MINIMUM

STANDARDS

FOR

PERSONAL CARE HOMES

ASSISTED LIVING

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CHAPTER 47 MINIMUM STANDARDS FOR PERSONAL CARE HOMES ASSISTED LIVING

PART I GENERAL

100 LEGAL AUTHORITY

100.01 **Adoption of Rules, Regulations, and Minimum Standards**. By virtue of authority vested in it by the Legislature of the State of Mississippi as per Section 43-11-13 of the Mississippi Code of 1972, as amended, the Mississippi Department of Health does hereby adopt and promulgate the following Rules, Regulations, and Minimum Standards for Personal Care Homes - Assisted Living. Upon adoption of these Rules, Regulations, and Minimum Standards, all former rules, regulations and minimum standards in conflict therewith, previously adopted by the licensing agency, are hereby repealed.

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

101 DEFINITIONS

101.01 **Assisted Living**. The term "assisted living" shall mean the provision of personal care and the addition of supplemental services to include, but not be limited to, the provision of medical services (i.e., medication procedures and medication administration), and emergency response services.

101.02 **Ambulation**. The terms "ambulation" or "ambulatory" shall mean the resident's ability to bear weight, pivot, and safely walk independently or with the use of a cane, walker, or other mechanical supportive device (i.e., including,

but not limited to, a wheelchair). A resident who requires a wheelchair must be capable of transferring to and propelling the wheelchair independently or with prompting. No more than ten percent (10%) of the resident census shall require assistance during any staffing shift as described and required herein.

101.03 **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 (MDH) 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 Student**. 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 the 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, resident 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 abuse or neglect of a patient.

101.04 **Facility**. The term "facility" shall mean any home or institution that (1) has sought or is currently seeking designation as a "licensed facility" under the terms of these regulations; or (2) is operating a home or institution unlawfully which, by its nature and operational intent, is required to be a licensed facility under the terms of these regulations.

101.05 **Immediate Jeopardy** (Serious and Immediate to Health and Safety). A situation in which the licensed facility's failure to meet one or more regulatory requirements has caused, or is likely to cause, serious injury, harm, impairment, or death to a resident.

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

101.07 **Licensed Facility**. The term "licensed facility" shall mean any personal care home for assisted living which has been issued a license for operation by the licensing agency.

101.08 **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.

101.09 **Medication Administration**. For the purposes of these regulations, the term "medication administration" is limited to these decisions, made by someone other than the person for whom the medication has been prescribed, regarding (1) which medication is to be taken, (2) the dosage of the medication, or (3) the time at which the medication is to be taken.

101.10 **Medication Assistance**. For the purposes of these regulations, the term "medication assistance" is any form of delivering medication which has been prescribed which is not defined as "medication administration", including, but not limited to, the physical act of handing an oral prescription medication to the patient along with liquids to assist the patient in swallowing.

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

101.12 **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.

101.13 **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.

101.14 **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 PROCEDURE GOVERNING ADOPTION AND AMENDMENT

102.01 **Authority**. The licensing agency shall have the power to adopt, amend, promulgate and enforce such rules, regulations and minimum standards as it deems appropriate, within the law.

103 INSPECTION

103.01 **Inspections Required**. Each licensed facility shall be inspected by the licensing agency or by persons delegated with authority by said 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 facilities shall not be licensed without having first been inspected for compliance with these rules, regulations, and minimum standards.

104 CLASSIFICATION

104.01 **Personal Care Home - Residential Living**. The terms "Personal Care Home - Residential" and "Residential Personal Care Home" shall mean any place or facility operating 24 hours a day, seven (7) days a week, accepting individuals who require personal care services or individuals, who due to functional impairments, may require mental health services to compensate for activities of daily living. Regulation by the licensing agency for such facilities are governed by the "Regulations Governing Licensure of Personal Care Homes - Residential".

104.02 **Personal Care Home - Assisted Living**. The terms "Personal Care Home - Assisted Living" and "Assisted Living Personal Care Home" shall mean any place or facility operating 24 hours a day, seven (7) days a week, accepting individuals who require assisted living services as governed by the regulations herein.

105 TYPES OF LICENSE

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

105.02 **Provisional License**. Within its discretion, the licensing agency may issue a provisional license only if the licensing agency is satisfied that preparations are being made to qualify for a regular license and that the health and safety of residents will not be endangered.

106 APPLICATION OR RENEWAL OF LICENSE

106.01 **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.

106.02 **Fees**.

1. Each application for initial licensure shall be accompanied by an initial application fee of one hundred dollars ($100.00), and a fee of Fifteen Dollars ($15.00) per bed in check or money order made payable to the licensing agency. The fees are not refundable.

2. Each application for renewal of licensure shall be accompanied by a renewal fee of Fifteen Dollars ($15.00) per bed in check or money order made payable to the licensing agency.

3. Applicants for initial licensure, or licensees, shall pay a User Fee to the licensing agency when it is required to review and/or inspect the proposal of any licensed facility in which there are additions, renovations, modernizations, expansions, alterations, conversions,

modifications, or replacements. Said fee shall be assessed at the rate of Fifty Dollars ($50.00) per hour or part thereof, not to exceed Five Thousand Dollars ($5,000.00).

106.03 **Name of Facility**. Only the official name, as approved by the licensing agency and by which the facility is licensed shall be used in telephone listing, on stationery, in advertising, etc.

106.04 **Number of Beds**. The maximum number of beds for which the facility is licensed shall not be exceeded.

107 LICENSING

107.01 **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 facility, the type of building, the bed capacity for which the facility is licensed and the licensed number.

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

107.03 **License Not Transferable**. The license is not transferable or assignable to any other person except by written approval of the licensing agency.

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

107.05 **Renewal of License**. License shall be renewable annually upon:

1. Filing and approval of an application for renewal by the licensee.
2. Submission of appropriate licensure renewal fee.
3. Maintenance by the licensed facility of minimum standards in its physical facility, staff, services, and operation as set forth in these regulations.

108 DENIAL, SUSPENSION, OR REVOCATION OF LICENSE

108.01 **Denial or Revocation of License: Hearings 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, or deny renewal of 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, or renewal of license.

2. Willful or repeated violations by the licensee of any of the provisions of Sections 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. Addiction to narcotic drug(s) by the licensee or other employees or personnel of the licensed facility.

4. Use of alcoholic beverages by the licensee or other personnel of the licensed facility to the extent which threatens the well-being or safety of the residents.

5. Conviction of the licensee of a felony.

6. Publicly misrepresenting the licensed facility and/or its services.

7. Permitting, aiding, or abetting the commission of any unlawful act.

8. Conduct or practices detrimental to the health or safety of residents and employees of said licensed facility. Detrimental practices include but are not limited to:

    a. Cruelty to a resident or indifference to the needs which are essential to the 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 a 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 a resident's condition.

    f. Failure to notify next of kin when a resident's condition becomes critical.

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

9. A violation of 24-hour supervision requirement and/or the transfer of a resident from the licensed facility to any unlicensed facility may result in the facility's license being made provisional for a period of 90 days. At the end of that 90-day period, if corrective actions have not been taken by the licensed facility, that Provisional License may be revoked.

108.02 Immediate Revocation of License: Pursuant to Section 41-3-15, the State Department of Health is authorized and empowered, to revoke, immediately, the license and require closure of any institution for the aged or infirm, including any other remedy less than closure to protect the health and safety of the residents of said institution or the health and safety of the general public.

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

109.01 **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 license.

1. The licensing agency shall notify the applicant or licensee by registered mail or personal service the particular reasons for the proposed denial or revocation of license. Upon written request of applicant or licensee within ten (10) days of the date of notification, the licensing agency shall fix a date within 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, or denying the application or license shall become final thirty (30) days after it is so mailed or served unless the applicant or licensee, within such thirty (30) day period, appeals the decision in Chancery Court pursuant to Section 43-11-23 of the Mississippi Code of 1972. An additional period of time may be granted at the discretion of the licensing agency.

109.02 **Penalties**. Any person establishing, conducting, managing, or operating facility without a license shall be declared in violation of these regulations and may be punished as set forth in the enabling statute. Further, any person who violates any provision of the enabling statute, or of these regulations promulgated thereto shall, upon conviction thereof, be guilty of a misdemeanor. Such misdemeanor shall, upon conviction, be as referenced in Section 43-11-25 of the Mississippi Code of 1972, Annotated.

109.03 **Ban on Admissions**. If a condition of immediate jeopardy exists at a licensed facility, written notice of the determination of the condition shall be provided by the licensing agency to the licensed facility, along with the notification that a ban on all admissions is to be imposed five (5) calendar days after the receipt of the notice by the licensed facility. If the licensing agency's determination of a condition of immediate jeopardy on the day of the licensure visit/survey is confirmed, a ban on all admissions shall be imposed until the licensed facility achieves compliance and such compliance is verified by the licensing agency. The licensing agency will verify the licensed facility's corrective actions as soon as possible after the licensing agency receives a plan of correction from the licensed facility.

110 ADMINISTRATION

110.01 **Operator**. There shall be a full-time employee designated as operator of the licensed facility who shall be responsible for the management of the licensed facility. The operator shall be at least twenty-one years of age and shall be a high school graduate, or have passed the GED, and shall not be a resident of the licensed facility. The operator shall have verification that he is not listed on the "Mississippi Nurses Aide Abuse Registry." When the operator is not within the licensed facility, there shall be an individual onsite at the licensed facility who shall represent the operator, and be capable of assuming the responsibility of operator. Said person must be at least twenty-one years or age and shall be a high school graduate, or have passed the GED, and shall have verification that he is not listed on the "Mississippi Nurses Aide Abuse Registry."

110.02 **Operator Mentoring**. Operators shall be scheduled to spend two (2) concurrent days with the licensing agency for the purpose of training and mentoring. Placement of an operator 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 operator is employed. The operator 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 operators who:

1. 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 operators who:

1. have previously participated in a placement as required by this section; 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 operator 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.

110.03 **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.

110.04 **Other Personnel.** All direct care employees shall be a minimum of 18 years of age, and shall have verification that they are not listed on the "Mississippi Nurses Aide Abuse Registry." Personnel shall receive training on a quarterly basis on topics and issues related to the population being served in the licensed facility. Training shall be documented by a narrative of the content and signatures of those attending. Personnel shall be employed and on duty, awake, and fully dressed to provide personal care to the residents. The following staffing ratio shall apply:

1. One (1) resident attendant per fifteen (15) or fewer residents for the hours of 7:00 a.m. until 7:00 p.m.

2. One (1) resident attendant per twenty-five (25) or fewer residents for the hours of 7:00 p.m. until 7:00 a.m. There shall be designated, in writing and posted in a conspicuous place, on-call personnel in the event of an emergency, during this shift.

3. Shall have a licensed nurse on the premises for eight (8) hours a day. Licensed nurses, as required by this section, shall not be included in the resident attendant ratio.

4. For instances where a resident is unable to self-administer prescription medication, a licensed nurse must be present to administer the prescription medication.

Nursing activities must comply with Mississippi Board of Nursing regulations.

110.05 **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 have 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, 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 record check as required in this subsection.

11. For individuals contracted 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, officers, 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.

110.06 **Employee's Health Status**. All licensed facility personnel shall receive a health screening by a licensed physician, a nurse practitioner, or a registered nurse prior to employment and annually thereafter. Records of this health screening shall be kept on file in the licensed facility.

110.07 **Testing for Tuberculosis**. The tuberculin test status of all staff shall be documented in the individual's personnel 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 employees' personal record within fourteen (14) days of employment.

The two-step protocol is to used for each employee who has not been previously skin tested and/or for whom a negative test cannot be documented within the past 12 months. If the employer has documentation that the employee has had a negative TB skin test within the past 12 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, 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 treatment of latent tuberculosis infection.

110.08 **Admission Agreement**. Prior to, or at the time of admission, the operator 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/her responsible party, and one copy placed on file in the licensed facility.

1. As a minimum, this agreement shall contain specifically:

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

   b. Period to be covered in the charges.

   c. Services for which special charges are made.

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

   e. A statement that the operator shall make the resident's responsible party aware, in a timely manner, of any changes in resident's status, including those which require transfer and discharge; or operators who have been designated as a resident's responsible party shall ensure prompt and efficient action to meet resident's needs.

2. No agreement or contract shall be entered into between the licensee and the resident or his responsible agent which will relieve the licensee of the responsibility for the protection of the person and personal property of the individual admitted to the licensed facility for care.

3. Any funds given or provided for the purpose of supplying services to any patient in any licensed facility, and any funds otherwise received and held from, for or on behalf of any such resident, shall be deposited by the director or other proper officer of the licensed facility to the credit of that patient in an account which shall be known as the Resident's Personal Deposit Fund. No more than one (1) month charge for the care, support, maintenance, and medical

attention of the patient shall be applied from such account at any one (1) time. After the death, discharge, or transfer of any resident for whose benefit any such fund has been provided, any unexpended balance remaining in his personal deposit fund shall be applied for the payment of care, cost of support, maintenance, and medical attention which is accrued. In the event any unexpended balance remains in that resident's personal deposit fund after complete reimbursement has been made for payment of care, support, maintenance, and medical attention, and the director or other proper officer of the licensed facility has been or shall be unable to locate the person or persons entitled to such unexpended balance, the director or other proper officer may, after the lapse of one (1) year from the date of such death, discharge, or transfer, deposit the unexpended balance to the credit of the licensed facility's operating fund.

4. The resident or his responsible party shall be furnished a receipt signed by the licensee of the licensed facility or his lawful agent, for all sums of money paid to the licensed facility.

5. Written notification shall be given to the resident/responsible party when basic charges and/or licensed facility policies change.

110.09 **Records and Reports**.

1. The operator shall maintain a record of the residents for whom he or she serves as the conservator or a representative payee. This record shall include evidence of the means by which the conservatorship or representative payee relationship was established and evidence of separate accounts in a bank for each resident whose conservator or representative payee is the operator of the licensed facility.

2. Inspection reports from the licensing agency, any branch or division thereof by the operator in the licensed facility, and submitted to the licensing agency as required, or when requested.

3. Resident records shall contain the following:

   a. Admission agreement(s) and financial statements.

   b. Residents' rights and licensed facility's rules, signed, dated, and witnessed.

   c. Medical evaluation and referral from physician or nurse practitioner.

d. Current medication record, including any reactions to such medication.

e. Social services and activity contacts.

f. General information form.

g. Representative payee statement, if applicable.

h. Physician orders or nurse practitioner orders (including, but not limited to, therapies, diets, medications, etc.) and medication administration records.

The records as described in this section shall be made available to the resident, the resident's family, or other responsible party for the resident upon reasonable request.

4. The facility shall report and comply with the annual MDH TB Program surveillance procedures.

110.10 **Licensed Facility Policies**. Written policies shall be available which indicate services to be provided, and which include policies regarding admission, transfer and discharge of residents.

110.11 **Residents' Rights**. These rights and licensed facility rules must be in writing and be made available to all residents, employees, sponsors, and posted for public viewing. Each resident shall:

1. Have the right to attend religious and other activities of his/her choice.

2. Have the right to manage his/her personal financial affairs, or is given at least a quarterly accounting of financial transactions made on his/her behalf should the facility accept the written delegation from the resident or from his/her responsible party of this responsibility to the facility for any period of time in conformance with State law.

3. Not be required to perform services for the licensed facility.

4. Have the right to communicate with persons of his/her choice, and may receive mail unopened or in compliance with the policies of the home.

5. Be treated with consideration, kindness, respect, and full recognition of his/her dignity and individually.

6. May retain and use personal clothing and possessions as space permits.

7. May voice grievances and recommend changes in licensed facility policies and services.

8. Shall not be confined to the licensed facility against his/her will, and shall be allowed to move about in the community at liberty. Physical and/or chemical restraints are prohibited.

9. Not be limited in his/her choice of a pharmacy or pharmacist provider in accordance with State law.

111 MEDICAL AND PERSONAL CARE SERVICES

111.01 **Admission and Discharge Criteria**. The following criteria must be applied and maintained for resident placement in a licensed facility:

1. Only residents whose needs can be met by the licensed facility shall be admitted. An appropriate resident is primarily an aged ambulatory person who requires domiciliary care and who may require non-medical services, medical services such as medication assistance, emergency response services, and home health services as prescribed by a physician's order and as allowed by law.

2. A person shall not be admitted or continue to reside in an licensed facility if the person:

   a. Requires physical restraints;

   b. Poses a serious threat to himself or herself or others;

   c. Requires nasopharyngeal and/or tracheotomy suctioning;

   d. Requires gastric feedings;

   e. Requires intravenous fluids, medications, or feedings;

   f. Requires a indwelling urinary catheter;

   g. Requires sterile wound care; or

   h. Requires treatment of decubitus ulcer or exfoliative dermatitis.

3. Licensed facilities which are not accessible to individuals with disabilities through the A.N.S.I. Standards as they relate to facility accessibility may not accept wheelchair bound residents. Only those persons who, in an emergency, would be physically and mentally capable of traveling to safety may be accepted. For

multilevel facilities, no residents may be placed above the ground floor level that are unable to descend the stairs unassisted.

4. The licensed facility must be able to identify at the time of admission and during continued stay those residents whose needs for services are consistent with these rules and regulations, and those residents who should be transferred to an appropriate level of care.

5. Notwithstanding any determination by the licensing agency that skilled nursing services would be appropriate for a resident of a personal care home, that resident, the resident's guardian, or the legally recognized responsible party for the resident may consent in writing for the resident to continue to reside in the personal care home, if approved in writing by a licensed physician. Provided, however, that no personal care home shall allow more than two (2) residents, or ten percent (10%) of number of residents in the facility, whichever is greater, to remain in the personal care home under the provisions herein. This consent shall be deemed to be appropriately informed consent as described by these regulations. After that written consent has been obtained, the resident shall have the right to continue to reside in the personal care home for as long as the resident meets the other conditions for residing in the personal care home. A copy of the written consent and the physician's approval shall be forwarded by the personal care home to the licensing agency within thirty (30) days of the issuance of the latter of the two (2) documents.

6. The licensed facility which accepts and admits residents requiring mental health services shall help arrange transportation to mental health appointments and cooperate with the community mental health center or other provider of mental health care, as necessary, to ensure access to and the coordination of care, within limits of the confidentiality and privacy rights of the individual receiving services.

111.02 **Medical Evaluation**. Each person applying for admission to a licensed facility shall be given a thorough examination by a licensed physician or certified nurse practitioner within thirty (30) days prior to admission. The examination shall indicate the appropriateness of admission, according to the above criteria, to a licensed facility with an annual update by a physician and/or nurse practitioner.

111.03 **Tuberculosis (TB)**.

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. 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.

        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 a MDH 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.

111.04 **Transfer to another facility or return of a resident to respite care** shall be based on the above tests (Section 111.03) if done within the past 12 months and the patient has no signs and symptoms of TB.

111.05 **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 facility shall notify the MDH, 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 MDH TB State Consultant.

112 FOOD SERVICE

112.01 **Meals**. The licensed facility shall provide residents with well-planned, attractive, and satisfying meals at least three (3) times daily, seven (7) days a week, which will meet their nutritional, social, emotional and therapeutic needs. The daily food allowance shall meet the current recommended dietary allowances.

1. Meals shall be planned one (1) week in advance. A record of meals served shall be maintained for a one (1) month period. Current menus must be posted and dated.

2. A record of all food purchases shall be maintained in the licensed facility for a one (1) month period.

3. All food served in licensed facilities shall comply with the following:

   a. No game or home canned foods shall be served;

   b. Other than fresh or frozen vegetables and fruit, all foods must be from commercial sources.

4. All meals for residents who require therapeutic diets shall be planned by a Licensed Dietitian. If a therapeutic diet is prescribed by the physician for the resident, the licensed dietitian shall visit the licensed facility at a minimum of once every thirty (30) days, and shall file a consulting report with the licensed facility.

112.02 **Physical Facilities**.

1. A licensed facility with sixteen (16) or more residents shall obtain a Food Service Permit from the Mississippi Department of Health.

2. A licensed facility with fifteen (15) or fewer residents shall meet the requirements as set forth in the Facility Inspection Report issued by the Mississippi Department of Health.

112.03 **Dietary Staffing**.

1. Licensed facilities shall have an employee dedicated to meal preparation and food service.

2. All employees engaged in handling, preparation and/or serving of food shall wear clean clothing at all times.

3. All employees engaged in handling and/or preparation of food shall wear hair nets, head bands, or caps to prevent the falling of hair.

4. All employees engaged in handling and/or preparation of food shall wash their hands thoroughly before starting to work and immediately after contact with any soiled matter.

113 DRUG HANDLING

113.01 **Restrictions**. Licensed facilities shall meet Mississippi State Board of Pharmacy requirements for the storage and dispensing of prescription medications, whenever applicable. Resident requiring administration of Schedule II Narcotics as defined in the Uniform Controlled Substances Law

may be admitted to a personal care home. Schedule drugs may only be allowed in a personal care home if they are administered or stored utilizing proper procedures under the direct supervision of a licensed physician or nurse.

113.02 **Labeling**. The medications of all residents shall be clearly labeled.

113.03 **Storage of Prescription Medications**. Proper storage of all prescription medications shall be provided.

1. All residents' prescription medications shall be stored in a secured area. The area shall be kept locked when not in use, with responsibility for the key designated in writing.

2. The prescription medication storage area shall be well-lighted, well-ventilated, and kept in a clean and orderly fashion. The temperature of the medication storage area should not exceed 85 degrees Fahrenheit at any time.

3. A refrigerator shall be provided for the storage of prescription medications requiring refrigeration. If the refrigerator houses food or beverages, the residents' prescription medications shall be stored in a covered container or separate compartment. All refrigerators shall be equipped with thermometers.

113.04 **Responsibility**. A non-resident employee, appointed by the operator, shall be responsible for the following:

1. Storage of prescription medications.

2. Keeping a current prescription medication list, including frequency and dosage, which shall be updated at least every thirty (30) days, or with any significant change.

113.05 **Disposal of Unused Prescription Medications**. In the event any prescription medication is no longer in use for any reason, it shall be disposed of in accordance with the regulations of the Mississippi State Board of Pharmacy.

114 SOCIAL SERVICES

The licensed facility shall make provisions for referring residents with social and emotional needs to an appropriate social services agency.

115 RESIDENT ACTIVITIES

115.01 **Activities Program**. An activities program shall be in effect which is appropriate to the needs and interests of each resident.

1. Adequate and activity-appropriate space shall be provided for the various resident activities.

2. Activities shall be provided on daily basis.

3. Available community resources shall be utilized in the activities program.

4. Supplies shall be available to implement an adequate activities program.

5. A non-resident employee shall be responsible for the activities program.

116 PHYSICAL ENVIRONMENT

116.01 **Required Areas/Rooms**. The following areas/rooms are required to be provided in a licensed facility:

1. Bedrooms;

2. Living room;

3. Dining Area;

4. Toilet and bathing facilities:

5. Laundry; and

6. Kitchen.

116.02 **Bedrooms**.

1. **Location**.

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

   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. In no case shall a resident bedroom be used for access to another resident bedroom nor shall a resident bedroom be used for access to a required outside exit.

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.

e. Resident bedrooms shall house no more than four (4) persons each.

2. **Furnishings**.

a. Single beds shall be provided with good grade mattresses at least four (4) inches thick. Cots and roll-away beds shall not be used.

b. Each bed shall be equipped with a pillow and clean linens to include sheets, pillow cases, spreads and blankets. An adequate supply of such linens shall be provided at all times to allow for a change of linen at least once a week.

c. Chest of drawers or similar adequate storage space shall be provided for the clothing, toilet articles, and personal belongings of each resident.

d. Adequate closet space shall be provided for each resident.

e. An adequate number of comfortable, sturdy chairs shall be provided.

f. At least one (1) mirror, a minimum of 18" x 24", shall be provided in each bedroom.

g. The opportunity for personal expression shall be permitted.

h. A resident shall be permitted to use personal furnishings in lieu of those provided by the licensed facility, when practical.

3. **Floor Area**. Minimum usable floor area per bed shall be 80 square feet.

116.03 **Living Room**. Living rooms, daybooks, and/or recreation rooms shall be provided for resident and visitors. Each licensed facility shall provide at least two (2) areas for this purpose: one (1) for small groups such as a private visit with relatives and friends; and one (1) for larger group activities. The living

room must be equipped with attractive, functional, and comfortable furniture in sufficient number to accommodate all residents. A minimum of 18 square feet per bed shall be provided.

116.04 **Dining Area**. A dining area shall be provided which shall be adequate to seat all residents at the same meal seating. 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 15 square feet per bed shall be provided.

116.05 **Toilet and Bathing Facilities**.

1. Separate toilet and bathing facilities shall be provided, on each floor, for each sex in the following ratios as a minimum.

Bathtubs/showers	1 per 12 or fraction thereof for each sex
Lavatories	1 per 6 or fraction thereof
Toilets	1 per 6 or fraction thereof

2. A lavatory with mirror shall be provided in each toilet room or bedroom.

3. Bathtubs and showers shall be equipped with grab bars, towel racks and non-glass shower enclosures. Commodes shall be equipped with grab bars.

116.06 **Laundry**. Laundry facilities shall be provided unless commercial laundries are used.

1. 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's bedroom or food service area. Soiled materials shall not be transported through the food service area. The laundry area shall be kept clean and orderly.

2. If commercial laundry is used, separate satisfactory storage areas shall be provided for clean and soiled linens.

3. Provisions shall be made for proper mechanical ventilation of the laundry.

4. Provisions shall also be made to prevent the recirculation of air through the heating and air-conditioning systems.

5. Adequate and effective lint traps shall be provided for dryers.

6. 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.

   a. An automatic sprinkler shall be provided at the top of the laundry chute and in any receiving room for a chute.

   b. A self-closing door shall be provided at the bottom of the chute.

7. Laundry equipment shall be of the type to adequately perform the laundry needs of the facility. The equipment shall be installed to comply with all local and state codes.

8. There shall be a separate and designated area for the storage of clean linen.

116.07 **Kitchen**. In facilities with 16 or more residents, commercial cooking equipment must comply with NFPA 96, "Standard for Ventilation Control and Protection of Commercial Cooking Operations". Licensed existing facilities shall be permitted to maintain and utilize existing equipment that is in service.

PART II PHYSICAL PLANT

117 GENERAL

117.01 **Licensed Facility Classification**.

To qualify for a license, the facility shall be planned to serve the type of residents to be admitted and shall meet the requirements as set forth in these regulations.

117.02 **Location**. All facilities and licensed facilities 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, railroad tracks, etc.

117.03 **Site**. The proposed site for facility must be approved by the licensing agency. Factors to be considered in approving a site shall be convenient to medical and hospital services, approved water supply and sewage disposal, public transportation, community services, services of an organized fire department, and 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.

117.04 **Local Restrictions**. The site and structure of all licensed facilities shall comply with local building, fire, and zoning ordinances. Proof of compliance shall be submitted to the licensing agency.

117.05 **Transportation**. Licensed facilities shall be located on streets or roads which are passable at all times. They should be located convenient to public transportation facilities.

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

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

117.08 **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.

118 SUBMISSIONS OF PLANS AND SPECIFICATIONS, EFFECTIVE AUGUST 13, 2005

118.01 **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 affect the license bed capacity, 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.

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

1. First stage or preliminary plans shall include:

   a. Plot plan 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.

   b. 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.

   c. Outline specifications giving kinds and types of materials.

118.03 **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.

118.04 **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.

118.05 **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.

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

118.07 **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.

118.08 **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.

118.09 **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.

119 GENERAL BUILDING REQUIREMENTS

119.01 **Structural Soundness and Repair**. 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. Walls and ceilings of hazardous areas shall be one (1) hour fire resistance rating.

119.02 **Heating and Cooling Systems**. Adequate heating and cooling systems shall be provided to maintain inside temperature between 68 degrees Fahrenheit and 78 degrees Fahrenheit depending on the season.

119.03 **Lighting**. Each resident's room shall have artificial light adequate for reading and other uses as needed. There should be a minimum brightness of ten (10) foot candles of lighting for general use in residents' rooms and a minimum brightness of thirty (30) foot candles of lighting for reading purposes. All entrances, hallways, 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 hallways, stairways, toilets, and bathing rooms.

119.04 **Emergency Lighting**. At least one functioning, battery-operated emergency light shall be provided in each hallway.

119.05 **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.

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

119.07 **Walls and Ceilings**. All walls and ceilings shall be of sound construction, with an acceptable surface, and shall be maintained in good repair.

119.08 **Ceiling Height**. All ceilings shall have a height of at least seven (7) feet, except that a height of six (6) feet six (6) inches may be approved for hallways or toilets and bathing rooms where the lighting fixtures are recessed.

119.09 **Ramps and Inclines**. Ramps and inclines, where installed for the use of residents, shall not exceed one (1) foot of rise in ten (10) feet of run, shall be furnished with a non-slip floor, and shall be provided with handrails on both sides.

119.10 **Door Swing**. Exit doors, other than from a living unit, shall swing in the director of exit from the structure.

119.11 **Floor Levels**. All differences in floor levels within the building shall be accomplished by stairs of not less than three (3) six-inch risers, ramps, or inclines, and shall be equipped with handrails on both sides.

119.12 **Space Under Stairs**. Space under stairs shall not be used for storage purposes. All walls and doors shall meet the same fire rating as the stairwell.

119.13 **Interior Finish and Floor Coverings**. Interior finish and decorative material shall be not less than Class B and floor covering shall have a flame spread not to exceed 75.

119.14 **Fire Extinguishers**. Fire extinguishers of number, type, and capacity appropriate to the need shall be provided for each floor and for special fire hazard areas such as kitchen, laundry, and mechanical room. All extinguishers shall be of a type approved by the licensing agency. A vaporizing liquid extinguisher (such as carbon tetrachloride) will not be approved for use inside the building. Extinguishers shall be inspected and serviced periodically as recommended by the manufacturer. The date of inspection shall be entered on a tag attached to the extinguisher and signed by a reliable inspector such as the local fire chief or representative of a fire extinguisher servicing company.

119.15 **Smoke Detectors**. Smoke detectors shall be installed in each hallway no more than thirty (30) feet apart, in all bedrooms and in all storage rooms.

119.16 **Trash Chutes**. Trash chutes are prohibited.

119.17 **Housekeeping and Maintenance**. The interior and exterior of the licensed facility shall be maintained in an attractive, safe and sanitary condition.

119.18 **Pest Control**. Pest control inspections and, if necessary, treatments, shall be made to control pests, vermin, insects and rodents, at a minimum of once every thirty (30) days, by a company that is licensed by the State of Mississippi. The licensing agency may, in its discretion, require more frequent inspections and treatments. The inspection and treatment reports shall be maintained at the licensed facility.

119.19 **Water Temperature**. The temperature of hot water at plumbing fixtures used by residents shall not exceed 115 degrees Fahrenheit and no less than 100 degrees Fahrenheit.

119.20 **Combustion Air**. Combustion air to all equipment requiring it must come from the outside.

120 BUILDING REQUIREMENTS

120.01 **Building Protection**. Facilities licensed after August 13, 2005 shall be constructed to have;

1. **Building Protection**

   a. Automatic Sprinklers Required. Facilities licensed after the effective date of these regulations shall be protected throughout by a supervised automatic sprinkler system installed in accordance with the current edition of NFPA 13, Installation of Sprinkler Systems.

b. In facilities licensed for sixteen (16) or fewer residents and where the characteristics of occupancy are comparable with one (1) and two (2) family residential fire potentials, an NFPA 13D-styled sprinkler system may be installed.

2. **Building Construction**.

a. ***Single story***. No requirements

b. ***Multi-story (less than four floors)***. One hour fire resistance rating as prescribed by the current edition of the National Fire Protection Association (NFPA) Standard 220, types of Building Construction. (Example: Type II (111), or Type V (111).

c. ***Mobile structures***. No mobile structures are acceptable for housing residents.

120.02 **Multi-story Building. Elevator Required**. No resident shall be housed in a building three stories and above unless the building is equipped with an elevator. The minimum cab size of the elevator shall be approximately six (6) feet eight (8) inches by five (5) feet and constructed of metal. The width of the shaft door shall be at least three (3) feet six (6) inches. The load weight capacity shall not be less than 2,500 pounds. The elevator shaft shall be enclosed by construction of not less than a two-hour fire resistive rating. Elevators shall not be counted as required exits.

120.03 **Hazardous Areas and Combustible Storage.** Heating apparatus and boiler and furnace rooms, basements, or attics used for the storage of combustible material and workrooms, shall be classified as hazardous areas and shall be separated from other areas by construction having a fire resistive rating of at least one (1) hour.

120.04 **Stairs**. Stairs shall be enclosed with at least one-hour fire rated construction.

1. Handrails shall be provided on both sides of the stairs.

2. The width of the stairs shall not be less than forty-four (44) inches.

3. The stairs shall be well lighted at all times.

120.05 **Exit Doors**. Exit doors shall meet the following:

1. At least two (2) remotely located exits shall be provided for each occupied story of a facility.

2. Dead end hallways in excess of twenty (20) feet are not allowed.

3. Doors to the exterior shall be not less than thirty-six (36) inches wide and egress shall not be impeded by being locked.

4. Exit doors shall swing in the direction of exit and shall not obstruct the travel along any required exit.

5. Doors leading to stairways shall be not less than thirty-six (36) inches wide.

6. Revolving doors shall not be used as required exits.

120.06 **Hallways and Passageways**.

1. Hallways and passageways shall be kept unobstructed.

2. Hallways and passageways which lead to the outside from any required stairway shall be enclosed as required for stairways.

120.07 **Mechanical and Electric Systems**.

1. Mechanical, electrical, plumbing, heating, air-conditioning, and water systems installed shall meet the requirements of local codes and ordinances as well as the applicable regulation of the licensing agency. Where there are no local codes or ordinances, the following codes and recommendations shall govern:

   a. National Electrical Code.

   b. National Plumbing Code.

   c. American Society of Heating, Refrigerating, and Air Conditioning Engineers, Inc.

   d. Recommendations of the American Society of Mechanical Engineers.

   e. Recommendations of American Gas Association.

   f. National Fire Protection Association.

2. The heating of licensed facilities shall be restricted to steam, hot water, or warm air systems employing central heating plants, or Underwriters Laboratories approved electric heating. The use of portable heaters of any kind is prohibited with the following exceptions:

a. Gas heaters provided they meet all of the following:

i. A circulating type with a recessed enclosed flame so designed that clothing or other inflammable material cannot be ignited.

ii. Equipped with a safety pilot light.

iii. Properly vented to the outside.

iv. Approved by American Gas Association or Underwriters Laboratories.

b. An approved type of electrical heater such as wall insert type.

3. Lighting (except for battery-operated emergency lighting) shall be restricted to electricity.

121 EMERGENCY OPERATIONS PLAN (EOP)

121.01 The Licensed Entity shall develop and maintain a written preparedness plan utilizing the "All Hazards" approach to emergency and disaster planning. The plan must include procedures to be followed in the event of any act of terrorism or man-made or natural disaster as appropriate for the specific geographical location. The final draft of the Emergency Operations Plan (EOP), will be reviewed by the Office of Emergency Preparedness and Response, Mississippi State Department of Health, or their designates, for conformance with the "All Hazards Emergency Preparedness and Response Plan." Particular attention shall be given to critical areas of concern which may arise during any "all hazards" emergency whether required to evacuate or to sustain in place. Additional plan criteria or a specified EOP format may be required as deemed necessary by the Office of Emergency Preparedness and Response. The six (6) critical areas of consideration are:

- Communications - Facility status reports shall be submitted in a format and a frequency as required by the Office of EOP.
- Resources and Assets
- Safety and Security
- Staffing
- Utilities
- Clinical Activities.

121.02 Emergency Operations Plans (EOPs) must be exercised and reviewed annually or as directed by the Office of Emergency Preparedness and Response. Written evidence of current approval or review of provider EOPs, by the Office of Emergency Preparedness and Response, shall accompany all applications for facility license renewals.

122 FACILITY FIRE PREPAREDNESS

122.01 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.

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

A fire evacuation plan shall be posted in each facility in a conspicuous place and kept current.

MINIMUM

STANDARDS

FOR

PERSONAL CARE HOMES

ASSISTED LIVING

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Mississippi State Department of Health
Health Facilities Licensure and Certification
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Title 15 - Mississippi Department of Health

Part III – Office of Health Protection

Subpart 01 – Health Facilities Licensure and Certification

CHAPTER 47 MINIMUM STANDARDS FOR PERSONAL CARE HOMES ASSISTED LIVING

PART I GENERAL

100 LEGAL AUTHORITY

100.01 **Adoption of Rules, Regulations, and Minimum Standards**. By virtue of authority vested in it by the Legislature of the State of Mississippi as per Section 43-11-13 of the Mississippi Code of 1972, as amended, the Mississippi Department of Health does hereby adopt and promulgate the following Rules, Regulations, and Minimum Standards for Personal Care Homes - Assisted Living. Upon adoption of these Rules, Regulations, and Minimum Standards, all former rules, regulations and minimum standards in conflict therewith, previously adopted by the licensing agency, are hereby repealed.

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

101 DEFINITIONS

101.01 **Assisted Living**. The term "assisted living" shall mean the provision of personal care and the addition of supplemental services to include, but not be limited to, the provision of medical services (i.e., medication procedures and medication administration), and emergency response services.

101.02 **Ambulation**. The terms "ambulation" or "ambulatory" shall mean the resident's ability to bear weight, pivot, and safely walk independently or with the use of a cane, walker, or other mechanical supportive device (i.e., including,

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but not limited to, a wheelchair). A resident who requires a wheelchair must be capable of transferring to and propelling the wheelchair independently or with prompting. No more than ten percent (10%) of the resident census shall require assistance during any staffing shift as described and required herein.

101.03 **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 (MDH) 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.

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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 Student**. 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 the 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, resident 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 abuse or neglect of a patient.

101.04 **Facility**. The term "facility" shall mean any home or institution that (1) has sought or is currently seeking designation as a "licensed facility" under the terms of these regulations; or (2) is operating a home or institution unlawfully which, by its nature and operational intent, is required to be a licensed facility under the terms of these regulations.

101.05 **Immediate Jeopardy** (Serious and Immediate to Health and Safety). A situation in which the licensed facility's failure to meet one or more regulatory requirements has caused, or is likely to cause, serious injury, harm, impairment, or death to a resident.

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

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101.07 **Licensed Facility**. The term "licensed facility" shall mean any personal care home for assisted living which has been issued a license for operation by the licensing agency.

101.08 **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.

101.09 **Medication Administration**. For the purposes of these regulations, the term "medication administration" is limited to these decisions, made by someone other than the person for whom the medication has been prescribed, regarding (1) which medication is to be taken, (2) the dosage of the medication, or (3) the time at which the medication is to be taken.

101.10 **Medication Assistance**. For the purposes of these regulations, the term "medication assistance" is any form of delivering medication which has been prescribed which is not defined as "medication administration", including, but not limited to, the physical act of handing an oral prescription medication to the patient along with liquids to assist the patient in swallowing.

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

101.12 **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).

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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.

101.13 **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.

101.14 **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 PROCEDURE GOVERNING ADOPTION AND AMENDMENT

102.01 **Authority**. The licensing agency shall have the power to adopt, amend, promulgate and enforce such rules, regulations and minimum standards as it deems appropriate, within the law.

103 INSPECTION

103.01 **Inspections Required**. Each licensed facility shall be inspected by the licensing agency or by persons delegated with authority by said 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 facilities shall not be licensed without having first been inspected for compliance with these rules, regulations, and minimum standards.

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104 CLASSIFICATION

104.01 **Personal Care Home - Residential Living**. The terms "Personal Care Home - Residential" and "Residential Personal Care Home" shall mean any place or facility operating 24 hours a day, seven (7) days a week, accepting individuals who require personal care services or individuals, who due to functional impairments, may require mental health services to compensate for activities of daily living. Regulation by the licensing agency for such facilities are governed by the "Regulations Governing Licensure of Personal Care Homes - Residential".

104.02 **Personal Care Home - Assisted Living**. The terms "Personal Care Home - Assisted Living" and "Assisted Living Personal Care Home" shall mean any place or facility operating 24 hours a day, seven (7) days a week, accepting individuals who require assisted living services as governed by the regulations herein.

105 TYPES OF LICENSE

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

105.02 **Provisional License**. Within its discretion, the licensing agency may issue a provisional license only if the licensing agency is satisfied that preparations are being made to qualify for a regular license and that the health and safety of residents will not be endangered.

106 APPLICATION OR RENEWAL OF LICENSE

106.01 **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.

106.02 **Fees**.

1. Each application for initial licensure shall be accompanied by an initial application fee of one hundred dollars ($100.00), and a fee of Fifteen Dollars ($15.00) per bed in check or money order made payable to the licensing agency. The fees are not refundable.

2. Each application for renewal of licensure shall be accompanied by a renewal fee of Fifteen Dollars ($15.00) per bed in check or money order made payable to the licensing agency.

3. Applicants for initial licensure, or licensees, shall pay a User Fee to the licensing agency when it is required to review and/or inspect the proposal of any licensed facility in which there are additions, renovations, modernizations, expansions, alterations, conversions,

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modifications, or replacements. Said fee shall be assessed at the rate of Fifty Dollars ($50.00) per hour or part thereof, not to exceed Five Thousand Dollars ($5,000.00).

106.03 **Name of Facility**. Only the official name, as approved by the licensing agency and by which the facility is licensed shall be used in telephone listing, on stationery, in advertising, etc.

106.04 **Number of Beds**. The maximum number of beds for which the facility is licensed shall not be exceeded.

107 LICENSING

107.01 **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 facility, the type of building, the bed capacity for which the facility is licensed and the licensed number.

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

107.03 **License Not Transferable**. The license is not transferable or assignable to any other person except by written approval of the licensing agency.

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

107.05 **Renewal of License**. License shall be renewable annually upon:

1. Filing and approval of an application for renewal by the licensee.
2. Submission of appropriate licensure renewal fee.
3. Maintenance by the licensed facility of minimum standards in its physical facility, staff, services, and operation as set forth in these regulations.

108 DENIAL, SUSPENSION, OR REVOCATION OF LICENSE

108.01 **Denial or Revocation of License: Hearings 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, or deny renewal of 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, or renewal of license.

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2. Willful or repeated violations by the licensee of any of the provisions of Sections 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. Addiction to narcotic drug(s) by the licensee or other employees or personnel of the licensed facility.

4. Use of alcoholic beverages by the licensee or other personnel of the licensed facility to the extent which threatens the well-being or safety of the residents.

5. Conviction of the licensee of a felony.

6. Publicly misrepresenting the licensed facility and/or its services.

7. Permitting, aiding, or abetting the commission of any unlawful act.

8. Conduct or practices detrimental to the health or safety of residents and employees of said licensed facility. Detrimental practices include but are not limited to:

   a. Cruelty to a resident or indifference to the needs which are essential to the 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 a 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 a resident's condition.

   f. Failure to notify next of kin when a resident's condition becomes critical.

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

9. A violation of 24-hour supervision requirement and/or the transfer of a resident from the licensed facility to any unlicensed facility may result in the facility's license being made provisional for a period of 90 days. At the end of that 90-day period, if corrective actions have not been taken by the licensed facility, that Provisional License may be revoked.

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108.02 Immediate Revocation of License: Pursuant to Section 41-3-15, the State Department of Health is authorized and empowered, to revoke, immediately, the license and require closure of any institution for the aged or infirm, including any other remedy less than closure to protect the health and safety of the residents of said institution or the health and safety of the general public.

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

109.01 **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 license.

1. The licensing agency shall notify the applicant or licensee by registered mail or personal service the particular reasons for the proposed denial or revocation of license. Upon written request of applicant or licensee within ten (10) days of the date of notification, the licensing agency shall fix a date within 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, or denying the application or license shall become final thirty (30) days after it is so mailed or served unless the applicant or licensee, within such thirty (30) day period, appeals the decision in Chancery Court pursuant to Section 43-11-23 of the Mississippi Code of 1972. An additional period of time may be granted at the discretion of the licensing agency.

109.02 **Penalties**. Any person establishing, conducting, managing, or operating facility without a license shall be declared in violation of these regulations and may be punished as set forth in the enabling statute. Further, any person who violates any provision of the enabling statute, or of these regulations promulgated thereto shall, upon conviction thereof, be guilty of a misdemeanor. Such misdemeanor shall, upon conviction, be as referenced in Section 43-11-25 of the Mississippi Code of 1972, Annotated.

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109.03 **Ban on Admissions**. If a condition of immediate jeopardy exists at a licensed facility, written notice of the determination of the condition shall be provided by the licensing agency to the licensed facility, along with the notification that a ban on all admissions is to be imposed five (5) calendar days after the receipt of the notice by the licensed facility. If the licensing agency's determination of a condition of immediate jeopardy on the day of the licensure visit/survey is confirmed, a ban on all admissions shall be imposed until the licensed facility achieves compliance and such compliance is verified by the licensing agency. The licensing agency will verify the licensed facility's corrective actions as soon as possible after the licensing agency receives a plan of correction from the licensed facility.

110 ADMINISTRATION

110.01 **Operator**. There shall be a full-time employee designated as operator of the licensed facility who shall be responsible for the management of the licensed facility. The operator shall be at least twenty-one years of age and shall be a high school graduate, or have passed the GED, and shall not be a resident of the licensed facility. The operator shall have verification that he is not listed on the "Mississippi Nurses Aide Abuse Registry." When the operator is not within the licensed facility, there shall be an individual onsite at the licensed facility who shall represent the operator, and be capable of assuming the responsibility of operator. Said person must be at least twenty-one years or age and shall be a high school graduate, or have passed the GED, and shall have verification that he is not listed on the "Mississippi Nurses Aide Abuse Registry."

110.02 **Operator Mentoring**. Operators shall be scheduled to spend two (2) concurrent days with the licensing agency for the purpose of training and mentoring. Placement of an operator 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 operator is employed. The operator 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 operators who:

1. 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 operators who:

2. have previously participated in a placement as required by this section; or

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3. 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 operator 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.

110.03 **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.

110.04 **Other Personnel.** All direct care employees shall be a minimum of 18 years of age, and shall have verification that they are not listed on the "Mississippi Nurses Aide Abuse Registry." Personnel shall receive training on a quarterly basis on topics and issues related to the population being served in the licensed facility. Training shall be documented by a narrative of the content and signatures of those attending. Personnel shall be employed and on duty, awake, and fully dressed to provide personal care to the residents. The following staffing ratio shall apply:

1. One (1) resident attendant per fifteen (15) or fewer residents for the hours of 7:00 a.m. until 7:00 p.m.

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2. One (1) resident attendant per twenty-five (25) or fewer residents for the hours of 7:00 p.m. until 7:00 a.m. There shall be designated, in writing and posted in a conspicuous place, on-call personnel in the event of an emergency, during this shift.

3. Shall have a licensed nurse on the premises for eight (8) hours a day. Licensed nurses, as required by this section, shall not be included in the resident attendant ratio.

4. For instances where a resident is unable to self-administer prescription medication, a licensed nurse must be present to administer the prescription medication.

Nursing activities must comply with Mississippi Board of Nursing regulations.

110.05 **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 have 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.

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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.

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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

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the chief executive officer of the covered, 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 record check as required in this subsection.

11. For individuals contracted 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, officers, 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.

110.06 **Employee's Health Status**. All licensed facility personnel shall receive a health screening by a licensed physician, a nurse practitioner, or a registered nurse prior to employment and annually thereafter. Records of this health screening shall be kept on file in the licensed facility.

110.07 **Testing for Tuberculosis**. The tuberculin test status of all staff shall be documented in the individual's personnel 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

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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 employees' personal record within fourteen (14) days of employment.

The two-step protocol is to used for each employee who has not been previously skin tested and/or for whom a negative test cannot be documented within the past 12 months. If the employer has documentation that the employee has had a negative TB skin test within the past 12 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, documenting the results.

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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 treatment of latent tuberculosis infection.

110.08 **Admission Agreement**. Prior to, or at the time of admission, the operator 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/her responsible party, and one copy placed on file in the licensed facility.

1. As a minimum, this agreement shall contain specifically:

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

   b. Period to be covered in the charges.

   c. Services for which special charges are made.

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

   e. A statement that the operator shall make the resident's responsible party aware, in a timely manner, of any changes in resident's status, including those which require transfer and discharge; or operators who have been designated as a resident's responsible party shall ensure prompt and efficient action to meet resident's needs.

2. No agreement or contract shall be entered into between the licensee and the resident or his responsible agent which will relieve the licensee of the responsibility for the protection of the person and personal property of the individual admitted to the licensed facility for care.

3. Any funds given or provided for the purpose of supplying services to any patient in any licensed facility, and any funds otherwise received and held from, for or on behalf of any such resident, shall be deposited by the director or other proper officer of the licensed facility to the credit of that patient in an account which shall be known as the Resident's Personal Deposit Fund. No more than one (1) month charge for the care, support, maintenance, and medical

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attention of the patient shall be applied from such account at any one (1) time. After the death, discharge, or transfer of any resident for whose benefit any such fund has been provided, any unexpended balance remaining in his personal deposit fund shall be applied for the payment of care, cost of support, maintenance, and medical attention which is accrued. In the event any unexpended balance remains in that resident's personal deposit fund after complete reimbursement has been made for payment of care, support, maintenance, and medical attention, and the director or other proper officer of the licensed facility has been or shall be unable to locate the person or persons entitled to such unexpended balance, the director or other proper officer may, after the lapse of one (1) year from the date of such death, discharge, or transfer, deposit the unexpended balance to the credit of the licensed facility's operating fund.

4. The resident or his responsible party shall be furnished a receipt signed by the licensee of the licensed facility or his lawful agent, for all sums of money paid to the licensed facility.

5. Written notification shall be given to the resident/responsible party when basic charges and/or licensed facility policies change.

110.09 **Records and Reports**.

1. The operator shall maintain a record of the residents for whom he or she serves as the conservator or a representative payee. This record shall include evidence of the means by which the conservatorship or representative payee relationship was established and evidence of separate accounts in a bank for each resident whose conservator or representative payee is the operator of the licensed facility.

2. Inspection reports from the licensing agency, any branch or division thereof by the operator in the licensed facility, and submitted to the licensing agency as required, or when requested.

3. Resident records shall contain the following:

   a. Admission agreement(s) and financial statements.

   b. Residents' rights and licensed facility's rules, signed, dated, and witnessed.

   c. Medical evaluation and referral from physician or nurse practitioner.

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d. Current medication record, including any reactions to such medication.

e. Social services and activity contacts.

f. General information form.

g. Representative payee statement, if applicable.

h. Physician orders or nurse practitioner orders (including, but not limited to, therapies, diets, medications, etc.) and medication administration records.

The records as described in this section shall be made available to the resident, the resident's family, or other responsible party for the resident upon reasonable request.

4. The facility shall report and comply with the annual MDH TB Program surveillance procedures.

110.10 **Licensed Facility Policies**. Written policies shall be available which indicate services to be provided, and which include policies regarding admission, transfer and discharge of residents.

110.11 **Residents' Rights**. These rights and licensed facility rules must be in writing and be made available to all residents, employees, sponsors, and posted for public viewing. Each resident shall:

1. Have the right to attend religious and other activities of his/her choice.

2. Have the right to manage his/her personal financial affairs, or is given at least a quarterly accounting of financial transactions made on his/her behalf should the facility accept the written delegation from the resident or from his/her responsible party of this responsibility to the facility for any period of time in conformance with State law.

3. Not be required to perform services for the licensed facility.

4. Have the right to communicate with persons of his/her choice, and may receive mail unopened or in compliance with the policies of the home.

5. Be treated with consideration, kindness, respect, and full recognition of his/her dignity and individually.

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6. May retain and use personal clothing and possessions as space permits.

7. May voice grievances and recommend changes in licensed facility policies and services.

8. Shall not be confined to the licensed facility against his/her will, and shall be allowed to move about in the community at liberty. Physical and/or chemical restraints are prohibited.

9. Not be limited in his/her choice of a pharmacy or pharmacist provider in accordance with State law.

111 MEDICAL AND PERSONAL CARE SERVICES

111.01 **Admission and Discharge Criteria**. The following criteria must be applied and maintained for resident placement in a licensed facility:

1. Only residents whose needs can be met by the licensed facility shall be admitted. An appropriate resident is primarily an aged ambulatory person who requires domiciliary care and who may require non-medical services, medical services such as medication assistance, emergency response services, and home health services as prescribed by a physician's order and as allowed by law.

2. A person shall not be admitted or continue to reside in an licensed facility if the person:

   a. Requires physical restraints;

   b. Poses a serious threat to himself or herself or others;

   c. Requires nasopharyngeal and/or tracheotomy suctioning;

   d. Requires gastric feedings;

   e. Requires intravenous fluids, medications, or feedings;

   f. Requires a indwelling urinary catheter;

   g. Requires sterile wound care; or

   h. Requires treatment of decubitus ulcer or exfoliative dermatitis.

3. Licensed facilities which are not accessible to individuals with disabilities through the A.N.S.I. Standards as they relate to facility accessibility may not accept wheelchair bound residents. Only those persons who, in an emergency, would be physically and mentally capable of traveling to safety may be accepted. For

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multilevel facilities, no residents may be placed above the ground floor level that are unable to descend the stairs unassisted.

4. The licensed facility must be able to identify at the time of admission and during continued stay those residents whose needs for services are consistent with these rules and regulations, and those residents who should be transferred to an appropriate level of care.

5. Notwithstanding any determination by the licensing agency that skilled nursing services would be appropriate for a resident of a personal care home, that resident, the resident's guardian, or the legally recognized responsible party for the resident may consent in writing for the resident to continue to reside in the personal care home, if approved in writing by a licensed physician. Provided, however, that no personal care home shall allow more than two (2) residents, or ten percent (10%) of number of residents in the facility, whichever is greater, to remain in the personal care home under the provisions herein. This consent shall be deemed to be appropriately informed consent as described by these regulations. After that written consent has been obtained, the resident shall have the right to continue to reside in the personal care home for as long as the resident meets the other conditions for residing in the personal care home. A copy of the written consent and the physician's approval shall be forwarded by the personal care home to the licensing agency within thirty (30) days of the issuance of the latter of the two (2) documents.

6. The licensed facility which accepts and admits residents requiring mental health services shall help arrange transportation to mental health appointments and cooperate with the community mental health center or other provider of mental health care, as necessary, to ensure access to and the coordination of care, within limits of the confidentiality and privacy rights of the individual receiving services.

111.02 **Medical Evaluation**. Each person applying for admission to a licensed facility shall be given a thorough examination by a licensed physician or certified nurse practitioner within thirty (30) days prior to admission. The examination shall indicate the appropriateness of admission, according to the above criteria, to a licensed facility with an annual update by a physician and/or nurse practitioner.

111.03 **Tuberculosis (TB)**.

Admission Requirements to Rule out Active Tuberculosis (TB)

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

   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.

      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.

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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 a MDH 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.

111.04 **Transfer to another facility or return of a resident to respite care** shall be based on the above tests (Section 111.03) if done within the past 12 months and the patient has no signs and symptoms of TB.

111.05 **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 facility shall notify the MDH, 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 MDH TB State Consultant.

112 FOOD SERVICE

112.01 **Meals**. The licensed facility shall provide residents with well-planned, attractive, and satisfying meals at least three (3) times daily, seven (7) days a week, which will meet their nutritional, social, emotional and therapeutic needs. The daily food allowance shall meet the current recommended dietary allowances.

1. Meals shall be planned one (1) week in advance. A record of meals served shall be maintained for a one (1) month period. Current menus must be posted and dated.

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2. A record of all food purchases shall be maintained in the licensed facility for a one (1) month period.

3. All food served in licensed facilities shall comply with the following:

   a. No game or home canned foods shall be served;

   b. Other than fresh or frozen vegetables and fruit, all foods must be from commercial sources.

4. All meals for residents who require therapeutic diets shall be planned by a Licensed Dietitian. If a therapeutic diet is prescribed by the physician for the resident, the licensed dietitian shall visit the licensed facility at a minimum of once every thirty (30) days, and shall file a consulting report with the licensed facility.

112.02 **Physical Facilities**.

1. A licensed facility with sixteen (16) or more residents shall obtain a Food Service Permit from the Mississippi Department of Health.

2. A licensed facility with fifteen (15) or fewer residents shall meet the requirements as set forth in the Facility Inspection Report issued by the Mississippi Department of Health.

112.03 **Dietary Staffing**.

5. Licensed facilities shall have an employee dedicated to meal preparation and food service.

6. All employees engaged in handling, preparation and/or serving of food shall wear clean clothing at all times.

7. All employees engaged in handling and/or preparation of food shall wear hair nets, head bands, or caps to prevent the falling of hair.

8. All employees engaged in handling and/or preparation of food shall wash their hands thoroughly before starting to work and immediately after contact with any soiled matter.

113 DRUG HANDLING

113.01 **Restrictions**. Licensed facilities shall meet Mississippi State Board of Pharmacy requirements for the storage and dispensing of prescription medications, whenever applicable. Resident requiring administration of Schedule II Narcotics as defined in the Uniform Controlled Substances Law

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may be admitted to a personal care home. Schedule drugs may only be allowed in a personal care home if they are administered or stored utilizing proper procedures under the direct supervision of a licensed physician or nurse.

113.02 **Labeling**. The medications of all residents shall be clearly labeled.

113.03 **Storage of Prescription Medications**. Proper storage of all prescription medications shall be provided.

1. All residents' prescription medications shall be stored in a secured area. The area shall be kept locked when not in use, with responsibility for the key designated in writing.

2. The prescription medication storage area shall be well-lighted, well-ventilated, and kept in a clean and orderly fashion. The temperature of the medication storage area should not exceed 85 degrees Fahrenheit at any time.

3. A refrigerator shall be provided for the storage of prescription medications requiring refrigeration. If the refrigerator houses food or beverages, the residents' prescription medications shall be stored in a covered container or separate compartment. All refrigerators shall be equipped with thermometers.

113.04 **Responsibility**. A non-resident employee, appointed by the operator, shall be responsible for the following:

1. Storage of prescription medications.

2. Keeping a current prescription medication list, including frequency and dosage, which shall be updated at least every thirty (30) days, or with any significant change.

113.05 **Disposal of Unused Prescription Medications**. In the event any prescription medication is no longer in use for any reason, it shall be disposed of in accordance with the regulations of the Mississippi State Board of Pharmacy.

114 SOCIAL SERVICES

The licensed facility shall make provisions for referring residents with social and emotional needs to an appropriate social services agency.

115 RESIDENT ACTIVITIES

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115.01 **Activities Program**. An activities program shall be in effect which is appropriate to the needs and interests of each resident.

1. Adequate and activity-appropriate space shall be provided for the various resident activities.

2. Activities shall be provided on daily basis.

3. Available community resources shall be utilized in the activities program.

4. Supplies shall be available to implement an adequate activities program.

5. A non-resident employee shall be responsible for the activities program.

116 PHYSICAL ENVIRONMENT

116.01 **Required Areas/Rooms**. The following areas/rooms are required to be provided in a licensed facility:

1. Bedrooms;

2. Living room;

3. Dining Area;

4. Toilet and bathing facilities:

5. Laundry; and

6. Kitchen.

116.02 **Bedrooms**.

1. **Location**.

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

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

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c. Resident bedrooms shall be directly accessible from the main corridor. In no case shall a resident bedroom be used for access to another resident bedroom nor shall a resident bedroom be used for access to a required outside exit.

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.

e. Resident bedrooms shall house no more than four (4) persons each.

2. **Furnishings**.

a. Single beds shall be provided with good grade mattresses at least four (4) inches thick. Cots and roll-away beds shall not be used.

b. Each bed shall be equipped with a pillow and clean linens to include sheets, pillow cases, spreads and blankets. An adequate supply of such linens shall be provided at all times to allow for a change of linen at least once a week.

c. Chest of drawers or similar adequate storage space shall be provided for the clothing, toilet articles, and personal belongings of each resident.

d. Adequate closet space shall be provided for each resident.

e. An adequate number of comfortable, sturdy chairs shall be provided.

f. At least one (1) mirror, a minimum of 18" x 24", shall be provided in each bedroom.

g. The opportunity for personal expression shall be permitted.

h. A resident shall be permitted to use personal furnishings in lieu of those provided by the licensed facility, when practical.

3. **Floor Area**. Minimum usable floor area per bed shall be 80 square feet.

116.03 **Living Room**. Living rooms, daybooks, and/or recreation rooms shall be provided for resident and visitors. Each licensed facility shall provide at least two (2) areas for this purpose: one (1) for small groups such as a private visit with relatives and friends; and one (1) for larger group activities. The living

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room must be equipped with attractive, functional, and comfortable furniture in sufficient number to accommodate all residents. A minimum of 18 square feet per bed shall be provided.

116.04 **Dining Area**. A dining area shall be provided which shall be adequate to seat all residents at the same meal seating. 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 15 square feet per bed shall be provided.

116.05 **Toilet and Bathing Facilities**.

1. Separate toilet and bathing facilities shall be provided, on each floor, for each sex in the following ratios as a minimum.

Bathtubs/showers	1 per 12 or fraction thereof for each sex
Lavatories	1 per 6 or fraction thereof
Toilets	1 per 6 or fraction thereof

2. A lavatory with mirror shall be provided in each toilet room or bedroom.

3. Bathtubs and showers shall be equipped with grab bars, towel racks and non-glass shower enclosures. Commodes shall be equipped with grab bars.

116.06 **Laundry**. Laundry facilities shall be provided unless commercial laundries are used.

1. 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's bedroom or food service area. Soiled materials shall not be transported through the food service area. The laundry area shall be kept clean and orderly.

2. If commercial laundry is used, separate satisfactory storage areas shall be provided for clean and soiled linens.

3. Provisions shall be made for proper mechanical ventilation of the laundry.

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4. Provisions shall also be made to prevent the recirculation of air through the heating and air-conditioning systems.

5. Adequate and effective lint traps shall be provided for dryers.

6. 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.

   a. An automatic sprinkler shall be provided at the top of the laundry chute and in any receiving room for a chute.

   b. A self-closing door shall be provided at the bottom of the chute.

7. Laundry equipment shall be of the type to adequately perform the laundry needs of the facility. The equipment shall be installed to comply with all local and state codes.

8. There shall be a separate and designated area for the storage of clean linen.

116.07 **Kitchen**. In facilities with 16 or more residents, commercial cooking equipment must comply with NFPA 96, "Standard for Ventilation Control and Protection of Commercial Cooking Operations". Licensed existing facilities shall be permitted to maintain and utilize existing equipment that is in service.

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PART II PHYSICAL PLANT

117 GENERAL

117.01 **Licensed Facility Classification**.

To qualify for a license, the facility shall be planned to serve the type of residents to be admitted and shall meet the requirements as set forth in these regulations.

117.02 **Location**. All facilities and licensed facilities 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, railroad tracks, etc.

117.03 **Site**. The proposed site for facility must be approved by the licensing agency. Factors to be considered in approving a site shall be convenient to medical and hospital services, approved water supply and sewage disposal, public transportation, community services, services of an organized fire department, and 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.

117.04 **Local Restrictions**. The site and structure of all licensed facilities shall comply with local building, fire, and zoning ordinances. Proof of compliance shall be submitted to the licensing agency.

117.05 **Transportation**. Licensed facilities shall be located on streets or roads which are passable at all times. They should be located convenient to public transportation facilities.

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

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

117.08 **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.

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

118 SUBMISSIONS OF PLANS AND SPECIFICATIONS, EFFECTIVE AUGUST 13, 2005

118.01 **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 affect the license bed capacity, 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.

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

1. First stage or preliminary plans shall include:

   a. Plot plan 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.

   b. 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.

   c. Outline specifications giving kinds and types of materials.

118.03 **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

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

118.04 **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.

118.05 **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.

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

118.07 **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.

118.08 **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.

118.09 **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.

119 GENERAL BUILDING REQUIREMENTS

119.01 **Structural Soundness and Repair**. 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. Walls and ceilings of hazardous areas shall be one (1) hour fire resistance rating.

119.02 **Heating and Cooling Systems**. Adequate heating and cooling systems shall be provided to maintain inside temperature between 68 degrees Fahrenheit and 78 degrees Fahrenheit depending on the season.

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119.03 **Lighting**. Each resident's room shall have artificial light adequate for reading and other uses as needed. There should be a minimum brightness of ten (10) foot candles of lighting for general use in residents' rooms and a minimum brightness of thirty (30) foot candles of lighting for reading purposes. All entrances, hallways, 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 hallways, stairways, toilets, and bathing rooms.

119.04 **Emergency Lighting**. At least one functioning, battery-operated emergency light shall be provided in each hallway.

119.05 **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.

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

119.07 **Walls and Ceilings**. All walls and ceilings shall be of sound construction, with an acceptable surface, and shall be maintained in good repair.

119.08 **Ceiling Height**. All ceilings shall have a height of at least seven (7) feet, except that a height of six (6) feet six (6) inches may be approved for hallways or toilets and bathing rooms where the lighting fixtures are recessed.

119.09 **Ramps and Inclines**. Ramps and inclines, where installed for the use of residents, shall not exceed one (1) foot of rise in ten (10) feet of run, shall be furnished with a non-slip floor, and shall be provided with handrails on both sides.

119.10 **Door Swing**. Exit doors, other than from a living unit, shall swing in the director of exit from the structure.

119.11 **Floor Levels**. All differences in floor levels within the building shall be accomplished by stairs of not less than three (3) six-inch risers, ramps, or inclines, and shall be equipped with handrails on both sides.

119.12 **Space Under Stairs**. Space under stairs shall not be used for storage purposes. All walls and doors shall meet the same fire rating as the stairwell.

119.13 **Interior Finish and Floor Coverings**. Interior finish and decorative material shall be not less than Class B and floor covering shall have a flame spread not to exceed 75.

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119.14 **Fire Extinguishers**. Fire extinguishers of number, type, and capacity appropriate to the need shall be provided for each floor and for special fire hazard areas such as kitchen, laundry, and mechanical room. All extinguishers shall be of a type approved by the licensing agency. A vaporizing liquid extinguisher (such as carbon tetrachloride) will not be approved for use inside the building. Extinguishers shall be inspected and serviced periodically as recommended by the manufacturer. The date of inspection shall be entered on a tag attached to the extinguisher and signed by a reliable inspector such as the local fire chief or representative of a fire extinguisher servicing company.

119.15 **Smoke Detectors**. Smoke detectors shall be installed in each hallway no more than thirty (30) feet apart, in all bedrooms and in all storage rooms.

119.16 **Trash Chutes**. Trash chutes are prohibited.

119.17 **Housekeeping and Maintenance**. The interior and exterior of the licensed facility shall be maintained in an attractive, safe and sanitary condition.

119.18 **Pest Control**. Pest control inspections and, if necessary, treatments, shall be made to control pests, vermin, insects and rodents, at a minimum of once every thirty (30) days, by a company that is licensed by the State of Mississippi. The licensing agency may, in its discretion, require more frequent inspections and treatments. The inspection and treatment reports shall be maintained at the licensed facility.

119.19 **Water Temperature**. The temperature of hot water at plumbing fixtures used by residents shall not exceed 115 degrees Fahrenheit and no less than 100 degrees Fahrenheit.

119.20 **Combustion Air**. Combustion air to all equipment requiring it must come from the outside.

120 BUILDING REQUIREMENTS

120.01 **Building Protection**. Facilities licensed after August 13, 2005 shall be constructed to have;

1. **Building Protection**

a. Automatic Sprinklers Required. Facilities licensed after the effective date of these regulations shall be protected throughout by a supervised automatic sprinkler system installed in accordance with the current edition of NFPA 13, Installation of Sprinkler Systems.

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b. In facilities licensed for sixteen (16) or fewer residents and where the characteristics of occupancy are comparable with one (1) and two (2) family residential fire potentials, an NFPA 13D-styled sprinkler system may be installed.

2. **Building Construction**.

a. ***Single story***. No requirements

b. ***Multi-story (less than four floors)***. One hour fire resistance rating as prescribed by the current edition of the National Fire Protection Association (NFPA) Standard 220, types of Building Construction. (Example: Type II (111), or Type V (111).

c. ***Mobile structures***. No mobile structures are acceptable for housing residents.

120.02 **Multi-story Building. Elevator Required**. No resident shall be housed in a building three stories and above unless the building is equipped with an elevator. The minimum cab size of the elevator shall be approximately six (6) feet eight (8) inches by five (5) feet and constructed of metal. The width of the shaft door shall be at least three (3) feet six (6) inches. The load weight capacity shall not be less than 2,500 pounds. The elevator shaft shall be enclosed by construction of not less than a two-hour fire resistive rating. Elevators shall not be counted as required exits.

120.03 **Hazardous Areas and Combustible Storage.** Heating apparatus and boiler and furnace rooms, basements, or attics used for the storage of combustible material and workrooms, shall be classified as hazardous areas and shall be separated from other areas by construction having a fire resistive rating of at least one (1) hour.

120.04 **Stairs**. Stairs shall be enclosed with at least one-hour fire rated construction.

1. Handrails shall be provided on both sides of the stairs.

2. The width of the stairs shall not be less than forty-four (44) inches.

3. The stairs shall be well lighted at all times.

120.05 **Exit Doors**. Exit doors shall meet the following:

1. At least two (2) remotely located exits shall be provided for each occupied story of a facility.

2. Dead end hallways in excess of twenty (20) feet are not allowed.

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3. Doors to the exterior shall be not less than thirty-six (36) inches wide and egress shall not be impeded by being locked.

4. Exit doors shall swing in the direction of exit and shall not obstruct the travel along any required exit.

5. Doors leading to stairways shall be not less than thirty-six (36) inches wide.

6. Revolving doors shall not be used as required exits.

120.06 **Hallways and Passageways**.

1. Hallways and passageways shall be kept unobstructed.

2. Hallways and passageways which lead to the outside from any required stairway shall be enclosed as required for stairways.

120.07 **Mechanical and Electric Systems**.

1. Mechanical, electrical, plumbing, heating, air-conditioning, and water systems installed shall meet the requirements of local codes and ordinances as well as the applicable regulation of the licensing agency. Where there are no local codes or ordinances, the following codes and recommendations shall govern:

   a. National Electrical Code.

   b. National Plumbing Code.

   c. American Society of Heating, Refrigerating, and Air Conditioning Engineers, Inc.

   d. Recommendations of the American Society of Mechanical Engineers.

   e. Recommendations of American Gas Association.

   f. National Fire Protection Association.

2. The heating of licensed facilities shall be restricted to steam, hot water, or warm air systems employing central heating plants, or Underwriters Laboratories approved electric heating. The use of portable heaters of any kind is prohibited with the following exceptions:

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a. Gas heaters provided they meet all of the following:

i. A circulating type with a recessed enclosed flame so designed that clothing or other inflammable material cannot be ignited.

ii. Equipped with a safety pilot light.

iii. Properly vented to the outside.

iv. Approved by American Gas Association or Underwriters Laboratories.

b. An approved type of electrical heater such as wall insert type.

3. Lighting (except for battery-operated emergency lighting) shall be restricted to electricity.

121 EMERGENCY OPERATIONS PLAN (EOP)

121.01 The Licensed Entity shall develop and maintain a written preparedness plan utilizing the "All Hazards" approach to emergency and disaster planning. The plan must include procedures to be followed in the event of any act of terrorism or man-made or natural disaster as appropriate for the specific geographical location. The final draft of the Emergency Operations Plan (EOP), will be reviewed by the Office of Emergency Preparedness and Response, Mississippi State Department of Health, or their designates, for conformance with the "All Hazards Emergency Preparedness and Response Plan." Particular attention shall be given to critical areas of concern which may arise during any "all hazards" emergency whether required to evacuate or to sustain in place. Additional plan criteria or a specified EOP format may be required as deemed necessary by the Office of Emergency Preparedness and Response. The six (6) critical areas of consideration are:

- Communications - Facility status reports shall be submitted in a format and a frequency as required by the Office of EOP.
- Resources and Assets
- Safety and Security
- Staffing
- Utilities
- Clinical Activities.

121.02 Emergency Operations Plans (EOPs) must be exercised and reviewed annually or as directed by the Office of Emergency Preparedness and Response. Written evidence of current approval or review of provider EOPs, by the Office of Emergency Preparedness and Response, shall accompany all applications for facility license renewals.

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122 FACILITY FIRE PREPAREDNESS

122.01 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.

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

A fire evacuation plan shall be posted in each facility in a conspicuous place and kept current.

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