designed and/or specifically intended for such use whether or not the beds are actually installed or set up.

101.03 **Bed Count**. The term "bed count" shall mean the number of beds that are actually installed or set up for residents in a facility at a given time.

101.04 **Change of Ownership**. The term "change of ownership" includes, but is not limited to, intervivos gifts, purchases, transfers, leases, cash and/or stock transactions or other comparable arrangements whenever the person or entity acquires a majority interest (Fifty percent [50%] or more) of the facility or services. Changes of ownership from partnerships, single proprietorships or corporations to another form of ownership are specifically included. Provided, however, "Change of Ownership" shall not include inherited interest acquired as a result of a testamentary instrument or under the laws of descent and distribution of the State of Mississippi.

101.05 **Criminal History Record Checks**.

1. **Affidavit**. For the purpose of fingerprinting and criminal background history checks, the term “affidavit” means the use of Mississippi Department of Health (MSDH) Form #210, or a copy thereof, which shall be placed in the individual’s personal file.

2. **Employee**. For the purpose of fingerprinting and criminal background history checks, employee shall mean any individual employed by a covered entity. The term employee”, also includes any individual who by contract with the covered entity provides direct patient care in a patient’s, resident’s, or client’s room or in treatment rooms.

   The term “employee” does not include healthcare professional/technical students, as defined in Section 37-29-232, performing clinical training in a licensed entity under contracts between their schools and the licensed entity, and does not include students at high schools who observe the treatment and care of patients in a licensed entity as part of the requirements of an allied health course taught in the school if:

   a. The student is under the supervision of a licensed healthcare provider; and

b. The student has signed the affidavit that is on file at the student's school stating that he or she has not been convicted of or plead guilty or nolo contendere to a felony of possession or sale of drugs, murder, manslaughter, armed robbery, rape, sexual battery, any sex offenses listed in section 45-33-23 (g), child abuse, arson, grand larceny, burglary, gratification of lust, aggravated assault, or felonious abuse and/or battery of a vulnerable adult, or that any such conviction or plea was reversed on appeal or a pardon was granted for the conviction or plea.

c. Further, applicants and employees of the University of Mississippi Medical Center for whom criminal history record checks and fingerprinting are obtained in accordance with Section 37-115-41 are exempt from application of the term employee under Section 43-11-13.

3. **Covered Entity**. For the purpose of criminal history record checks, "covered entity" means a licensed entity or a healthcare professional staffing agency.

4. **Licensed Entity**. For the purpose of criminal history record checks, the term "licensed entity" means a hospital, nursing home, personal care home, home health agency or hospice.

5. **Health Care Professional/Vocational Technical Academic Program**. For the purpose of criminal history record checks, "health care professional/vocational technical academic program" means an academic program in medicine, nursing, dentistry, occupational therapy, physical therapy, social services, speech therapy, or other allied-health professional whose purpose is to prepare professionals to render patient care services.

6. **Health Care Professional/Vocational Technical Studen**t. For purposes of criminal history record checks, the term means a student enrolled in a healthcare professional/vocational technical academic program.

7. **Direct Patient Care or Services**. For purposes of fingerprinting and criminal background history checks, the term "direct patient care" means direct hands-on medical patient care and services provided by an individual in a patient's, resident's or client's room, treatment room or recovery room. Individuals providing direct patient care may be directly employed by the facility or provides patient care on a contractual basis.

8. **Documented Disciplinary Action**. For the purpose of fingerprinting and criminal background history checks, the term "documented disciplinary action" means any action taken against an employee for alleged abuse or neglect of a patient.

101.06 **Day Shift**. The term “day shift” shall mean a minimum eight (8) hour period between 6:00 a.m. and 6:00 p.m.

101.07 **Dentist**. The term "dentist" shall mean a person currently licensed to practice dentistry in Mississippi by the State Board of Dental Examiners.

101.08 **Dietitian**. The term “dietitian” shall mean a person who is licensed as a dietitian in the State of Mississippi, or a Registered Dietitian exempted from licensure by statute.

101.09 **Existing Facility**. The term "existing facility" shall mean a facility that has obtained licensure prior to the adoption of these regulations.

101.10 **Governing Authority**. The term "governing authority" shall mean owner(s), Board of Governors, Board of Trustees, or any other comparable body duly organized and constituted for the purpose of owning, acquiring, constructing, equipping, operating and/or maintaining a facility, and exercising control over the internal affairs of said facility.

101.11 **Infectious Medical Waste**. The term "infectious medical waste" includes solid or liquid wastes which may contain pathogens with sufficient virulence and quantity such that exposure to the waste by a susceptible host has been proven to result in an infectious disease. For purposes of this regulation, the following wastes shall be considered to be infectious medical wastes:

1. Wastes resulting from the care of residents and animals who have Class I and (or) II diseases that are transmitted by blood and body fluid as defined in the rules and regulations governing reportable diseases as defined by the Mississippi Department of Health;

2. Cultures and stocks of infectious agents; including specimen cultures collected from medical and pathological laboratories, cultures and stocks of infectious agents from research and industrial laboratories, wastes from the production of biological, discarded lie and attenuated vaccines, and culture dishes and devices used to transfer, inoculate, and mix cultures;

3. Blood and blood products such as serum, plasma, and other blood components.

4. All discarded sharps (e.g., hypodermic needles, syringes, Pasteur pipettes, broken glass, scalpel blades) which have come into contact with infectious agents;

5. Other wastes determined infectious by the generator or so classified by the Mississippi Department of Health.

101.12 **Institutions for the Aged or Infirm (Facility/ies)**. The term "institution for the aged or infirm" (hereinafter referred to as facility or facilities) shall mean a place

either governmental or private which provides group living arrangements for four (4) or more persons who are unrelated to the operator and who are being provided food, shelter, and personal care whether any such place be organized or operated for profit or not. The term "institution for the aged or infirm" includes nursing homes, pediatric skilled nursing facilities, psychiatric residential treatment facilities, convalescent homes and homes for the aged, provided that these institutions fall within the scope of the definition set forth above. The term “institutions for the aged or infirm" does not include hospitals, clinics, or mental institutions devoted primarily to providing medical service.

101.13 **License**. The term "license" shall mean the document issued by the licensing agency and signed by the State Health Officer of the Mississippi Department of Health. Licensure shall constitute authority to receive residents and perform the services included within the scope of these rules, regulations, and minimum standards.

101.14 **Licensed Facility Representative**: For the purposes of regulations governing informal dispute resolutions, the term “licensed facility representative” shall mean an employee of the licensed facility (i.e., including, but not limited to, administrator, assistant administrator, director of nursing, director of social services, and others), as designated by the administrator of the licensed facility.

101.15 **Licensed Practical Nurse**. The term "licensed practical nurse" shall mean a person who is currently licensed by the Mississippi Board of Nursing as a Licensed Practical Nurse.

101.16 **Licensee**. The term "licensee" shall mean the person to which the license is issued and upon whom rests the responsibility for the operation of the institution in compliance with these rules, regulations, and minimum standards.

101.17 **Licensing Agency**. The term "licensing agency" shall mean the Mississippi Department of Health.

101.18 **Mantoux Test**. A method of skin testing that is performed by injecting one-tenth (0.1) milliliter of purified protein derivative-tuberculin containing five (5) tuberculin units into the dermis (i.e., the second layer of skin) of the forearm with a needle and syringe. The area is examined between forty-eight (48) and seventy-two (72) hours after the injection. A reaction is measured according to the size of the induration. The classification of a reaction as positive or negative depends on the patient’s medical history and various risk factors (see definition for “significant tuberculin skin test”). This test is used to evaluate the likelihood that a person is infected with M. tuberculosis. It is the most reliable and standardized technique for tuberculin testing. It should be administered only by persons certified in the intradermal technique.

101.19 **Medical Waste**. The term "medical waste" means all waste generated in direct resident care or in diagnostic or research areas that is non-infectious but aesthetically repugnant if found in the environment.

101.20 **New Facility**. The term "new facility" shall mean a facility that applies for licensure after the adoption of these regulations.

101.21 **Nurse Practitioner**. The term “nurse practitioner” shall mean a person who is currently licensed by the Mississippi Board of Nursing as a nurse practitioner.

101.22 **Nursing Facility**. The term "nursing facility" shall mean a facility in which nursing care is under the supervision of a registered nurse. Either a registered nurse or a licensed practical nurse shall be on active duty at all times.

101.23 **Nursing Unit**. The maximum nursing unit shall be sixty (60) beds.

101.24 **Patient**. The term "patient" shall mean any person admitted to a facility for care.

101.25 **Person**. The term "person" shall mean any individual, firm, partnership, corporation, company, association, or joint stock association, or any licensee herein or the legal successor thereof.

101.26 **Personal Care**. The term "personal care" shall mean assistance rendered by personnel of the facility for residents in performing one or more of the activities of daily living which includes, but is not limited to, the bathing, walking, excretory functions, feeding, personal grooming, and dressing of such residents.

101.27 **Pharmacist**. The term "pharmacist" shall mean a person currently licensed to practice pharmacy in Mississippi by the State Board of Pharmacy.

101.28 **Physician**. The term "physician" shall mean any person currently licensed in Mississippi by the Mississippi State Board of Medical Licensure.

101.29 **Qualified Dietary Manager**.

1. A Dietetic Technician who has successfully graduated from a Dietetic Technician program accredited by the American Dietetic Association Commission on Accreditation and Approval of Dietetic Education and earns 15 hours of continuing education units every year approved by the Dietary Manager's Association or the American Dietetic Association.

2. A person who has successfully graduated from a didactic program in Dietetics approved by the American Dietetic Association Commission on Accreditation and Approval of Dietetic Education and earns 15 hours of continuing education units every year approved by the Dietary Manager's Association or the American Dietetic Association.

3. A person who has successfully completed a Dietary Manager's Course approved by the Dietary Manager's Association and who passes the credentialing examination and earns 15 hours of continuing education units every year approved by the Dietary Manager's Association or the American Dietetic Association.

4. A person who has successfully completed a Dietary Manager's Course approved by the Dietary Manager's Association and earns 15 hours of continuing education units every year approved by the Dietary Manager's Association or the American Dietetic Association

101.30 **Registered Nurse**. The term "registered nurse" shall mean a person who is currently licensed by the Nurses' Board of Examination and Registration of Mississippi Board of Nursing as a registered nurse.

101.31 **Resident**. The term "resident" is synonymous with patient.

101.32 **Restraint.** The term "restraint" shall include any means, physical or chemical, which is intentionally used to restrict the freedom of movement of a person.

101.33 **Surveyor**. The term "surveyor" shall mean an individual employed, or hired on a contractual basis, by the licensing agency for the purpose of conducting surveys, inspections, investigations, or other related functions as part of the licensing agency's responsibilities for licensure and regulation of institutions for the aged and infirm.

101.34 **Significant Tuberculin Skin Test**. An induration of five (5) millimeters or greater is significant (or positive) in the following:

1. Persons known to have or suspected of having human immunodeficiency virus (HIV).

2. Close contacts of a person with infectious tuberculosis.

3. Persons who have a chest radiograph suggestive of previous tuberculosis.

4. Persons who inject drugs (if HIV status is unknown).

An induration of ten (10) millimeters or greater is significant (or positive) in all other persons tested in Mississippi. A tuberculin skin test is recorded in millimeters of induration. For accurate results, measure the widest diameter of the palpable induration transverse (across) the arm.

101.35 **Two-step Testing**. A procedure used for the baseline testing of person who will periodically receive tuberculin skin tests (e.g., health care workers) to reduce the likelihood of mistaking a boosted reaction for a new infection. If the initial tuberculin-test result is classified as negative, a second test is repeated one (1) to three (3) weeks later. If the reaction to the second test is positive, it probably

represents a boosted reaction. If the second test is also negative, the person is classified as not infected. A positive reaction to a subsequent test would indicate new infection (i.e., a skin-test conversion) in the person.

102 INSPECTION

102.01 **Inspections Required**. Each facility for which a license has been issued shall be inspected by the licensing agency by persons delegated with authority by the licensing agency at such intervals as the licensing agency may direct. The licensing agency and/or its authorized representatives shall have the right to inspect construction work in progress. New institutions shall not be licensed without having first been inspected for compliance with these rules, regulations, and minimum standards.

PART II CLASSIFICATION OF INSTITUTIONS FOR THE AGED OR INFIRM AS NURSING FACILITY

103 NURSING FACILITY

103.01 **Nursing Facility**. To be classified as a facility, the institution shall comply with the following staffing requirements:

1. Minimum requirements for nursing staff shall be based on the ratio of two and eight-tenths (2.80) hours of direct nursing care per resident per twenty-four (24) hours. Staffing requirements are based upon resident census. Based upon the physical layout of the nursing facility, the licensing agency may increase the nursing care per resident ratio.

2. Each facility shall have the following licensed personnel as a minimum:

   a. Seven (7) day coverage on the day shift by a registered nurse.

   b. A registered nurse designated as the Director of Nursing Services, who shall be employed on a full time (five [5] days per week) basis on the day shift and be responsible for all nursing services in the facility.

   c. Facilities of one-hundred eighty (180) beds or more shall have an assistant director of nursing services, who shall be a registered nurse.

   d. A registered nurse or licensed practical nurse shall serve as a charge nurse and be responsible for supervision of the total nursing activities in the facility during the 7:00 a.m. to 3:00 p.m. and 3:00 p.m. to 11:00 p.m. shift. The nurse assigned to the unit for the 11:00 p.m. to 7:00 a.m. shift may serve as both the charge nurse and medication/treatment nurse. A medication/treatment nurse for each nurses' station shall be required on all shifts. This shall be a registered nurse or licensed practical nurse.

   e. In facilities with sixty (60) beds or less, the director of nursing services may serve as charge nurse.

   f. In facilities with more than sixty (60) beds, the charge nurse may not be the director of nursing services or the medication/treatment nurse.

3. Non-Licensed Staff. The non-licensed staff shall be added to the total licensed staff, to complete the required staffing requirements.

4. There shall be at least two (2) employees in the facility at all times in the event of an emergency.

PART III THE LICENSE

104 THE LICENSE

104.01 **License**. A license shall be issued to each facility that meets the requirements as set forth in these regulations.

105 APPLICATION FOR LICENSE

105.01 **Application**. Application for a license or renewal of a license shall be made in writing to the licensing agency on forms provided by the licensing agency which shall contain such information as the licensing agency may require. The application shall require reasonable, affirmative evidence of ability to comply with these rules, regulations, and minimum standards.

105.02 **Fee**. In accordance with §43-11-7 of the Mississippi Code of 1972, as amended, each application for initial licensure shall be accompanied by a fee of twenty dollars ($20.00) per bed in check or money order made payable to the "Mississippi Department of Health" (otherwise known as the licensing agency), with a minimum fee of two hundred dollars ($200.00). The fee is non-refundable. The fee for licensure renewal shall be twenty dollars ($20.00) per bed, with a minimum fee of two-hundred dollars ($200.00), in accordance with §43-11-9 of the Mississippi Code of 1972, as amended.

105.03 **Name of Institution**. Every facility or infirm shall be designated by a permanent and distinctive name which shall be used in applying for a license and shall not be changed without first notifying the licensing agency in writing and receiving written approval of the change from the licensing agency. Such notice shall specify the name to be discontinued as well as the new name proposed. The words "hospital", "sanatarium", "sanatorium", "clinic" or any other word which would reflect a different type of facility shall not appear in the title of a facility. Only the official name by which the facility is licensed shall be used in telephone listings, stationery, advertising, etc. Two or more facilities shall not be licensed under a similar name.

105.04 **Number of Beds**. Each application for license shall specify the maximum number of beds in the facility as determined by Paragraph 118.02 of these regulations. The maximum number of beds for which the facility is licensed shall not be exceeded.

106 LICENSING

106.01 **Issuance of License**. All licenses issued by the licensing agency shall set forth the name of the facility, the location, the name of the licensee, the classification of the institution, the type of building, the bed capacity for which the institution is licensed, and the license number.

106.02 **Separate License**. Separate license shall be required for institutions maintained on separate premises even though under the same management. However, separate license are not required for buildings on the same grounds which are under the same management.

106.03 **Posting of License**. The license shall be posted in a conspicuous place on the license premises and shall be available for review by an interested person.

106.04 **License Not Transferable**. The license for a facility is not transferable or assignable to any other person except by written approval of the licensing agency and shall be issued only for the premises named in the application. The license shall be surrendered to the licensing agency on change of ownership, licensee, name or location of the institution, or in the event that the institution ceases to be operated as a facility. In event of change of ownership, licensee, name or location of the facility, a new application shall be filed.

106.05 **Expiration of License**. Each license shall expire on March 31 following the date of issuance.

106.06 **Renewal of License**. License shall be renewable by the licensee.

1. Filing of an application for renewal of licensee.

2. Submission of appropriate licensure renewal fee as mandated in Section 105.2.

3. Approval of an annual report by the licensing agency.

4. Maintenance by the institution of minimum standards in its physical facility, staff, services and operation as set forth in these regulations.

107 DENIAL, SUSPENSION, OR REVOCATION OF LICENSE

107.01 **Denial or Revocation of License**: Hearing and Review. The licensing agency after notice and opportunity for a hearing to the applicant or licensee is authorized to deny, suspend, or revoke a license in any case in which it finds that there has been a substantial failure to comply with the requirements established under the law and these regulations. Also, the following shall be grounds for denial or revocation of license.

1. Fraud on the part of the licensee in applying for a license.

2. A willful or repeated violation by the licensee of any of the provisions of §43-11-1 et seq., of the Mississippi Code of 1972, as amended, and/or of the rules, regulations, and minimum standards established by the licensing agency.

3. Excessive use of alcoholic beverages or narcotic drugs by the licensee or other personnel of the home, to the extent which threatens the well-being or safety of the resident.

4. Conviction of the licensee of a felony.

5. Publicly misrepresenting the home and/or its services.

6. Permitting, aiding, abetting the commission of any unlawful act.

7. Conduct or practices detrimental to the health or safety of residents and employees of said facilities provided that this provision shall not be construed to have any reference to healing practices authorized by law. Detrimental practices include but are not necessarily limited to:

   a. Cruelty to residents or indifference of their needs which are essential to their general well being and health.

   b. Misappropriation of the money or property of a resident.

   c. Failure to provide food adequate for the needs of the resident.

   d. Inadequate staff to provide safe care and supervision of a resident.

   e. Failure to call a physician or nurse practitioner when required by the resident's condition.

   f. Failure to notify next of kin when a resident's conditions become critical.

   g. Admission of a resident whose condition demands care beyond the level of care provided by the facility as determined by its classification.

108 PROVISION FOR HEARING AND APPEAL FOLLOWING DENIAL OR REVOCATION OF LICENSE; PENALTIES

108.01 **Administrative Decision**. The licensing agency will provide an opportunity for a fair hearing to every applicant or licensee who is dissatisfied with administrative decisions made in the denial or revocation of a license, or who qualifies pursuant to §1208.1 to appeal from an adverse determination in an informal dispute resolution proceeding.

1. The licensing agency shall notify the applicant or licensee by certified mail or personal service the particular reasons for the proposed denial or revocation of license, or of the findings in the informal dispute resolution proceeding. Upon written request of applicant or licensee within ten (10) days of the date of notification the licensing agency shall fix a date not

less than thirty (30) days from the date of such service at which time the applicant or licensee shall be given an opportunity for a prompt and fair hearing.

2. On the basis of such hearing or upon default of the applicant or licensee, the licensing agency shall make a determination specifying its findings of fact and conclusions of law. A copy of such determination shall be sent by registered mail to the last known address of the applicant or licensee or served personally upon the applicant or licensee.

3. The decision revoking, suspending, denying the application or license, or upholding the findings of the informal dispute resolution proceeding shall become final thirty (30) days after it is so mailed or served upon the applicant or licensee; however in matters involving the revocation, suspension, or denial of an application or license, or an enforcement action, the applicant or licensee may within such thirty (30) day period, appeal the decision to the Chancery Court pursuant to §43-11-23 of the Mississippi Code of 1972, as amended. An additional period of time may be granted at the discretion of the licensing agency.

108.02 **Penalties**. Any person establishing, conducting, managing, or operating a facility without a license shall be declared in violations of these regulations and Chapter 451 of the Laws of Mississippi of the Regular Legislative Session of 1979 and subject to the penalties specified in §18 thereof.

PART IV ADMINISTRATION

109 THE AUTHORITY FOR ADMINISTRATION FOR INSTITUTION FOR THE AGED OR INFIRM

109.01 **Responsibility**. The governing authority, the owner, or the person(s) designated by the governing authority or the owner shall be the supreme authority in a facility responsible for the management, control, and operation of the institution including the appointment of a qualified staff.

109.02 **Organization**. Each facility should establish a written organizational plan, which may be an organizational chart that clearly establishes a line of authority, responsibilities, and relationships. Written personnel policies and job descriptions shall be prepared and given to each employee.

109.03 **Relationship of staff to Governing Authority**. The administrator, personnel, and all auxiliary organizations shall be directly or indirectly responsible to the governing authority.

110 THE LICENSEE

110.01 **Responsibility**. The licensee shall be the person who the licensing agency will hold responsible for the operation of the home in compliance with these regulations. The licensee may serve as the administrator or may appoint someone to be the administrator. The licensee shall be responsible for submitting to the licensing agency the plans and specifications for the building, the applications for license, and such reports as are required.

1. **Initial Application**. The licensee shall submit the following with his initial application:

    a. References in regard to this character, temperament, and experience background from three (3) responsible persons not related to him. The licensing agency reserves the right to make investigations from its own source regarding the character of the applicant.

    b. Whether the governing body will be a private proprietary, partnership, corporation, governmental, or other (non-profit, church, etc.). If a partnership, the full name and address of each partner. If a corporation or other, the name, address, and title of each officer. If governmental, the unit of government.

2. **Application for License**. Application for license or relicense shall be submitted in form and content pursuant to the instructions of the licensing agency.

111 ADMINISTRATOR

111.01 **Responsibility**.

1. There shall be a licensed administrator with authority and responsibility for the operation of the facility in all its administrative and professional functions subject only to the policies enacted by the governing authority and to such orders as it may issue. The administrator shall be the direct representative of the governing authority in the management of the facility and shall be responsible to said governing authority for the proper performance of duties.

2. There shall be a qualified individual present in the facility responsible to the administrator in matters of administration who shall represent him during the absence. The persons shall not be a resident of the facility.

111.02 **Qualifications**. The administrator shall be chosen primarily for his administrative ability to establish proper working relationship with physicians, nurse practitioners, and employees of the facility.

1. The administrator and his assistant shall be at least twenty-one (21) years of age.

2. The administrator shall be of reputable and responsible character and in such state of physical and mental health as will permit him to satisfactorily direct the activities and services of the facility.

112 FINANCIAL

112.01 **Accounting**. Accounting methods and procedures should be carried out in accordance with a recognized system of good business practice. The method and procedure used should be sufficient to permit annual audit, accurate determination of the cost of operation and the cost per resident per day.

112.02 **Financial Structure**. All facilities shall have a financial plan which guarantees sufficient resources to meet operating cost at all times and to maintain standards required by these regulations.

112.03 **Admission Agreement**. Prior to or at the time of admission, the administrator and the resident or the resident's responsible party shall execute in writing a financial agreement. This agreement shall be prepared and signed in two or more copies, one copy given to the resident or his sponsor, and one copy placed on file in the license facility.

1. As a minimum this agreement shall contain:

   a. Basic charges agreed upon (room, board, laundry, nursing, and/or personal care).

b. Period to be covered in the charges.

c. Services for which special charges are made.

d. Agreement regarding refund for any payments made in advance.

2. No agreement or contract shall be entered into between the licensee and the resident or his responsible party which will relieve the licensee of responsibility for the protection of the person and of the rights of the individual admitted to the facility for care, as set forth in these regulations.

3. A record of all sums of money received from each resident shall be kept up-to-date and available for inspection.

4. The resident or his lawful agent shall be furnished a receipt signed by the lawful agent of the institution for all sums paid over to the facility.

5. Neither the licensee or any employee shall misuse or misappropriate any property real or personal, belonging to a resident of the facility.

6. Undue influence or coercion shall not be used in procuring a transfer of funds or property or in procuring a contract or agreement providing for payment of funds or delivery of property belonging to a resident of the facility.

7. Agreements between a facility and a resident relative to cost of care shall include adequate arrangements for such emergency medical or hospital care as may be required by the resident.

8. No licensee, owner, or administrator of a facility; a member of their family; an employee of the facility; or a person who has financial interest in the home shall act as the legal guardian for a resident of the facility. This requirement shall not apply if the resident is related within the third degree as computed by civil law.

112.04 **Resident Admission**. Prior to initial licensure of each facility, a written schedule for resident admission shall be developed and submitted to the licensing agency.

113 DISASTER PLANNING

113.01 **Written Disaster Plan**. All facilities shall maintain a written disaster plan. The written disaster plan shall be maintained by the facility and available for review by the licensing agency.

1. The plan shall include procedures to be followed in the event of fire, train derailment, explosions, severe weather, and other possible disasters as appropriate for the specific geographic location. The plan shall include

written agreements to ensure the supply of basic utilities (i.e., water, gas, electric, etc.) to ensure the provision of sufficient services to residents. The facility shall maintain a written transfer agreement with another licensed facility or alterative shelter approved by the licensing agency, to provide for the transfer and temporary placement of residents in the event that the facility is unable to provide adequate care to residents during or after the disaster.

2. Fire Drills. Fire drills shall be conducted one (1) per shift per quarter. Employees shall participate in a fire drill at least four (4) times per year.

3. Disaster Drills. The disaster plan shall be reviewed and rehearsed by all staff on at least a semi-annual basis.

4. Written Records. Written minutes of all drills shall be maintained, indicating content of and attendance at each drill.

5. An evacuation plan for the facility shall be posted in each facility in a conspicuous place and kept current.

114 PHYSICAL FACILITIES

114.01 **Administration Facilities**. Each facility shall provide an office space and/or administrative office(s).

1. As a minimum, the office space and/or administrative office(s) shall be provided with a desk, file drawer or cabinet, and related office equipment and supplies.

2. Facilities caring for twenty-five (25) or more residents should provide a separate room(s) for these facilities.

3. Each facility should provide a waiting room or space for the public.

114.02 **Communication Facilities**. Each facility shall have an adequate number of telephones and extensions to summon help in case of fire or other emergency, and these shall be located so as to be quickly accessible from all parts of the building. The telephone shall be listed under the official licensed name of the facility.

115 RECORDS AND REPORTS

115.01 **General**. Each facility shall submit such records and reports as the licensing agency may request.

115.02 **Annual Report**. An annual report shall be submitted to the licensing agency by each facility upon such uniform dates and shall contain such information in such form as the licensing agency prescribes.

115.03 **Criminal History Record Checks**.

1. Pursuant to Section 43-11-13, Mississippi Code of 1972, the covered entity shall require to be preformed a disciplinary check with the professional licensing agency, if any, for each employee to determine if any disciplinary action has been taken against the employee by the agency, and a criminal history record check on:

    a. Every new employee of a covered entity who provides direct patient care or services and who is employed on or after July 01, 2003, and

    b. Every employee of a covered entity employed prior to July 01, 2003, who has documented disciplinary action by his or her present employer.

2. Except as otherwise provided in this paragraph, no employee hired on or after July 01, 2003, shall be permitted to provide direct patient care until the results of the criminal history record check revealed no disqualifying record or the employee has been granted a waiver. Provided the covered entity has documented evidence of submission of fingerprints for the background check, any person may be employed and provide direct patient care on a temporary basis pending the results of the criminal history record check but any employment offer, contract, or arrangement with the person shall be voidable, if he/she receives a disqualifying criminal record check and no waiver is granted.

3. If such criminal history record check discloses a felony conviction; a guilty plea; and/or a plea of nolo contendere to a felony for one (1) or more of the following crimes which has not been reversed on appeal, or for which a pardon has not been granted, the applicant/employee shall not be eligible to be employed at the licensed facility:

    a. possession or sale of drugs

    b. murder

    c. manslaughter

    d. armed robbery

    e. rape

    f. sexual battery

    g. sex offense listed in Section 45-33-23(g), Mississippi Code of 1972

    h. child abuse

i. arson

j. grand larceny

k. burglary

l. gratification of lust

m. aggravated assault

n. felonious abuse and/or battery of vulnerable adult

4. Documentation of verification of the employee's disciplinary status, if any, with the employee's professional licensing agency as applicable, and evidence of submission of the employee's fingerprints to the licensing agency must be on file and maintained by the facility prior to the new employees first date of employment. The covered entity shall maintain on file evidence of verification of the employee's disciplinary status from any applicable professional licensing agency and of submission and/or completion of the criminal record check, the signed affidavit, if applicable, and/or a copy of the referenced notarized letter addressing the individual's suitability for such employment.

5. Pursuant to Section 43-11-13, Mississippi Code of 1972, the licensing agency shall require every employee of a covered entity employed prior to July 01, 2003, to sign an affidavit stating that he or she does not have a criminal history as outlined in paragraph (3) above.

6. From and after December 31, 2003, no employee of a covered entity hired before July 01, 2003, shall be permitted to provide direct patient care unless the employee has signed an affidavit as required by this section. The covered entity shall place the affidavit in the employee's personnel file as proof of compliance with this section.

7. If a person signs the affidavit required by this section, and it is later determined that the person actually had been convicted of or pleaded guilty or *nolo contendere* to any of the offenses listed herein, and the conviction or pleas has not been reversed on appeal or a pardon has not been granted for the conviction or plea, the person is guilty of perjury as set out in Section 43-11-13, Mississippi Code of 1972. The covered entity shall immediately institute termination proceedings against the employee pursuant to the facility's policies and procedures.

8. The covered entity may, in its discretion, allow any employee unable to sign the affidavit required by paragraph (7) of this subsection or any employee applicant aggrieved by the employment decision under this subsection to appear before the covered entity's hiring officer, or his or her designee, to show mitigating circumstances that may exist and allow

the employee or employee applicant to be employed at the covered entity. The covered entity, upon report and recommendation of the hiring officer, may grant waivers for those mitigating circumstances, which shall include, but not be limited to: (1) age at which the crime was committed; (2) circumstances surrounding the crime; (3) length of time since the conviction and criminal history since the conviction; (4) work history; (5) current employment and character references; and (6) other evidence demonstrating the ability of the individual does not pose a threat to the health or safety of the patients in the licensed facility.

9. The licensing agency may charge the covered entity submitting the fingerprints a fee not to exceed Fifty Dollars ($50.00).

10. Should results of an employee applicant's criminal history record check reveal no disqualifying event, then the covered entity shall, within two (2) weeks of the notification of no disqualifying event, provide the employee applicant with a notarized letter signed by the chief executive officer of the covered entity, or his or her authorized designee, confirming the employee applicant's suitability for employment based on his or her criminal history record check. An employee applicant may use that letter for a period of two (2) years from the date of the letter to seek employment at any covered entity licensed by the Mississippi Department of Health without the necessity of an additional criminal record check. Any covered entity presented with the letter may rely on the letter with respect to an employee applicant's criminal background and is not required for a period of two (2) years from the date of the letter to conduct or have conducted a criminal history check as required in this subsection.

11. For individuals contacted through a third party who provide direct patient care as defined herein, the covered entity shall require proof of a criminal history record check.

12. Pursuant to Section 43-11-13, Mississippi Code of 1972, the licensing agency, the covered entity, and their agents, officer, employees, attorneys, and representatives, shall be presumed to be acting in good faith for any employment decision or action taken under this section. The presumption of good faith may be overcome by a preponderance of the evidence in any civil action. No licensing agency, covered entity, nor their agents, officers, employees, attorneys and representatives shall be held liable in any employment discrimination suit in which an allegation of discrimination is made regarding an employment decision authorized under this section.

115.04 **Employee Health Screening**. All staff of a facility shall receive a health screening by a licensed physician, registered nurse, or nurse practitioner prior to employment and annually thereafter. The extent of the screening shall be

determined by committee consisting of at least a licensed physician, nurse practitioner or a registered nurse, and the facility's administrator.

There shall be written evidence on file at the facility indicating that such a committee met to develop a policy for the facility's employee healthy screening program. This policy shall include:

1. What constitutes an adequate health screening.

2. The health professional designated to conduct the screening.

The written policy shall be evaluated periodically by said committee.

115.05 **Testing for Tuberculosis**. The tuberculin test status of all staff shall be documented in the individual's record. The first step of a two-step Mantoux tuberculin skin test shall be performed (administered and read) on all new employees thirty (30) days prior to hire or immediately upon hire. Each Mantoux tuberculin skin test shall be administered and read by personnel trained and certified in the procedure and the results shall be recorded in millimeters of induration. An employee shall not have contact with residents or be allowed to work in areas of the facility to which residents have routine access prior to the reading and documentation of the first step of a two-step Mantoux tuberculin skin test and completing a signs and symptom assessment. Anyone found to have a positive signs and symptoms assessment (e.g., cough, sputum production, chest pain, anorexia, weight loss, fever, night sweats, especially if symptoms last three weeks or longer), regardless of the size of the skin test, or anyone found to have a positive skin test shall also have a chest x-ray and be evaluated for active tuberculosis by a physician within 72 hours. This evaluation must be prior to any contact with residents or being allowed to work in areas of the facility to which residents have routine access.

The results of the first step of the two-step Mantoux tuberculosis testing shall be documented in the individual's record within seven (7) days of employment. Exceptions to this requirement may be made if:

1. The individual is currently receiving or can provide documentation of having received a course of tuberculosis prophylactic therapy approved by the State Tuberculosis Program for tuberculosis infection, or

2. The individual is currently receiving or can provide documentation of having received a course of multi-drug chemotherapy approved by the State Tuberculosis Program for active tuberculosis disease, or

3. The individual has a documented previous significant tuberculin skin test reaction. Individuals with significant Mantoux tuberculin skin tests should be reminded periodically about the symptoms of tuberculosis and the need for prompt evaluation of any pulmonary symptoms of tuberculosis. A tuberculosis symptom assessment shall be documented as part of the

annual health screening. No additional follow-up is indicated unless symptoms suggestive of active tuberculosis develop. Specifically, annual chest x-rays are not indicated.

Employees with a negative tuberculin skin test and a negative symptom assessment shall have the second step of the two-step Mantoux tuberculin skin test performed and documented in the employee's personnel record within fourteen (14) days of employment.

The two-step protocol is to be used for each employee who has not been previously skin tested and/or for whom a negative test cannot be documented within the past twelve (12) months. If the employer has documentation the employee has had a negative TB skin test within the past twelve months, a single test performed thirty (30) days prior to employment or immediately upon hire will fulfill the two-step requirements. As above, the employee shall not have contact with residents or be allowed to work in areas of the facility to which residents have routine access prior to reading the skin test, completing a signs and symptoms assessment, and documenting the results.

All staff who do not have a significant Mantoux tuberculin skin test reaction shall be retested annually within thirty (30) days of the anniversary of their last Mantoux tuberculin skin test. Staff exposed to an active infectious case of tuberculosis between annual tuberculin skin tests shall be treated as contacts and be managed appropriately. Individuals found to have a significant Mantoux tuberculin skin test reaction and a chest x-ray not suggestive of active tuberculosis, shall be evaluated by a physician or nurse practitioner for latent tuberculosis infection treatment.

115.06 **Admission Record-Personal Information**. Each facility shall prepare a record on each resident at the time of admission on which the following minimum information shall be recorded: name; date of admittance; address at the time of admittance; race; sex; marital status; religious preference; date of birth; name; address, and telephone number of person responsible for resident and his/her relationship to him/her; and name and telephone number of physician or nurse practitioner. The date and reason for discharge shall be entered upon discharge of a resident.

115.07 **Reporting of Tuberculosis Testing**. The facility shall report and comply with the annual MDH TB Program surveillance procedures.

116 RESIDENTS RIGHTS

116.01 **General**. The facility shall maintain written policies and procedures regarding the rights and responsibilities of residents. These written policies and procedures shall be established in consultation with residents or responsible parties. Written policies and procedures regarding residents' rights shall be made available to residents or their guardian, next of kin, sponsoring agency or

agencies, or lawful representative and to the public. There shall be documented evidence that the staff of the facility is trained and involved in the implementation of these policies and procedures. In-service on residents' rights and responsibilities shall be conducted annually. These rights and responsibilities shall be posted throughout the facility for the benefit of all staff and residents.

116.02 **Residents' Rights**. The residents' rights policies and procedures ensure that each resident admitted to the facility:

1. is fully informed, as evidenced by the resident's written acknowledgment, prior to or at the time of admission and during stay, of these rights and is given a statement of the facility's rules and regulations and an explanation of the resident's responsibility to obey all reasonable regulations of the facility and to respect the personal rights and private property of other residents;

2. is fully informed, and is given a written statement prior to or at time of admission and during stay, of services available in the facility, and of related charges including any charges for services covered by the facility's basic per diem rate;

3. is assured of adequate and appropriate medical care, is fully informed by a physician or nurse practitioner of his medical conditions unless medically contraindicated (as documented by a physician or nurse practitioner in his medical record), is afforded the opportunity to participate in the planning of his medical treatment, to refuse to participate in experimental research, and to refuse medication and treatment after fully informed of and understanding the consequences of such action;

4. is transferred or discharged only for medical reasons, or for his welfare or that of other residents, or for nonpayment for his stay (except as prohibited by sources of third-party payment), and is given a two weeks advance notice in writing to ensure orderly transfer or discharge. A copy of this notice is maintained in his medical record;

5. is encouraged and assisted, throughout his period of stay, to exercise his rights as a resident and as a citizen, and to this end may voice grievances, has a right of action for damages or other relief for deprivations or infringements of his right to adequate and proper treatment and care established by an applicable statute, rule, regulation or contract, and to recommend changes in policies and services to facility staff and/or to outside representatives of his choice, free from restraint, interference, coercion, discrimination, or reprisal;

6. may manage his personal financial affairs, or is given at least a quarterly accounting of financial transactions made on his behalf should the facility

accept his written delegation of this responsibility to the facility for any period of time in conformance with State law;

7. is free from mental and physical abuse;

8. is free from restraint except by order of a physician or nurse practitioner, or unless it is determined that the resident is a threat to himself or to others. Physical and chemical restraints shall be used for medical conditions that warrant the use of a restraint. Restraint is not to be used for discipline or staff convenience. The facility must have policies and procedures addressing the use and monitoring of restraint. A physician order for restraint must be countersigned within 24 hours of the emergency application of the restraint;

9. is assured security in storing personal possessions and confidential treatment of his personal and medical records, and may approve or refuse their release to any individual outside the facility, except, in the case of his transfer to another health care institution, or as required by law of third-party payment contract;

10. is treated with consideration, respect, and full recognition of his dignity and individuality, including privacy in treatment and in care for his personal needs;

11. is not required to perform services for the facility that are not included for therapeutic purposes in his plan of care;

12. may associate and communicate privately with persons of his choice, may join with other residents or individuals within or outside of the facility to work for improvements in resident care, and send and receive his personal mail unopened, unless medically contraindicated (as documented by his physician or nurse practitioner in his medical record);

13. may meet with, and participate in activities of, social, religious and community groups at his discretion, unless medically contraindicated (as documented by his physician or nurse practitioner in his medical record);

14. may retain and use his personal clothing and possessions as space permits, unless to do so would infringe upon rights of other residents, unless medically contraindicated (as documented by his physician or nurse practitioner in his medical record);

15. if married, is assured privacy for visits by his/her spouse; if both are inpatients in the facility, they are permitted to share a room, unless medically contraindicated (as documented by the attending physician or nurse practitioner in the medical record); and

16. is assured of exercising his civil and religious liberties including the right to independent personal decisions and knowledge of available choice. The facility shall encourage and assist in the fullest exercise of these rights.

All rights and responsibilities specified in paragraph (1) through (16) of Section 116.02, as they pertain to (1) a resident adjudicated incompetent in accordance with State law, (2) a resident who is found by his physician or nurse practitioner to be medically incapable of understanding these rights, or (3) a resident who exhibits a communication barrier, devolve to and shall be exercised by the resident's guardian, next of kin, sponsoring agencies, or representative payee (except when the facility is representative payee).

117 STAFF DEVELOPMENT

117.01 **Orientation**. Each employee shall receive thorough orientation to the position, the facility, and its policies.

117.02 **In-service Training**. Appropriate in-service education programs shall be provided to all employees on an on-going basis.

117.03 **Training Records**. A written record shall be maintained of all orientation and in-service training sessions.

117.04 **Administrator Mentoring**. Administrators shall be scheduled to spend two (2) concurrent days with the licensing agency for the purpose of training and mentoring. Placement of an administrator with the licensing agency may include, but not be limited to, assignments within the licensing agency's central offices or placement with a survey team. Any costs associated with placements for the purposes of this section shall be borne by the licensed facility at which the administrator is employed. The administrator shall keep confidential and not disclose to any other persons any identifying information about any person or entity that he/she learned while observing operations as required by this section, except as otherwise mandated by law.

This section shall apply to administrators who:

1. received their license from the Mississippi Board of Nursing Home Administrators on or after January 1, 2002; and

2. have been employed by a licensed facility for less than six (6) months, during which time the placement must be completed.

This section shall not apply to administrators who:

1. received a license from the Mississippi Board of Nursing Home Administrators on or prior to December 31, 2001; or

2. who were previously employed by the licensing agency in a surveyor capacity.

Failure to successfully complete the placement required under this section shall disqualify the administrator from serving in such capacity of a licensed facility until a placement is completed.

This section shall go into effect January 1, 2002 and thereafter.

117.05 **Surveyor Mentoring**. Surveyors shall be scheduled to spend two (2) concurrent days with a licensed facility for the purpose of training and mentoring. Selection of a licensed facility for placement of the surveyor shall be done at the discretion of the licensing agency, except no licensed facility shall be required to accept more than two (2) placements in any calendar year. Upon completion of said training, the surveyor shall not participate in a survey of the same licensed facility for a period not to exceed one year from the date of training placement. Any costs associated with the placement of a surveyor for the purposes of this section shall be borne by the licensing agency. The surveyor shall keep confidential and not disclose to any other persons any identifying information about any person or entity that the surveyor learned while observing operations as required by this section, except as otherwise mandated by law.

This section shall apply to surveyors who have been employed by the licensing agency in a surveyor capacity for less than six (6) months, during which time the placement must be completed.

This section shall not apply to surveyors who were previously employed by a licensed facility.

Failure to successfully complete the placement required under this section shall disqualify the surveyor from serving in such capacity for the licensing agency until a placement is completed.

PART V MEDICAL, NURSING, AND PERSONAL SERVICES

118 PHYSICAL FACILITIES

118.01 **Nursing Unit**. Medical, nursing, and personal service shall be provided in a specifically designated area which shall include bedrooms, special care room(s), nurses' station, utility room, toilet and bathing facilities, linen and storage closets, and wheelchair space. The maximum nursing unit shall be sixty (60) beds.

118.02 **Bedrooms**.

1. **Location**.

   a. All resident bedrooms shall have an outside exposure and shall not be below grade. Window area shall not be less than one-eighth (1/8) of the required floor area. The window sill shall not be over thirty-six (36) inches from the floor.

   b. Resident bedrooms shall be located so as to minimize the entrance of unpleasant odors, excessive noise, and other nuisances.

   c. Resident bedrooms shall be directly accessible from the main corridor of the nursing unit providing that accessibility from any public space other than the dining room will be acceptable. In no case shall a resident bedroom be used for access to another resident bedroom.

   d. All resident bedrooms shall be so located that the resident can travel from his/her bedroom to a living room, day room, dining room, or toilet or bathing facility without having to go through another resident bedroom.

2. **Floor Area**. Minimum usable floor area per bed shall be as follows: Private room one-hundred (100) square feet, Multi-bed room eighty (80) square feet, per resident. This provision shall apply only to initial licensure, new construction, additions, and renovations.

3. **Provisions for Privacy**.

   a. Existing Facilities. Cubicle curtains, screening, or other suitable provisions for privacy shall be provided in multi-bed resident bedrooms.

   b. Initial Licensure, New Construction, Additions and Renovations. Cubicle curtains, screening, or other suitable provisions for privacy shall be provided in multi-bed resident bedrooms. Cubicle curtains shall completely enclose the bed from three (3) sides.

4. **Accommodations for Residents**. The minimum accommodations for each resident shall include:

   a. Bed. The resident shall be provided with either an adjustable bed or a regular single bed, according to needs of the resident, with a good grade mattress at least four (4) inches thick. Beds shall be single except in case of special approval of the licensing agency. Cots and roll-a-way beds are prohibited for resident use. Full and half bed rails shall be available to assist in safe care of residents.

   b. Pillows, linens, and necessary coverings.

   c. Chair.

   d. Bedside cabinet or table.

   e. Storage space for clothing, toilet articles, and personal belongings including rod for clothes hanging.

   f. Means at bedside for signaling attendants.

   g. Bed pans or urinals for residents who need them.

   h. Over-bed tables as required.

5. **Bed Maximum**. Bedrooms in new facilities shall be limited to two (2) beds.

118.03 **Special Care Room**. Each facility shall have a special care room which shall be a single bedroom with at least a private half bath (lavatory and water closet). There shall be a special care room for each thirty (30) beds or major fraction thereof. A special care room shall meet the requirements of 118.02 (3) and may be located anywhere in the building rather than a certain number per station.

118.04 **Nurses' Station**.

1. Each facility shall have a nurses' station for each nursing unit. The nurses' station includes as minimum the following:

   a. Annunciator board or other equipment for resident's call.

   b. The minimum areas of the medicine storage/preparation room shall be seventy-five (75) square feet.

   c. Storage space for residents' medical records and nurses' charts.

   d. Lavatory or sink with disposable towel dispenser.

e. Desk or counter top space adequate for recording and charting purposes by physicians, nurse practitioners, and nurses.

2. The nurses' station area shall be well lighted.

3. It is recommended that a nurses' lounge with toilet be provided for nursing personnel adjacent to the station. A refrigerator for the storage of drugs shall be provided at each nurses' station. Drugs and food for beverages may be stored together only if separate compartments or containers are provided for the storage of drugs.

118.05 **Utility Room**. Each facility shall provide a separate utility room for soiled and clean resident care equipment, such as bed pans, urinals, etc. The soiled utility room shall contain, as a minimum, the following equipment.

1. Provision for cleaning utensils such as bed pans, urinals, et cetera.

2. Lavatory or sink and disposable towel dispenser. The utility room for clean equipment shall have suitable storage.

118.06 **Toilet and Bathing Facilities**.

1. Lavatory, toilet and bathing facilities shall be provided in each nursing unit as follows:

   a. Bathing Facilities 2 per nursing unit

   b. Combination toilet and lavatory 2 per nursing unit

2. As a minimum, showers shall be thirty (30) inches by sixty (60) inches without curbing.

3. Handrails shall be provided for all tubs, showers, and commodes.

4. In addition to the requirements set forth above, a lavatory shall be provided in each resident bedroom or in a toilet room that is directly accessible from the bedroom.

5. In addition to the requirements set forth above, a toilet shall be located in a room directly accessible from each resident bedroom. The minimum area for a room containing only a toilet shall be three (3) feet by six (6) feet.

118.07 **Other rooms and areas**. In addition to the above facilities, each nursing unit shall include the following rooms and areas:

1. linen closet;

2. wheelchair space.

119 REQUIREMENTS FOR ADMISSION

119.01 **Physical Examination Required**. Each resident shall be given a complete physical examination 30 days prior to admission and annually thereafter, including a history of tuberculosis exposure and an assessment for signs and symptoms of tuberculosis, by a licensed physician or nurse practitioner. The findings shall be entered as part of the Admission Record. The report of the examination shall include:

1. Medical history (previous illnesses, drug reaction, emotional reactions, etc.).

2. Major physical and mental condition.

3. Current diagnosis.

4. Orders, dated and signed, by a physician or nurse practitioner for the immediate care of the resident to include medication treatment, activities, and diet.

119.02 Admission Requirements to rule out active tuberculosis (TB)

1. The following are to be performed and documented within 30 days prior to the resident's admission to the nursing home:

   a. A TB signs and symptoms assessment by a licensed physician or nurse practitioner and

   b. A chest x-ray taken and have a written interpretation.

2. Admission to the facility shall be based on the results of the required tests as follows:

   a. Residents with an abnormal chest x-ray and/or signs and symptoms assessment shall have the first step of a two-step Mantoux tuberculin skin test (TST) placed and read by certified personnel within 30 days prior to the patient's admission to the nursing home. Evaluation for active TB shall at the recommendation of the MDH and shall be prior to admission. If TB is ruled out and the first step of the TST is negative the second step of the two-step TST shall be completed and documented within 10-21 days of admission. TST administration and reading shall be done by certified personnel.

   b. Residents with a normal chest x-ray and no signs or symptoms of TB shall have a baseline TST performed with the initial step of a two-step Mantoux TST placed on or within 30 days prior to, the day of admission. The second step shall be completed within 10-21 days of

the first step. TST administration and reading shall be done by certified personnel.

i. Residents with a significant TST upon baseline testing or prior significant TST shall be monitored regularly for signs and symptoms of active TB (cough, sputum production, chest pain, fever, weight loss, or night sweats, especially if the symptoms have lasted longer than three weeks) and if these develop shall have an evaluation for TB per the recommendations of the MDH within 72 hours. (See Section 119.02 (2a))

ii. Residents with a non significant TST upon baseline testing shall have an annual Mantoux TST within thirty (30) days of the anniversary of their last TST.

iii. Residents with a new significant TST on annual testing shall be evaluated for active TB by a nurse practitioner or physician.

c. Active or suspected Active TB Admission. If a resident has or is suspected to have active TB, prior written approval for admission to the facility is required from the MDH TB State Medical Consultant.

d. Exceptions to TST requirement may be made if:

i. Resident has prior documentation of a significant TST.

ii. Resident has received or is receiving an MSDH approved treatment regimen for latent TB infection or active disease.

iii. Resident is excluded by a licensed physician or nurse practitioner due to medical contraindications.

119.03 **Transfer to another long term facility or return of a resident to respite care** shall be based on the above tests (Section 119.02 (2)) if done within the past 12 months and the patient has no signs and symptoms of TB.

119.04 **Transfer to a Hospital or Visit to a Physician Office.** If a resident has signs or symptoms of active TB (i.e., is a TB suspect) the licensed facility shall notify the MSDH, the hospital, transporting staff and the physician's office prior to transferring the resident to a hospital. Appropriate isolation and evaluation shall be the responsibility of the hospital and physician. If a resident has or is suspected to have active TB, prior written approval for admission or readmission to the facility is required from the MSDH TB State Consultant.

120 RESIDENT CARE

120.01 **Service Beyond Capability of the Home**. Whenever a resident requires hospitalization or medical, nursing, or other care beyond the capabilities and facilities of the home, prompt effort shall be made to transfer the patient/resident to a hospital or other appropriate medical facility.

120.02 **Activities of daily living**. Each resident shall receive assistance as needed with activities of daily living to maintain the highest practicable well being. These shall include, but not be limited to:

1. Bath, dressing and grooming;
2. Transfer and ambulate;
3. Good nutrition, personal and oral hygiene; and
4. Toileting.

120.03 **Pressure sores**. Residents with a pressure sore shall receive necessary treatment and service to promote healing and prevent the development of new pressure sores. Residents without pressure sores will not develop pressure sores unless the residents' clinical condition indicates they were unavoidable.

120.04 **Urinary incontinence**. Residents with urinary incontinence shall be assessed for need of bladder retraining program. An indwelling catheter will not be used unless the resident’s clinical condition indicates that catheterization is necessary. These residents shall receive treatment and services to prevent urinary tract infections.

120.05 **Range of motion**. Residents with limited range of motion shall receive treatment and services to increase range of motion or prevent further decline in range of motion.

120.06 **Mental and psycho-social**. A resident who displays adjustment difficulty receives appropriate treatment and services to address the assessed problem.

120.07 **Gastric feeding**. Residents who are eating alone or with assistance are not fed by a gastric tube unless their clinical condition indicates that the use of a gastric feeding tube is unavoidable. The residents who are fed by a gastric tube receive the treatment and services to prevent complications or to restore if possible, normal eating skills.

120.08 **Accidents**. The facility shall ensure that the residents’ environment remains as free of accident hazards as possible, and adequate supervision shall be provided to prevent accidents. If an unexplained accident occurs, this injury must be investigated and reported to appropriate state agencies.

120.09 **Nutrition**. Residents shall maintain acceptable parameters of nutritional status, such as body weight and protein levels, unless residents' clinical condition indicates that this is unavoidable. All residents shall receive diets as orders by their physician or nurse practitioner. Residents identified with significant nutritional problems shall receive appropriate medical nutrition therapy based on current professional standards.

120.10 **Hydration**. Each resident shall be provided sufficient fluid intake to maintain proper hydration and health.

120.11 **Special needs**. Each resident with special needs shall receive proper treatment and care. These special needs shall include, but are not limited to injections; parenteral and enteral fluids; colostomy, ureterostomy, ileostomy care; tracheostomy care; tracheal suction; respiratory care; foot care; and prostheses.

121 PHYSICIAN SERVICES

121.01 **General.** A physician shall personally approve in writing a recommendation that an individual be admitted to a facility.

121.02 **Designated physician**. Each resident shall have a designated physician or nurse practitioner who is responsible for their care. In the absence of the designated physician or nurse practitioner, another physician or nurse practitioner shall be designated to supervise the resident medical care.

121.03 **Emergency physician**. The facility shall arrange for the provision of physician or nurse practitioner services twenty-four (24) hours a day in case of an emergency.

121.04 **Physician visit**. The resident shall be seen by a physician or nurse practitioner every sixty (60) days.

122 REHABILITATIVE SERVICES

122.01 **Rehabilitative services**. Residents shall be provided rehabilitative services as needed upon the written orders of an attending physician or nurse practitioner.

1. The therapies shall be provided by a qualified therapist.
2. Appropriate equipment and supplies shall be provided.
3. Each resident's medical record shall contain written evidence that services are provided in accordance with the written orders of an attending physician or nurse practitioner.

123 PHARMACY SERVICES

123.01 **General**. The facility shall provide routine drugs, emergency drugs and biologicals to its residents or obtain them by agreement.

123.02 **Policies and procedures**. Each facility shall have policies and procedures to assure the following:

1. Accurate acquiring;
2. Receiving;
3. Dispensing;
4. Storage; and
5. Administration of all drugs and biologicals.

123.03 **Consultation**. Each facility shall obtain the services of a licensed pharmacist who will be responsible for:

1. Establishing a system of records of receipt and disposition of all controlled drugs and to determine that drug records are in order and that an account of all controlled drugs are maintained and reconciled;
2. Provide drugs regimen review in the facility on each resident every thirty (30) days by a licensed pharmacist;
3. Report any irregularities to the attending physician or nurse practitioner and the director or nursing; and
4. Records must reflect that the consultation pharmacist monthly report is acted upon.

123.04 **Labeling of drugs**. Each facility shall follow the Mississippi State Board of Pharmacy labeling requirements.

123.05 **Disposal of drugs**.

1. Unused portions of medicine may be given to a discharged resident or the responsible party upon orders of the prescribing physician or nurse practitioner.
2. Drugs and pharmaceuticals discontinued by the written orders of an attending physician or nurse practitioner or left in the facility on discharge or death of the resident will be disposed of according to the Mississippi State Board of Pharmacy disposal requirements.

123.06 **Poisonous Substances**. All poisonous substances such as insecticides, caustic cleaning agents, rodenticide, and other such agents must be plainly labeled and kept in locked cabinet or closet. No substances of this type shall be kept in the following areas: kitchen, dining area, food storage room or pantry, medicine cabinet or drug room, resident's bedroom or toilet, public rooms, or spaces.

124 MEDICAL RECORDS SERVICES

1. A medical record shall be maintained in accordance with accepted professional standards and practices on all residents admitted to the facility. The medical records shall be completely and accurately documented, readily accessible, and systematically organized to facilitate retrieving and compiling information.

2. A sufficient number of personnel, competent to carry out the functions of the medical record service, shall be employed.

3. The facility shall safeguard medical record information against loss, destruction, or unauthorized use.

4. All medical records shall maintain the following information: identification data and consent form; assessments of the resident's needs by all disciplines involved in the care of the resident; medical history and admission physical exam; annual physical exams; physician or nurse practitioner orders; observation, report of treatment, clinical findings and progress notes; and discharge summary, including the final diagnosis.

5. All entries in the medical record shall be signed and dated by the person making the entry. Authentication may include signatures, written initials, or computer entry. A list of computer codes and written signatures must be readily available and maintained under adequate safeguards.

6. All clinical information pertaining to the residents stay shall be centralized in the resident's medical records.

7. Medical records of discharged residents shall be completed within sixty (60) days following discharge.

8. Medical records are to be retained for five (5) years from the date of discharge or, in the case of a minor, until the resident reaches the age of twenty-one (21), plus an additional three (3) years.

9. A resident index, including the resident's full name and birth date, shall be maintained.

PART VI SOCIAL SERVICES AND RESIDENT ACTIVITIES

125 SOCIAL SERVICES

125.01 **Program**. Each facility shall provide services to assist all residents in dealing with social and related problems through one or more case workers on the staff of the facility or through arrangements with an appropriate outside agency.

125.02 **Records**. Social services information concerning each resident shall be obtained and kept. This information shall cover social and emotional factors related to the resident's condition and information concerning his home situation, financial resources and relationships with other people.

125.03 **Training**. All nursing personnel and employees having contact with resident shall receive social service orientation and in-service training toward understanding emotional problems and social needs of residents.

125.04 **Personnel**. At least one person in each facility shall be designated as being responsible for the social services aspect for care in the facility.

125.05 **Office Space**. Office space shall be provided for social service personnel. The office shall be accessible to residents and ensure privacy for interviews.

126 RESIDENT ACTIVITIES

126.01 **Activity Coordinator**. An individual shall be designated as being in charge of resident activities. This individual shall have experience and/or training in group activities, or shall have consultation made available from a qualified recreational therapist or group activity leader.

126.02 **Activity Program**. Provisions shall be made for suitable recreational and entertainment activities for resident according to their needs and interests. These activities are an important adjunct to daily living and are to encourage restoration to self-care and resumption of normal activities. Variety in planning shall include some outdoor activities in suitable weather.

126.03 **Supplies and Equipment**. The facility shall make available a variety of supplies and equipment adequate to satisfy the individual interests of residents.

126.04 **Living and/or Recreational Room(s)**.

1. Each facility shall provide adequate living room(s), day room(s) and/or recreational room(s) for residents and visitors. Each home should provide at least two areas for this purpose-one for small groups such as private visit with relatives and friends and one for larger group activities. A minimum of eighteen (18) square feet per bed shall be provided.

2. Dining area. A dining area shall be provided in facilities adequate to set at least three-fourths of the maximum capacity of the facility. The dining area may also be used for social, recreational, and/or religious services when not in use as a dining facility. A minimum of fifteen (15) square feet per person for three-fourths (3/4) of the capacity of the facility shall be provided.

126.05 **Special Activities Area**. Each facility should provide space for hobbies and activities that cannot be included in a day room, living room, or recreational room.

126.06 **Outside Area**. Adequate outside space should be provided for the use of residents in favorable weather.

PART VII FOOD SERVICES

127 GENERAL

127.01 **Direction and Supervision**. Food service is one of the basic services provided by the facility to its residents. Careful attention to adequate nutrition and prescribed modified diets contribute appreciably to the health and comfort to the resident and stimulate his desire to achieve and maintain a higher level of self-care. The facility shall provide residents with well-planned, attractive, and satisfying meals which will meet their nutritional, social, emotional, and therapeutic needs. The dietary department of a facility shall be directed by a Registered Dietitian, a certified dietary manager, or a qualified dietary manager. If a qualified dietary manager is the director, he/she must receive frequent, regularly scheduled consultation from a licensed dietitian, or a registered dietitian exempted from licensure by statute.

128 FOOD HANDLING PROCEDURES

128.01 **Safe Food Handling Procedures**. Food shall be prepared, held, and served according to current Mississippi Department of Health Food Code Regulations.

129 MEAL SERVICE

129.01 **Meal and Nutrition**. At least three (3) meals in each twenty-four (24) hours shall be provided. The daily food allowance shall meet the current recommended dietary allowance of the Food and Nutrition Board of the National Research Council of the National Academy of Science adjusted for individual needs. A standard food planning guide (e.g., food pyramid) or Nutrient Based Menu (determined by nutritional analysis) shall be used for planning and food purchasing. It is not intended to meet the nutritional needs of all residents. This guide must be adjusted to consider individual differences. Some residents will need more or less due to age, size, gender, physical activity, or state of health.

129.02 **Meal Planning Guidelines**.

1. Daily Food Guide. The daily food allowance for each resident shall include:

   a. Protein food. A minimum of 2-3 servings of meat, poultry, fish, dried beans, eggs, or meats. (4-6 oz daily).

   b. Milk, yogurt, and cheese group: A minimum of 2 servings daily.

   c. Vegetables and fruits: A minimum of 5 servings daily of fruits and vegetables. This shall include a Vitamin C source daily and a Vitamin A source 3-4 times weekly.

d. Breads, cereals, and pastas: A minimum of 6 servings daily.

e. Fat, oil, and sweets: As needed for additional calories and flavor.

2. Nutrient-Based Menu may be used in lieu of using a standard food planning guide. Nutritional analysis of menus shall meet current recommended dietary allowances of the Food and Nutrition Board of the National Research Council of the national Academy of Science for age and gender.

129.03 **Menu**. The menu shall be planned and written at least one week in advance. The current week's menu shall be approved by the dietitian, dated, posted in the kitchen and followed as planned. Substitutions and changes on all diets shall be documented in writing. Copies of menus and substitutions shall be kept on file for at least thirty (30) days.

129.04 **Timing of Meals**. A time schedule for serving meals to residents shall be established. Meals shall be served during customarily-accepted timeframes. There shall be no more than fourteen (14) hours between evening meal and breakfast meal. There may be 16 hours between the evening meal and breakfast meal if approved by the resident involved and a substantial snack (including protein) is served before bedtime.

129.05 **Modified Diets**. Modified diets which are a part of medical treatment shall be prescribed in written orders by the physician or nurse practitioner. All modified diets shall be planned in writing and posted along with regular menus. Liberalized Geriatric Diets are encouraged for elderly residents when there is a need for moderate diet therapy. A current diet manual shall be available to personnel. The dietitian shall approve all modified diet menus and the diet manual used in the nursing home.

129.06 **Food Preparation**. Foods shall be prepared by methods that conserve optimum nutritive value, flavor, and appearance. Also, the food shall be acceptable to the individuals served. A file of tested recipes shall be maintained to assure uniform quantity and quality of products.

129.07 **Food Supply**. Supplies of perishable foods for at least a twenty-four (24) hour period and or non-perishable foods for a three (3) day period shall be on the premises to meet the requirements of the planned menus. The non-perishable foods shall consist of commercial type processed foods.

129.08 **Serving of Meals**.

1. Table should be of a type to seat not more than four (4) or six (6) residents. Residents who are not able to go to the dining room shall be provided sturdy tables (not TV trays) of proper heights. For those who are bedfast or infirm tray service shall be provided in their rooms with the tray resting on a firm support.

2. Personnel eating meals or snacks on the premises shall be provided facilities separate from and outside of food preparation, tray service, and dishwashing areas.

3. Foods shall be attractively and neatly served. All foods shall be served at proper temperature. Effective equipment shall be provided and procedures established to maintain food at proper temperature during serving.

4. All trays, tables, utensils and supplies such as china, glassware, flatware, linens and paper placemats, or tray covers used for meal service shall be appropriate, sufficient in quantity and in compliance with the applicable sanitation standard.

5. Food Service personnel. A competent person shall be designated by the administrator to be responsible for the total food service of the home. Sufficient staff shall be employed to meet the established standards of food service. Provisions should be made for adequate supervision and training of the employees.

130 PHYSICAL FACILITIES

130.01 **Floors**. Floors in food service areas shall be of such construction so as to be easily cleaned, sound, smooth, non-absorbent, and without cracks or crevices. Also, floors shall be kept in good repair.

130.02 **Walls and Ceilings**. Walls and ceilings of food service areas shall be of tight and substantial construction, smoothly finished, and painted in a light color. The walls and ceilings shall be without horizontal ledges and shall be washable up to the highest level reached by splash and spray. Roofs and walls shall be maintained free of leaks. All openings to the exterior shall be provided with doors or windows that will prevent the entrance of rain or dust during inclement weather.

130.03 **Screens and Outside Openings**. Openings to the outside shall be effectively screened. Screen doors shall open outward and be equipped with self-closing devices.

130.04 **Lighting**. The kitchen, dishwashing area, and dining room shall be provided with well distributed and unobstructed natural light or openings. Artificial light properly distributed and of an intensity of not less than thirty (30) foot candles shall be provided.

130.05 **Ventilation**. The food service area shall be ventilated in a manner that will maintain comfortable working conditions, remove objectionable odors and fumes, and prevent excessive condensations.

130.06 **Employee Toilet Facilities**. Toilet facilities with lockers shall be provided for employees. Toilet rooms shall not open directly into any room in which food is

prepared, stored, displayed or served, nor into any room in which utensils are washed or stored. Toilet rooms shall have a lavatory and shall be well lighted and ventilated.

130.07 **Hand washing Facilities**. Hand washing facilities with hot and cold water, soap dispenser and a supply of soap, and disposable towels shall be provided in all kitchens. The use of a common towel is prohibited. Hands shall not be washed in sinks where food is prepared or where utensils are cleaned.

130.08 **Refrigeration Facilities**. Adequate refrigeration facilities, automatic in operation, for the storage of perishable foods shall be provided. Where separate refrigeration can be provided, the recommended temperatures for storing perishable foods are thirty-two (32) to forty (40) degrees Fahrenheit for meats and dairy products, and forty (40) degrees Fahrenheit to forty-five (45)for fruits and vegetables. If it is impractical to provide separate refrigeration, the temperature shall be maintained at forty-one (41) degrees Fahrenheit. Freezers shall be maintained at zero (0) degrees Fahrenheit or below. All refrigerators shall be provided with a thermometer. Homes with more than twenty-four (24) beds shall have commercial or institutional type refrigeration.

130.09 **Equipment and Utensil Construction**. Equipment and utensils shall be constructed so as to be easily cleaned and shall be kept in good repair.

130.10 **Separation of Kitchen from Resident Rooms and Sleeping Quarters**. Any room used for sleeping quarters shall be separated from the food service area by a solid wall. Sleeping accommodations such as a cot, bed, or couch shall not be permitted within the food service area.

131 AREAS AND EQUIPMENT

131.01 **Location and Space Requirements**. Food service facilities shall be located in a specifically designated area and shall include the following rooms and/or spaces: kitchen, dishwashing, food storage, and dining room.

131.02 **Kitchen**.

1. **Size and Dimensions**. The minimum area of kitchen (food preparation only) for less than twenty-five (25) beds shall be a minimum area of two hundred (200) square feet. In facilities with twenty five (25) beds to sixty (60) beds, a minimum of ten (10) square feet per bed shall be provided. In facilities with sixty-one (61) to eighty (80) beds, a minimum of six (6) square feet per bed shall be provided for each bed over sixty (60) in the home. In facilities with eighty-one (81) to one hundred (100) beds, a minimum of five (5) square feet per bed shall be provided for each bed over eighty (80). In facilities with more than one hundred (100) beds proportionate space approved by the licensing agency shall be provided. Also, the kitchen shall be of such size and dimensions in order to:

a. Permit orderly and sanitary handling and processing of food.

b. Avoid overcrowding and congestion of operations.

c. Provide at least three (3) feet between working areas and wider if space is used as a passageway.

d. Provide a ceiling height of at least eight (8) feet.

2. **Equipment**. Minimum equipment in kitchen shall include:

a. Range and cooking equipment. Facilities with more than twenty-four (24) beds shall have institutional type ranges, ovens, steam cookers, fryers, etc., in appropriate sizes and number to meet the food preparation needs of the facility. The cooking equipment shall be equipped with a hood vented to the outside as appropriate.

b. Refrigerator and Freezers. Facilities with more than twenty-four (24) beds shall have sufficient commercial or institutional type refrigeration/freezer units to meet the storage needs of the facility.

c. Bulletin Board.

d. Clock.

e. Cook's table.

f. Counter or table for tray set-up.

g. Cans garbage (heavy plastic or galvanized).

h. Lavatories, hand washing; conveniently located throughout the department.

i. Pots, pans, silverware, dishes, and glassware in sufficient numbers with storage space for each.

j. Pot and Pan Sink. A three compartment sink shall be provided for cleaning pots and pans. Each compartment shall be a minimum of twenty-four (24) inches by twenty (24) inches by sixteen (16) inches. A drain board of approximately thirty (30) inches shall be provided at each end of the sink, one to be used for stacking soiled utensils and the other for draining clean utensils.

k. Food Preparation Sink. A double compartment food preparation sink shall provide for washing vegetables and other foods. A drain board shall be provided at each end of the sink.

l. Ice Machine. At least one ice machine shall be provided. If there is only one (1) ice machine in the facility it shall be located adjacent to but not in the kitchen. If there is an ice machine located at nursing station, then ice machine for dietary shall be located in the kitchen.

m. Office. An office shall be provided near the kitchen for the use of the food service supervisor. As a minimum, the space provided shall be adequate for a desk, two chairs and a filing cabinet.

n. Coffee Tea and Milk Dispenser. (Milk dispenser not required if milk is served in individual cartons).

o. Tray assembly line equipment with tables, hot food tables, tray slide, etc.

p. Ice Cream Storage.

q. Mixer. Institutional type mixer of appropriate size for facility.

r. Food Processor.

131.03 **Dishwashing**. Commercial or institutional type dishwashing equipment shall be provided in homes with more than twenty-four (24) beds. The dishwashing area shall be separated from the food preparation area. If sanitizing is to be accomplished by hot water, a minimum temperature of one hundred eighty (180) degrees Fahrenheit shall be maintained during the rinsing cycle. An alternate method of sanitizing through use of chemicals may be provided if sanitizing standards of the Mississippi Department of Health Food Code Regulations are observed. Adequate counter-space for stacking soiled dishes shall be provided in the dishwashing area at the most convenient place of entry from the dining room, followed by a disposer with can storage under the counter. There shall be a pre-rinse sink, then the dishwasher and finally a counter or drain for clean dishes.

131.04 **Food Storage**. A food-storage room with cross ventilation shall be provided. Adequate shelving, bins, and heavy plastic or galvanized cans shall be provided. The storeroom shall be of such construction as to prevent the invasion of rodents and insects, the seepage of dust and water leakage, or any other source of contamination. The food-storage room should be adjacent to the kitchen and convenient to the receiving area. The minimum area for a food-storage room shall equal two and one-half (2 1/2) square feet per bed and the width of the aisle shall be a minimum of three (3) feet.

PART VIII SANITATION AND MEDICAL WASTE

132 SANITATION

132.01 **Water Supply**.

1. If at all possible, all water shall be obtained from a public water supply. If not possible to obtain water from a public water supply source, the private water supply shall meet the approval of the local county health department and/or the Mississippi Department of Health.

2. Water under pressure sufficient to operate fixtures at the highest point during maximum demand periods shall be provided. Water under pressure of at least fifteen (15) pounds per square inch shall be piped to all sinks, toilets, lavatories, tubs, showers, and other fixtures requiring water.

3. It is recommended that the water supply into the facility can be obtained from two (2) separate water lines if possible.

4. A dual hot water supply shall be provided. The temperature of hot water to lavatories and bathing facilities shall not exceed one hundred fifteen (115) degrees Fahrenheit, nor shall hot water be less than one hundred (100) degrees Fahrenheit.

5. Each facility shall have a written agreement for an alternate source of potable water in the event of a disruption of the normal water supply.

132.02 **Disposal of Liquid and Human Wastes**.

1. There shall be installed within the facility a properly designed waste disposal system connecting to all fixtures to which water under pressure is piped.

2. All liquid and human waste, including floor-wash water and liquid waste from refrigerators, shall be disposed of through trapped drains into a public sewer system where such system is available.

3. In localities where a public sanitary sewer is not available, liquid and human waste shall be disposed of through trapped drains into sewerage disposal system approved by the local county health department and/or the Mississippi Department of Health. The sewerage disposal system shall be of a size and capacity based on the number of residents and personnel housed and employed in the facility. Where the sewerage disposal system is installed prior to the opening of the facility, it shall be assumed, unless proven otherwise, that the system was designed for ten (10) or fewer persons.

132.03 **Premises**. The premises shall be kept neat, clean, and free of an accumulation of rubbish, weeds, ponded water, or other conditions which would have a tendency to create a health hazard.

132.04 **Control of insects, rodents, etc**. The facility shall be kept free of ants, flies, roaches, rodents, and other insects and vermin. Proper methods for their eradication and control shall be utilized.

132.05 **Toilet Room Cleanliness**. Floors, walls, ceilings, and fixtures of all toilet rooms shall be kept clean and free of objectionable odors. These rooms shall be kept free of an accumulation of rubbish, cleaning supplies, toilet articles, etc.

132.06 **Garbage Disposal**.

1. Garbage must be kept in water-tight suitable containers with tight fitting covers. Garbage containers must be emptied at frequent intervals and cleaned before using again.

2. Proper disposition of infectious materials shall be observed.

133 REGULATED MEDICAL WASTE

133.01 **Standards and Requirements**. All the requirements of the standards set forth in this section shall apply, without regard to the quantity of medical waste generated per month, to any generator of medical waste.

133.02 **Medical Waste**.

1. Medical waste must be kept in water-tight suitable containers with tight fitting covers. Medical waste containers must be emptied at frequent intervals and cleaned before using again.

2. Proper disposition of medical waste materials shall be observed.

133.03 **Medical Waste Management Plan**. All generators of infectious medical waste and medical waste shall have a medical waste management plan that shall include, but is not limited to, the following:

1. Storage and Containment of Infectious Medical Waste and Medical Waste:

   a. Containment of infectious medical waste and medical waste shall be in a manner and location which affords protection from animals, rain and wind, does not provide a breeding place or a food source for insects and rodents, and minimizes exposure to the public.

   b. Infectious medical waste shall be segregated from other waste at the point of origin in the producing facility.

c. Unless approved by the licensing agency or treated and rendered non-infectious, infectious medical waste (except for sharps in approved containers) shall not be stored at a waste producing facility for more than seven days above a temperature of six (6) degrees Celsius (equivalent to thirty-eight [38] degrees Fahrenheit). Containment of infectious medical waste at the producing facility is permitted at or below a temperature of zero (0) degrees Celsius (equivalent to thirty-two [32] degrees Fahrenheit) for a period of not more than ninety (90) days without specific approval of the licensing agency.

d. Containment of infectious medical waste shall be separate from other wastes. Enclosures or containers used for containment of infectious medical waste shall be so secured so as to discourage access by unauthorized persons and shall be marked with prominent warning signs on, or adjacent to, the exterior of entry doors, gates, or lids. Each container shall be prominently labeled with a sign using language to be determined by the licensing agency and legible during daylight hours.

e. Infectious medical waste, except for sharps capable of puncturing or cutting, shall be contained in double disposable plastic bags or single bags (1.5 mills thick) which are impervious to moisture and have strength sufficient to preclude ripping, tearing, or bursting under normal conditions of usage. The bags shall be securely tied so as to prevent leakage or expulsion of solid or liquid wasted during storage, handling, or transport.

f. All bags used for containment and disposal of infectious medical waste shall be of a distinctive color or display the Universal Symbol for infectious waste. Rigid containers of all sharps waste shall be labeled.

g. Compactors or grinders shall not be used to process infectious medical waste unless the waste has been rendered noninfectious. Sharps containers shall not be subject to compaction by any compacting device except in the institution itself and shall not be placed for storage or transport in a portable or mobile trash compactor.

h. Infectious medical waste and medical waste contained in disposable containers as prescribed above, shall be placed for storage, handling, or transport in disposable or reusable pails, cartons, drums, or portable bins. The containment system shall be leak-proof, have tight fitting covers and be kept clean and in good repair:

i. Reusable containers for infectious medical waste and medical waste shall be thoroughly washed and decontaminated each time they are

emptied by a method specified by the licensing agency, unless the surfaces of the containers have been protected from contamination by disposable liners, bags, or other devices removed with the waste, as outlined in I.E. Approved methods of decontamination include, but are not limited to, agitation to remove visible soil combined with one or more of the following procedures:

i. Exposure to hot water at least one-hundred eighty (180) degrees Fahrenheit for a minimum of fifteen (15) seconds.

ii. Exposure to a chemical sanitizer by rinsing with or immersion in one of the following for a minimum of three (3) minutes:

i. Hypochlorite solution (500 ppm available chlorine).

ii. Phenolic solution (500 ppm active agent).

iii. Iodoform solution (100 ppm available iodine).

iv. Quaternary ammonium solution (400 ppm active agent).

iii. Reusable pails, drums, or bins used for containment of infectious waste shall not be used for containment of waste to be disposed of as noninfectious waste or for other purposed except after being decontaminated by procedures as described in 133.03 (i) of this section.

j. Trash chutes shall not be used to transfer infectious medical waste.

k. Once treated and rendered non-infectious, previously defined infectious medical waste will be classified as medical waste and may be land-filled in an approved landfill.

2. Treatment or disposal of infectious medical waste shall be by one of the following methods:

a. By incineration in an approved incinerator which provides combustion of the waste to carbonized or mineralized ash.

b. By sterilization by heating in a steam sterilizer, so as to render it noninfectious. Infectious medical waste so rendered non-infectious shall be disposable as medical waste. Operating procedures for steam sterilizers shall include, but not be limited to, the following:

i. Adoption of standard written operating procedures for each steam sterilizer including time, temperature, pressure, type of waste, type

of container(s), closure on container(s), pattern of loading, water content, and maximum load quantity.

ii. Check or recording and/or indicating thermometers during each complete cycle to ensure the attainment of a temperature of one-hundred twenty-one (121) degrees Celsius (equivalent to two-hundred fifty [250] degrees Fahrenheit) for one-half (1/2) hour or longer, depending on quantity and density of the load, in order to achieve sterilization of the entire load. Thermometers shall be checked for calibration at least annually.

iii. Use of heat sensitive tape or other device for each container that is processed to indicate the attainment of adequate sterilization conditions.

iv. Use of the biological indicator Bacillus stearothermophilus placed at the center of a load processed under standard operating conditions at least monthly to confirm the attainment of adequate sterilization conditions.

v. Maintenance of records of procedures specified in (i), (ii, (iii) and (iv) above for period of not less than a year.

3. By discharge to the approved sewerage system if the waste is liquid or semi-liquid, except as prohibited by the Mississippi Department of Health or other regulatory agency.

4. Recognizable human anatomical remains shall be disposed of by incineration or internment, unless burial at an approved landfill is specifically authorized by the Mississippi Department of Health.

5. Chemical sterilization shall use only those chemical sterilants recognized by the U. S. Environmental Protection Agency, Office of Pesticides and Toxic Substances. Ethylene oxide, glutaraldehyde, and hydrogen peroxide are examples of sterilants that, used in accordance with manufacturer recommendation, will render infectious waste non-infectious. Testing with Bacillus subtilis spores or other equivalent organisms shall be conducted quarterly to ensure the sterilization effectiveness of gas or steam treatment.

Treatment and disposal of medical waste which is not infectious shall be by one of the following methods:

a. By incineration in an approved incinerator which provides combustion of the waste to carbonized or mineralized ash.

b. By sanitary landfill, in an approved landfill which shall mean a disposal facility or part of a facility where medical waste is placed in or on land, and which is not a treatment facility.

PART IX HOUSEKEEPING AND PHYSICAL PLANT

134 HOUSEKEEPING AND PHYSICAL PLANT

134.01 **Housekeeping Facilities and Services**.

1. The physical plant shall be kept in good repair, neat, and attractive. The safety and comfort of the resident shall be the first consideration.

2. Janitor closets shall be provided with a mop-cleaning sink and be large enough in area to store house cleaning supplies and equipment. A separate janitor closet area and equipment should be provided for the food service area.

134.02 **Bathtubs, Showers, and Lavatories**. Bathtubs, showers, and lavatories shall be kept clean and in proper working order. They shall not be used for laundering or for storage of soiled materials. Neither shall these facilities be used for cleaning mops, brooms, etc.

134.03 **Resident Bedrooms**. Resident bedrooms, shall be cleaned and dusted as often as necessary to maintain a clean, attractive appearance. All sweeping should be damp sweeping, all dusting should be damp dusting with a good detergent or germicide.

134.04 **Storage**.

1. Such items as beds, mattresses, mops, mop buckets, dust rags, etc. shall not be kept in hallways, corners, toilet or bathrooms, clothes closets, or resident bedrooms.

2. The use of attics for storage of combustible materials is prohibited.

3. If basements are used for storage, they shall meet acceptable standards for storage and for fire safety.

PART X LAUNDRY

135 GENERAL

135.01 **Commercial Laundry**. Facilities may use commercial laundries or they may provide a laundry within the institution.

136 PHYSICAL FACILITIES

136.01 **Location and Space Requirements**. Each facility shall have laundry facilities unless commercial laundries are used. The laundry shall be located in a specifically designated area, and there shall be adequate room and space for sorting, processing, and storage of soiled material. Laundry rooms or soiled linen storage areas shall not open directly into a resident bedroom or food service area. Soiled materials shall not be transported through the food service area. If commercial laundry is used, separate satisfactory storage areas shall be provided for clean and soiled linens. There shall be provided a clean linen storage area separate from the laundry area.

136.02 **Ventilation**. Provisions shall be made for proper mechanical ventilation of the laundry. Provisions shall be made to prevent the recirculation of air through the heating and air condition systems.

136.03 **Lint Traps**. Adequate and effective lint traps shall be provided for driers.

136.04 **Laundry Chutes**. When laundry chutes are provided they shall have a minimum diameter of two (2) feet; and they shall be installed with flushing ring, vent, and drain.

136.05 **Laundry Equipment**. Laundry equipment shall be of the type to adequately perform the laundry needs of the institution. The equipment shall be installed to comply with all local and state codes.

PART XI PHYSICAL PLANT

137 GENERAL

137.01 **Building Classification**.

1. To qualify for a license, the facility shall be planned to serve the type of patients to be admitted and shall comply with the following:

   a. All facilities constructed after the effective date of these regulations shall comply with the building requirements set forth in the regulations.

   b. After the effective date of these regulations, all additions to facilities shall comply with the building requirements for a license. Approval shall not be granted for an addition to an existing building which will increase the bed capacity unless the existing structure is basically sound and is to be brought into a condition of acceptable conformity with the current regulations.

   c. Authority to Waiver. The licensing agency may waive certain requirements in the regulations at its discretion for facilities licensed as a facility in a state-owned and state-operated mental institution provided the health and safety of residents will not be endangered.

2. Renovations within the exterior walls of a facility shall in no case be of such nature as to lower the character of the structure below the applicable building requirements for the type of license held by the facility.

137.02 **Location**. All facilities established or constructed after the adoption of these regulations shall be located so that they are free from undue noise, smoke, dust, or foul odors and shall not be located adjacent to disposal plants, cemeteries, main line railroads, funeral home, airport, etc.

137.03 **Site**. The proposed site for a facility must be approved by the licensing agency. Factors to be considered in approving a site in addition to the above may be convenience to medical and hospital services, approved water supply and sewerage disposal, public transportation, community services, services of an organized fire department, an availability to labor supply. Not more than one-third (1/3) of a site shall be covered by a building(s) except by special approval of the licensing agency. One example whereby approval may be granted is where the structure is to be placed in a very desirable location where the grounds are limited and very expensive. Where such approval is granted, the structure will be required to have a living room, day room, sun room, and recreational areas adequate to compensate for lack of required outside area.

137.04 **Local Restrictions**. The site and structure of all facilities shall comply with local building, fire and zoning ordinances. Evidence to this effect signed by local building, fire, and zoning officials shall be presented.

137.05 **Transportation**. Facilities shall be located on streets or roads which have all weather surface. They should be located convenient to public transportation facilities.

137.06 **Communication**. There shall be not less than one telephone in the home and such additional telephones as are necessary to summon help in event of fire or other emergency. The telephone shall be listed under the official licensed name or title of the home.

137.07 **Occupancy**. No part of the facility may be rented, leased, or used for any commercial purpose not related to the operation of the home.

137.08 **Basement**.

1. The basement shall be considered as a story if one-half (1/2) or more of its clear height is above the average elevation of the ground adjoining the building on all sides.

2. No resident shall be housed on any floor that is below ground level.

138 SUBMISSION OF PLANS AND SPECIFICATIONS

138.01 **New Construction, Additions, and Renovations**. When construction is contemplated either for new buildings, conversions, additions, or alterations to existing buildings, one set of plans and specifications shall be submitted to the licensing agency for review and approval. The submission shall be made in not less than two stages preliminary and final. Floor plans shall be drawn to scale of one-eight (1/8) inch to equal one (1) foot or one-fourth (1/4) inch to equal one (1) foot.

138.02 **Minor Alterations and Remodeling**. Minor alterations and remodeling which do not affect the structural integrity of the building, change functional operation, affect fire safety, or add beds or facilities or those for which the facility is licensed do not need to have plans submitted for review provided that a detailed explanation of the proposed alteration or remodeling is submitted to and approved by the licensing agency.

138.03 **First Stage Submission-Preliminary Plans**.

First stage or preliminary plans shall include:

1. Plot plant showing size and shape of entire site; location of proposed building and any existing structure(s); adjacent streets, highways,

sidewalks, railroads, etc., all properly designated; and size, characteristics, and location of all existing public utilities.

2. Floor plan showing over-all dimensions of building(s); location, size, and purpose of all rooms; location and size of all doors, windows, and other openings with swing of doors properly indicated; dimensions of all corridors and hallways; and location of stairs, elevators, dumbwaiters, vertical shafts, and chimneys.

   a. Outline specifications giving kinds and types of materials.

   b. A scaled drawing of one-fourth (1/4) inch to one (1) foot shall be submitted for the following areas: Kitchen, dishwashing area, nurses' station and utility room(s).

138.04 **Final Stage Submission-Working Drawings and Specifications**.

Final stage or working drawings and specifications shall include:

1. Architectural drawings
2. Structural drawings
3. Mechanical drawings to include plumbing, heat, and air-conditioning
4. Electrical drawings
5. Detailed specifications

Approval of working drawings and specifications shall be obtained from the licensing agency in writing prior to the beginning of actual construction.

138.05 **Preparation of Plans and Specifications**. The preparation of drawings and specifications shall be executed by or under the immediate supervision of an architect who shall supervise construction and furnish a signed statement that construction was performed according to plans and specifications approved by the licensing agency.

138.06 **Contract Modifications**. Any contract modification which affects or changes the function, design, or purpose of a facility shall be submitted to and approved by the licensing agency prior to the beginning of work set forth in any contract modification.

138.07 **Notification of Start of Construction**. The licensing agency shall be informed in writing at the time construction is begun.

138.08 **Inspections**. The licensing agency or its authorized representatives shall have access at all times to the work for inspection whenever it is in preparation or

progress, and the owner shall ascertain that proper facilities are made available for such access and inspection.

138.09 **Limit of Approval**. In construction delayed for a period of exceeding six (6) months from the time of approval of final working plans and specifications, a new evaluation and/or approval shall be obtained from the licensing agency.

138.10 **Water Supply, Plumbing, Sewerage Disposal**. The water supply and sewerage disposal shall be approved by the local county health department and/or the Division of Sanitary Engineering, Mississippi Department of Health. No system of water supply, plumbing, sewerage, garbage, or refuse disposal shall be installed nor any such existing system materially altered or extended until complete plans and specifications for the installation, alteration, or extension have been so approved and submitted to the licensing agency for review and final determination.

138.11 Availability of Approved Plans

Every licensed facility shall maintain, on the premises and available for inspection, a copy of current approved architectural plans and specifications.

139 GENERAL BUILDING REQUIREMENTS

139.01 **Scope**. The provision of this section shall apply to all facilities except for those sections or paragraphs where a specific exception is granted for existing facilities.

139.02 **Structural Soundness and Repair; Fire Resistive Rating**. The building shall be structurally sound, free from leaks and excessive moisture, in good repair, and painted at sufficient intervals to be reasonably attractive inside and out.

139.03 **Temperature**. Adequate heating and cooling shall be provided in all rooms used by residents so that a minimum temperature of seventy-five (75) to eighty (80) degrees Fahrenheit may be maintained.

139.04 **Lighting**. Each resident's room shall have artificial light adequate for reading and other uses as needed. There should be a minimum of ten (10) foot-candles of lighting for general use in resident's room and a minimum of thirty (30) foot-candles of lighting for reading purposes. All entrances, corridors, stairways, ramps, cellars, attics, storerooms, kitchens, laundries, and service units shall have sufficient artificial lighting to prevent accidents and promote efficiency of service. Night lights shall be provided in all corridors, stairways, toilets, and bathing rooms.

139.05 **Screens**. All screen doors and non-stationary windows shall be equipped with tight fitting full length, sixteen (16) mesh screens. Screen doors shall swing out and shall be equipped with self-closing devices.

139.06 **Floors**. All floors shall be smooth and free from defects such as cracks and be finished so that they can be easily cleaned.

139.07 **Walls and Ceilings**. All walls and ceilings shall be of sound construction with an acceptable surface and shall be maintained in good repair. Generally the walls and ceilings should be painted a light color.

139.08 **Ceiling Height**. All ceilings shall have a height of at least eight (8) feet except that a height of seven (7) feet and six (6) inches may be approved for corridors or toilets and bathing rooms where the lighting fixtures are recessed. Exception may be made for existing facilities.

139.09 **Handrails**. Handrails shall be installed on both sides of all corridors and hallways used by residents. The handrails should be installed from thirty-two (32) inches to thirty-six (36) inches above the floors. The handrails should have a return to the wall at each rail ending. Exception may be made for existing facilities.

139.10 **Ramps and Inclines**. Ramps and inclines, where installed for the use of residents, shall not exceed one (1) foot of rise in twelve (12) feet of run, shall be furnished with a non-slip floor, and shall be provided with handrails on both sides. Exception may be granted for existing ramps and inclines on existing facilities.

139.11 **Call System**. A call system shall be in place at the nurses' station to receive resident calls through a communication system to include audible and visual signals from bedrooms, toilets, and bathing facilities.

139.12 **Trash Chutes**. The installation and/or use of trash chutes is prohibited.

140 FIRE SAFETY AND CONSTRUCTION

140.01 **Date of Construction and Life Safety Code Compliance**.

1. Buildings constructed after the effective date of these regulations shall comply with the edition of the Life Safety Code (NFPA 101) effective on the date of construction.

2. Buildings constructed prior to the effective date of these regulations shall comply with Chapter 13 of the Life Safety Code (NFPA 101), 1985 edition.

140.02 **Required Rooms and Areas**.

1. **Resident bedroom**. (See Paragraph 118.02)

2. **Special care room**. (See Paragraph 118.03)

3. **Nurses' Station**. (See Paragraph 118.04)

4. **Utility room**. (See Paragraph 118.05)

5. **Toilet and bathing facilities.** (See Paragraph 118.06)

6. **Clean linen storage**. Adequate areas shall be provided for storing clean linens which shall be separate from dirty linen storage.

7. **Wheelchair area**. Adequate area shall be provided for storage of wheelchairs.

8. **Kitchen**. (See Paragraphs 131.02 through 131.04)

9. **Dining room**. The dining area shall be large enough to seat three-fourth (3/4) of the maximum capacity of nursing home. The dining area can also be used for social, recreational, or religious activities. It is recommended that a separate dining area be provided for personnel.

10. **Food storage**. A food storage room shall be provided convenient to the kitchen in all future licensed homes. It should have cross ventilation. All foods must be stored a minimum of twelve (12) inches above the floor.

11. **Day room or living room**. Adequate day or living room area shall be provided for residents or residents and guests. These areas shall be designated exclusively for this purpose and shall not be used as sleeping area or otherwise. It is recommended that at least two (2) such areas be provided and more in larger homes.

12. **Janitor closet**. At least one (1) janitor's closet shall be provided for each floor. The closet shall be equipped with a mop sink and be adequate in area to store cleaning supplies and equipment. A separate janitor's closet shall be provided for the food service area.

13. **Garbage** can cleaning and storage area.

14. **General storage**. A minimum area equal to at least five (5) square feet per bed shall be provided for general storage.

15. **Laundry**. If laundry is done in the institution, a laundry room shall be provided. Adequate equipment for the laundry load of the home shall be installed. The sorting, washing, and extracting process should be separated from the folding and ironing area-preferably in separate rooms.

16. **Separate toilet room** (lavatory and water closet) shall be provided for male and female employees.

17. **A separate toilet room** with a door that can be locked shall be provided for the public.

18. **Food Service Supervisors Office**.

19. **Social Services Office**.

PART XII ENFORCEMENT

141 DEFINITIONS FOR LICENSURE-ONLY NURSING FACILITIES

141.01 **Substandard Quality of Care**. One or more deficiencies related to the regulatory requirements in §§100.3 and 102.1; 116.02; and/or 120, which constitute either immediate jeopardy to resident health or safety, or a pattern or widespread deficiencies at a Level 3 severity, or widespread deficiencies at a Level 2 severity.

141.02 **Substandard Facility**. A facility which is found to be in violation of any of the regulations in §§100.3 and 102.1; 116.02; and/or 120, on the current licensure visit and has been found to be in violation of any of the afore cited regulations during the previous regular re-licensure visit, or any intervening revisit or complaint investigation.

141.03 **Ban on All Admissions**. A ban on all admissions to a facility may be imposed by the licensing agency when it has been determined by the licensing agency that the facility is providing substandard quality of care as defined in §§141.01 above.

141.04 **Division Director**. The Division Director is the Director of the Mississippi Department of Health (otherwise known as the licensing agency), Division of Health Facilities Licensure and Certification.

141.05 **Informal Dispute Resolution**. Procedures set forth in §§148.01 provide facilities with one opportunity to dispute findings of licensure violations.

141.06 **Temporary Manager**. If a facility is designated as a substandard facility, the licensing agency may select a temporary manager in order to oversee correction of deficient practices cited as violations by the agency and assure the health and safety of the facility's residents while corrections are being made. A temporary manager may also be appointed to oversee the orderly closure of a facility. No temporary manager shall be appointed pursuant to these regulations unless the licensing agency finds Widespread Level-3 Severity deficiency or deficiencies pursuant to §§141.11 and 141.12 or

Isolated, Pattern, or Widespread Level-4 deficiency or deficiencies pursuant to §§141.10, 141.11 and 141.12. Temporary management shall not be imposed unless other less intrusive remedies will not result in compliance, or have failed to cause the facility to achieve compliance.

141.07 **State Monitor**. In lieu of a temporary manager, the licensing agency may appoint a state monitor to oversee the correction of cited deficiencies in a facility as a safeguard against further harm to residents, or when the potential for harm exists as a result of cited licensure violations at any level of severity or scope.

141.08 **Directed Plan of Correction**. A Directed Plan of Correction is a plan which the licensing agency, or the temporary manager, develops to require a facility to take action within specified time frames.

141.09 **Substantial Compliance**. A level of compliance which does not entail the imposition of an enforcement remedy.

141.10 **Pattern**. Pattern is the scope of licensure violations when more than a limited number of residents are affected, and/or more than a limited number of staff are involved, and/or the situation has occurred in several locations, and/or the same resident(s) have been affected by repeated occurrences of the same deficient practice. The effect of the deficient practice is not found to be pervasive through the facility.

141.11 **Widespread**. Widespread is the scope of licensure violations when the problems causing the violations are pervasive in the facility and/or represent systemic failure that affected or has the potential to affect a large portion or all of the facility's residents.

141.12 **Severity**.

1. **Level 1** - Potential for causing no more than a minor negative impact on the resident(s).

2. **Level 2** - Noncompliance that results in minimal physical, mental, and/or psycho-social discomfort to the resident and/or has the potential (not yet realized) to compromise the resident's ability to maintain and/or reach his/her highest practicable physical, mental and/or psycho-social well-being as defined by an accurate and comprehensive resident assessment, plan of care, and provision of services.

3. **Level 3** - Noncompliance that results in a negative outcome that has compromised the resident's ability to maintain his/her highest practicable physical, mental and psycho-social well-being as defined by an accurate and comprehensive resident assessment, plan of care, and provision of services.

4. **Level 4** - Immediate jeopardy, a situation in which immediate corrective action is necessary because the facility's noncompliance with one or more requirements of participation has caused, or is likely to cause, serious injury, harm, impairment, or death to a resident receiving care in a facility.

141.13 **Directed In-Service Training**. The purpose of directed in-service training is to provide basic knowledge to achieve compliance and remain in compliance with the requirements of these regulations.

142 DEFINITIONS FOR LICENSED AND CERTIFIED NURSING FACILITIES

142.01 **General**. The Mississippi Department of Health (otherwise known as the licensing agency), Bureau of Licensure and Certification is authorized to certify healthcare facilities for participation in the Medicare and Medicaid programs, pursuant to the Social Security Act at 42.U.S.C. Sections 1819(h)(2), 1819(g)(2), 1919 (g)(2), 1919(h), and 42 CFR. 488.415, 488.425, 488.310, 488.331, and 488.417(a).

142.02 **Substandard Quality of Care**. One or more deficiencies related to participation requirements under 42 CFR 483.13, Resident Behavior and Facility Practices, 42 CFR 483.15, Quality of Life, or 42 CFR 483.25, Quality of Care which, constitute either immediate jeopardy to resident health or safety, or a pattern or widespread deficiencies at a Level 3 severity, or widespread deficiencies at Level 2 severity.

142.03 **Poor Performing Facility**. If a facility is found noncompliant with any deficiency with a scope and severity at the level of actual harm or higher on the current survey and the facility had a deficiency at the level of actual harm or higher on any intervening survey (i.e., any survey between the last standard survey and the current one), the facility will be considered a poor performing facility.

142.04 **Immediate Jeopardy** (Serious and Immediate to Health and Safety). A situation in which the facility's failure to meet one or more requirements of participation in the Medicare/Medicaid program has caused, or is likely to cause, serious injury, harm, impairment, or death to a resident.

142.05 **Ban on All Admissions**. A ban on all admissions to a facility shall be imposed by the licensing agency when it has been determined by the licensing agency that the facility is not in compliance with a Level 2, widespread deficiency or Level 3, pattern or widespread deficiency, or any deficiency cited as a Level 4, immediate jeopardy. These deficiencies must be determined as Substandard Quality of Care as defined under §§142.02 or Immediate Jeopardy as defined under §§142.04. The licensing agency will also recommend to the state Medicaid agency denial of payment for new admissions.

142.06 **Informal Dispute Resolution**. Procedures set forth in §§148.01 provide facilities with one opportunity to dispute survey findings.

142.07 **Temporary Manager**. A temporary manager may be selected as a remedy when a facility has been determined as having immediate jeopardy or widespread actual harm that does not constitute immediate jeopardy in order to oversee the correction of deficient practices cited by the licensing agency and assure the health and safety of the facility's residents while the corrections are being made. A temporary manager may also be imposed to oversee orderly closure of a facility. Temporary management shall not be imposed unless other

less intrusive remedies will not result in compliance, or have failed to cause the facility to achieve compliance.

142.08 **State Monitoring**. A State Monitor oversees the correction of cited deficiencies in a facility as a safeguard against further harm to residents when harm or a situation with a potential for harm has occurred.

142.09 **Directed Plan of Correction**. A Directed Plan of Correction is a plan which the licensing agency, or the temporary manager, develops to require a facility to take action within specified time frames.

142.10 **Substantial Compliance**. A level of compliance which does not entail the imposition of an enforcement remedy.

142.11 **Pattern**. Pattern is the scope of deficiencies when more than a limited number of residents are affected, and/or more than a limited number of staff are involved, and/or the situation has occurred in several locations, and/or the same resident(s) have been affected by repeated occurrences of the same deficient practice. The effect of the deficient practice is not found to be pervasive through the facility.

142.12 **Widespread**. Widespread is the scope of deficiencies when the problems causing the deficiencies are pervasive in the facility and/or represent systemic failure that affected or has the potential to affect a large portion or all of the facility's residents.

142.13 **Severity**.

1. **Level 1** - Potential for causing no more than a minor negative impact on the resident(s).

2. **Level 2** - Noncompliance that results in minimal physical, mental, and/or psycho-social discomfort to the resident and/or has the potential (not yet realized) to compromise the resident's ability to maintain and/or reach his/her highest practicable physical, mental and/or psycho-social well-being as defined by an accurate and comprehensive resident assessment, plan of care, and provision of services.

3. **Level 3** - Noncompliance that results in a negative outcome that has compromised the resident's ability to maintain his/her highest practicable physical, mental and psycho-social well-being as defined by an accurate and comprehensive resident assessment, plan of care, and provision of services.

4. **Level 4** - Immediate jeopardy, a situation in which immediate corrective action is necessary because the facility's noncompliance with one or more requirements of participation has caused, or is likely to cause, serious injury, harm, impairment, or death to a resident receiving care in a facility.

142.14 **Directed In-Service Training**. The purpose of directed in-service training is to provide basic knowledge to achieve compliance and remain in compliance with requirements of federal guidelines and state regulations, when applicable.

142.15 **Bureau Director**. The Bureau Director is the Director of the Mississippi Department of Health (otherwise known as the licensing agency), Bureau of Health Facilities Licensure and Certification.

143 BAN ON ADMISSIONS PROCEDURE

143.01 **Ban on Admissions**. If a facility is found to be providing substandard quality of care or immediate jeopardy exists at a facility, as applicable, written notice of the determination shall be provided by the licensing agency to the facility, along with the notification that a ban on all admissions is to be imposed five calendar (5) days after the receipt of the notice by the facility unless a hearing is requested within that five (5) calendar day period. If a hearing is requested by the facility, the informal dispute resolution procedures established under §§148.01 shall be applied.

If the licensing agency's determination of noncompliance with Substandard Quality of Care or Immediate Jeopardy on the day of the licensure visit/ survey is confirmed, a ban on all admissions shall be imposed until the facility achieves compliance and such compliance is verified by the licensing agency. The licensing agency will verify the facility's corrective actions as soon as possible after the licensing agency receives an allegation of compliance from the facility but no later than fifteen (15) days after the receipt of said notice. If the hearing determines that the facility was not providing Substandard Quality of Care or that Immediate Jeopardy did not exist, as applicable, on the day of the licensure/survey visit, no ban on all admissions will be imposed.

144 STATE MONITORING

144.01 **State Monitoring**. Monitors are identified by the licensing agency as appropriate professionals to monitor cited deficiencies. A monitor shall meet the guidelines regarding conflicts of interests as follows:

1. The monitor does not currently work, or, within the past two (2) years, has worked as an employee, as employment agency staff at the facility, or as an officer, consultant, or agent for the facility to be monitored.

2. The monitor has no financial interest or any ownership interest in the facility.

3. The monitor has no immediate family member who has a relationship with the facility to be monitored.

4. The monitor has no immediate family member who is a resident in the facility. If a facility has not achieved substantial compliance within five

(5) months of the annual licensure visit/standard survey date, the remedy of state monitoring will be imposed as determined by the licensing agency.

144.02 **Compensation and Per Diem Costs**. All compensation and per diem costs of the State Monitor shall be paid by the facility. The licensing agency shall bill the facility for the costs of the State Monitor after termination of the monitoring services. The costs of the State Monitor for any weekly forty (40) hour period (forty [40] hours per week) shall not exceed the maximum allowable owner/administrator salary of a like sized facility as described in the Mississippi State Medicaid Plan. Within fifteen (15) days of receipt of the bill, the facility shall pay the bill or request an informal dispute resolution procedure to contest the costs for which it was billed.

144.03 **Recommendation**. If the facility has not achieved substantial compliance within six (6) months from the annual survey date, the licensing agency shall revoke the license of the facility and if applicable shall recommend to the State Medicaid Agency termination of participation in the Medicare/Medicaid programs.

145 DIRECTED IN-SERVICE TRAINING

145.01 **Directed In-Service Training**. If the remedy of Directed In-Service Training is imposed by the licensing agency for a facility to achieve substantial compliance, guidelines for accepting Plans of Correction to the Statement of Deficiencies shall be as follows:

1. Corporate facilities and consultant firms may only use staff to conduct the directed in-service training when the staff person has not had a direct or indirect involvement in the deficient practice and does not conduct in-services on a routine basis.

2. Corporate facilities and consultant firms may use staff/consultants from other nursing homes of the corporation if that person has not been directly involved in routine in-services of the facility in question. Also, the staff/consultant is and has no history of involvement with a Substandard or Poor Performing Facility.

3. If hospital-owned facilities use hospital staff to conduct the in-service, the staff must not have been involved in the routine in-services and/or care of the residents.

4. All other facilities may use staff or consultants from other facilities if the other facility's staff/consultant is not/has not been involved in a facility that is a Substandard Facility or Poor Performer.

5. Nursing homes with individual private consultants may not use the contracted consultant when directed In-Service is imposed.

146 DIRECTED PLAN OF CORRECTION

146.01 **Directed Plan of Correction**. Directed Plan of Correction as defined under §§142.09 and 142.09 may be imposed as follows:

The facility will be provided one (1) opportunity to submit an acceptable Plan of Correction. If the licensing agency does not receive an acceptable plan of correction, the licensing agency may impose one or more of the following remedies:

1. Directed Plan of Correction;
2. Revocation of State License; and/or
3. Recommend termination of participation in the Medicaid/Medicare programs if applicable.

147 TEMPORARY MANAGEMENT

147.01 **Recommendation for Appointment of Temporary Management**. If the licensing agency recommends the appointment of a temporary manager, the recommendation shall specify the grounds upon which such recommendation is based, including an assessment of the capability of the facility's current management to achieve and maintain compliance with all Licensure and/or Certification requirements.

147.02 **Notice of Imposition of Temporary Management**. A temporary manager may be imposed fifteen (15) days after the facility receives notice of the recommendation from the licensing agency and two (2) days after a facility which is licensed and certified receives notice where a determination that immediate jeopardy exists has been made.

147.03 **Conditions of Temporary Management**. The facility's management must agree to relinquish control to the temporary manager and to pay his/her salary before the temporary manager can be installed in the facility.

The facility cannot retain final authority to approve changes of personnel or expenditures of facility funds and be considered to have relinquished control to the temporary manager.

The temporary manager must be given access to all facility bank accounts.

In certified facilities, where immediate jeopardy exists, if a facility refuses to relinquish control to the temporary manager, the facility will be terminated from participation in medicare/medicaid within twenty-three (23) calendar days of the last day of the survey visit if the immediate jeopardy is not removed.

The temporary manager's salary must be at least equivalent to the prevailing annual salary of nursing home administrators in the facility's geographic area, plus the additional costs that would have reasonably been incurred by the provider if the temporary manager had been in an employment relationship (e.g., the cost of a benefits package, prorated for the amount of time that the temporary manager spends in the facility). The licensing agency is responsible for determining what a facility's geographic area is.

All compensation and per diem costs of the temporary manager shall be paid by the facility. The licensing agency shall bill the facility for the costs of the temporary manager after termination of temporary management. The costs of the temporary manager for any thirty (30) day period shall not exceed the maximum allowable owner/ administrator salary of a like size facility as described in the Mississippi State Medicaid State Plan. Within fifteen (15) days of receipt of the bill, the facility shall pay the bill or request an informal dispute resolution procedure to contest the costs for which it was billed.

147.04 **Selection of Temporary Manager**. The licensing agency shall compile and maintain a list of individuals eligible to serve as temporary managers. The temporary manager must possess a Mississippi nursing home administrator's license. A contractual agreement will be executed between the temporary manager and the licensing agency.

147.05 **Eligibility of Temporary Manager**. The following individuals are not eligible to serve as temporary managers:

Any individual who has been found guilty of misconduct by any licensing board or professional society in any State; or

1. Any individual who has, or whose immediate family members have, any financial interest in or pre-existing fiduciary duty to the facility to be managed. Indirect ownership interest, such as through a mutual fund, does not constitute financial interest for the purpose of this restriction; or

2. Any individual who currently serves or, within the past two (2) years, has served as a member of the staff of the facility or has a pre-existing fiduciary duty to the facility; or

3. Any individual who does not possess sufficient training, expertise, and experience in the operation of a nursing facility as would be necessary to achieve the objectives of temporary management; or

4. Any individual who at the time of the imposition of temporary management could stand to gain an unfair competitive advantage by being appointed as temporary manager of the facility.

147.06 **Condition of Appointment**. As a condition of appointment, the temporary manager must agree not to purchase, lease, or manage the facility for a period of two (2) years following the end of the temporary management period.

147.07 **No Limitation**. Nothing contained in these sections shall limit the right of any facility owner to sell, lease, mortgage, or close any facility in accordance with all applicable laws.

147.08 **Authority and Powers Of the Temporary Manager**.

1. A temporary manager has the authority to direct and oversee the correction of the deficiencies/licensure violations; to oversee and direct the management, hiring, reassignment and/or discharge of any consultant or employee, including the administrator of the facility; to direct the expenditure of or obligate facility funds in a reasonable and prudent manner; to oversee the continuation of the business and the care of the residents; to oversee and direct those acts necessary to accomplish the goals of the licensure and/or certification requirements; to alter facility procedures; and to direct and oversee regular accountings and the provision of periodic reports to the licensing agency.

2. A temporary manager shall provide reports to the licensing agency by the fifteenth (15th) day of each month showing the facility's compliance status.

3. A temporary manager shall observe the confidentiality of the operating policies, procedures, employment practices, financial information, and all similar business information of the facility, except that the temporary manager shall make reports to the licensing agency as provided for in this section.

4. The temporary manager shall be liable for gross, willful or wanton negligence, intentional acts or omissions, unexplained shortfalls in the facility's funds, and breaches of fiduciary duty. The temporary manager shall be bonded in an amount equal to the facility's total revenues for the month preceding the appointment of the temporary manager.

147.09 **Authority of Temporary Manager**. The temporary manager shall not have the authority to do the following:

1. To cause or direct the facility or its owner to incur debt or to enter into any contract with a duration beyond the term of the temporary management of the facility;

2. To cause or direct the facility to encumber its assets or receivables, or the premises on which it is located, with any lien or other encumbrances;

3. To cause or direct the sale of the facility, its assets, or the premises on which it is located;

4. To cause or direct the facility to cancel or reduce its liability or casualty insurance coverage;

5. To cause or direct the facility to default upon any valid obligations previously undertaken by the owners or operators of the facility, including but not limited to, leases, mortgages, and security interests; and

6. To incur capital expenditures in excess of two-thousand dollars ($2,000.00) without the permission of the owner of the facility and the licensing agency.

147.10 **Duration of Temporary Manager**. Temporary management shall continue until a license is revoked and or the facility is terminated from participation in the Medicare or Medicaid programs, or the facility achieves substantial compliance and is capable of remaining in substantial compliance. The licensing agency may replace any temporary manager whose performance, in the discretion of the licensing agency, is deemed unsatisfactory. No formal procedure is required for such removal or replacement but written notice of any action shall be given to the facility, including the name of any replacement manager.

A facility subject to temporary management may petition the licensing agency for replacement of a temporary whose performance it considers unsatisfactory. The licensing agency shall respond to a petition for replacement within three (3) business days after receipt of said petition.

Otherwise, the licensing agency shall not terminate temporary management until it has determined that the facility has the management capability to ensure continued compliance with all licensure and/or certification requirements or until the facilities license is revoked or the facility's participation in the medicare/medicaid program is terminated.

148 INFORMAL DISPUTE RESOLUTION

148.01 **Informal Dispute Resolution**.

1. The purpose of the informal dispute resolution (IDR) process is to comply with 42 CFR 488.331 by giving licensed facilities an additional opportunity to refute cited deficiencies/licensure violations after any survey, or after notification of billing issues in situations involving state monitors or temporary managers. The IDR is not intended to be an evidentiary hearing since licensed facilities are afforded such at the federal level. Licensed facilities may not use the IDR to delay the formal imposition of remedies or to challenge any other aspect of the survey process, including:

a. The scope and severity assessments of deficiencies with the exception of scope and severity assessments that constitute substandard quality of care or immediate jeopardy;

b. Remedies imposed by the licensing agency;

c. Alleged failure of the survey team to comply with a requirement of the survey process;

d. Alleged inconsistency of the survey team in citing deficiencies among facilities; and

e. Alleged inadequacy or inaccuracy of the informal dispute resolution process.

2. All requests for an IDR must follow the procedures set forth herein.

3. All official statements of deficiencies/licensure violations requiring a response from the licensed facility, and billing statements for state monitors or temporary managers, shall be mailed by the licensing agency via certified mail, return receipt requested. Each official statement of deficiencies/licensure violations shall be accompanied by a copy of these Informal Dispute Resolution Procedure Regulations.

4. The licensed facility shall notify the Division Director that it requests an IDR. The request shall be in writing and must be received in the office of the licensing agency no later than ten (10) calendar days after the licensed facility's receipt of the official statement of deficiencies/licensure violations or billing statement. The request shall specify which deficiencies/licensure violations or charges are disputed. The request shall also specify whether the licensed facility requests that the IDR be (1) in person; (2) via a telephone conference or by other electronic means (i.e., via video teleconference, if such service is available to all parties); or (3) by means of a written response to the official statements of deficiencies/licensure violations. The request must also designate a licensed facility representative for purposes of further communications regarding the IDR.

5. Every IDR shall be conducted by the licensing agency. If the IDR will be conducted in person, it shall be conducted at offices designated by the licensing agency.

6. The licensing agency shall notify the licensed facility representative by telephone or facsimile of the date, time, location, and format of the IDR. The IDR shall be held within ten (10) working days after the receipt by the licensing agency of the request.

The IDR shall be conducted by a three (3) person panel, known as the IDR Panel, consisting of a representative Ombudsman (not of the survey district being reviewed) as appointed by the State Ombudsman, a member of the medical community (physician or nurse practitioner), and a member of the Licensure staff who is SMQT qualified and who does not survey nor have supervisory capacity over the district of the related survey. In the event of a position vacancy, an alternate member may serve on the IDR panel as directed by the State Health Officer or his designee.

7. At the IDR, the licensed facility representative shall present any additional documentation or statements in support of its contention that a cited deficiency/licensure violation or billing charge may be incorrect. Additional employees of the licensed facility may participate in the IDR, including consultants utilized by the licensed facility as may be required by the regulations (i.e., dietary consultant, social work consultant, and others). Because the IDR is intended to be informal (1) IDR participants should be able to speak freely concerning deficiencies/licensure violations; (2) cross-examination of the IDR participants is not allowed, and (3) legal counsel for the licensed facility is not allowed to participate in the IDR.

8. The Bureau Director shall designate staff members from the survey/licensure visit team which performed the survey/licensure visit in question to attend the IDR and present any additional documentation or statements in support of the cited deficiency/licensure violation. In the case of billing disputes, the staff members who prepared the bill will present the any additional documentation or statements in support of the charges. Any other staff members as required and designated by the Bureau Director may attend the IDR.

9. At the conclusion of the IDR, a written report shall be prepared and forwarded to the Bureau Director, indicating the final determination regarding the validity of any disputed deficiencies/licensure violations. The decision of the IDR Panel regarding the disputed deficiencies/licensure violations shall be mailed, via certified mail, to the licensed facility representative within ten (10) calendar days of the conclusion of the IDR. Facilities which are licensed but not certified may appeal the decision of the IDR Panel regarding the disputed licensure violations if the violations are at a scope and severity level of G or above and enforcement remedies have been imposed by the licensing agency. The decision of the ICR Panel regarding the disputed deficiencies/licensure violations may be appealed pursuant to the administrative procedures outlined in §108.01 of these regulations.

10. If the IDR Panel determines that a deficiency/licensure violation should not have been cited, the following steps shall be taken:

a. The official statement of deficiencies/licensure violations shall be marked "deleted," signed, and dated by the branch manager for the district where the facility is located.

b. A revised copy of the official survey/licensure violation form shall be issued to the licensed facility which shows the adjusted scope and severity assessment to reflect the outcome of the IDR.

c. Any enforcement action imposed solely on an incorrect deficiency/licensure violation citation shall be rescinded.

11. If the IDR Panel determines that any charges for state monitoring or temporary management are inaccurate or disallowed, a revised copy of the bill will be issued to the licensed facility.

148.02 **Effect of Informal Dispute Resolution Procedures on Corrective Plans and Enforcement Actions**. A request for an IDR does not stay the obligation of the licensed facility to submit an acceptable Plan of Correction to the licensing agency within ten (10) calendar days of the licensed facility's receipt of the official statement of deficiencies. The licensing agency's failure to complete the IDR timely will not delay the effective date of any enforcement action against a licensed facility. A licensed facility may not seek a delay of any enforcement action against it on the grounds that an IDR has not been completed before the effective date of the enforcement.

A licensed facility may not use this procedure to challenge any other aspect of the survey/licensure process, including but not limited to:

1. Classification of deficiencies (i.e., scope and severity of harm assessments);

2. Remedy imposed or recommended by the licensing agency;

3. Failure of the survey/licensure team to comply with the survey/licensure process;

4. Inconsistency of the survey/licensure team in citing deficiencies/licensure violations among facilities; or

5. Inadequacy or inaccuracy of the informal dispute resolution process.

148.03 **Post Informal Dispute Resolution Survey Procedures**. If a follow up survey/licensure visit is conducted regarding deficiencies/licensure violations which have been the subject of an informal dispute resolution procedure, and the follow-up survey/licensure visit indicates that the facility has not corrected the deficiencies/licensure violation which was the subject of the informal dispute resolution procedure, the facility shall not be entitled to another informal dispute resolution procedure hearing.

However, if a follow-up survey is conducted and deficiencies are discovered which were not cited on the original official statement of deficiencies/licensure violations the facility is entitled to utilize the informal dispute resolution procedure with regard to any previously uncited deficiencies.

149 CERTIFICATION OF REGULATION

This is to certify that the above **PUT REGULATION NAME HERE** was adopted by the Mississippi State Board of Health on _____Put Date Here_____ to become effective _____Put Date Here_____.

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Brian W. Amy, MD, MHA, MPH
Secretary and Executive Officer