

Kansas Administrative Regulations

Department of Health and Environment

Article 39.—Licensure of Adult Care Homes

28-39-163. Administration.

Each nursing facility shall be administered in a manner that enables it to use its resources effectively and efficiently to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident. (a) Governing body.

(1) Each facility shall have a governing body or shall designate a group of people to function as a governing body. The governing body shall be legally responsible for establishing and implementing policies regarding the management and operation of the facility.

(2) The governing body shall appoint an administrator who meets the following criteria:

(A) Is licensed by the state; and

(B) has full authority and responsibility for the operation of the facility and compliance with licensing requirements.

(3) The licensee shall adopt a written position description for the administrator that includes responsibility for the following:

(A) Planning, organizing, and directing the operation of the facility;

(B) implementing operational policies and procedures for the facility; and

(C) authorizing, in writing, a responsible employee 18 years old or older to act on the administrator's behalf in the administrator's absence.

(4) Each facility may request approval from the department for an administrator to supervise more than one nursing facility. Each request shall be submitted, in writing, by the governing bodies of the facilities on a form approved by the department. Each facility shall meet all of the following conditions:

(A) The facilities are in a proximate location that would facilitate on-site supervision daily, if needed.

(B) The combined resident capacity does not exceed 120 residents.

(C) The administrator appointed to operate the facilities has had at least two years of experience as an administrator of a nursing facility and has demonstrated the ability to assure the health and safety of residents.

(D) When a change in administrator occurs, the facilities submit the credentials of the proposed new administrator for approval by the department.

(b) Policies and procedures.

(1) Each licensee shall adopt and enforce written policies and procedures to ensure all of the following:

(A) Each resident attains or maintains the highest practicable physical, mental, and psychosocial well-being.

(B) Each resident is protected from abuse, neglect, and exploitation.

(C) The rights of residents are proactively assured.

(2) The facility shall revise all policies and procedures as necessary and shall review all policies and procedures at least annually.

(3) Policies and procedures shall be available to staff at all times. Policies and procedures shall be available, on request, to any person during normal business hours. The facility shall post a notice of availability in a readily accessible place for residents.

(c) Power of attorney and guardianship. Anyone employed by or having a financial interest in the facility, unless the person is related by marriage or blood within the second degree to the resident, shall not accept a power of attorney, a durable power of attorney for health care decisions, guardianship, or conservatorship.

(d) Reports. Each administrator shall submit to the licensing agency, not later than 10 days following the period covered, a semiannual report of residents and employees. The administrator shall submit the report on forms provided by the licensing agency. The administrator shall submit any other reports as required by the licensing agency.

(e) Telephone. The facility shall maintain at least one non-coin-operated telephone accessible to residents and employees on each nursing unit for use in emergencies. The facility shall post adjacent to this telephone the names and telephone numbers of persons or places commonly required in emergencies.

(f) Smoking. If smoking is permitted, there shall be designated smoking areas.

(1) The designated areas shall not infringe on the rights of nonsmokers to reside in a smoke-free environment.

(2) The facility shall provide areas designated as smoking areas both inside and outside the building.

(g) Staff development and personnel policies. The facility shall provide regular performance review and in-service education of all employees to ensure that the services and procedures assist residents to attain and maintain their highest practicable level of physical, mental, and psychosocial functioning.

(1) The facility shall regularly conduct and document an orientation program for all new employees.

(2) Orientation of direct care staff shall include review of the facility's policies and procedures and evaluation of the competency of the direct care staff to perform assigned procedures safely and competently.

(3) The facility shall provide regular, planned in-service education for all staff.

(A) The in-service program shall provide all employees with training in fire prevention and safety, disaster procedures, accident prevention, resident rights, psychosocial needs of residents, and infection control.

(B) The facility shall provide direct care staff with in-service education in techniques that assist residents to function at their highest practicable physical, mental, and psychosocial level.

(C) Direct care staff shall participate in at least 12 hours of in-service education each year. All other staff shall participate in at least eight hours of in-service education each year.

(D) The facility shall maintain documentation of in-service education offerings. Documentation shall include a content outline, resume of the presenter, and record of staff in attendance.

(E) The facility shall record attendance at inservice education in the employee record of each staff member.

(h) Professional staff qualifications.

(1) The facility shall employ on a full-time, part-time, or consultant basis any professionals necessary to carry out the requirements of these regulations.

(2) The facility shall document evidence of licensure, certification, or registration of full-time, part-time, and consultant professional staff in employee records.

(3) The facility shall perform a health screening, including tuberculosis testing, on each employee before employment or not later than seven days after employment.

(i) Use of outside resources. Arrangements or agreements pertaining to services furnished by outside resources shall specify in writing that the facility assumes responsibility for the following:

(1) Obtaining services that meet professional standards and principles that apply to professionals providing services; and

(2) assuring the timeliness of the services.

(j) Medical director.

(1) The facility shall designate a physician to serve as medical director.

(2) The medical director shall be responsible for the following:

(A) Implementation of resident care policies reflecting accepted standards of practice;

(B) coordination of medical care in the facility; and

(C) provision of consultation to the facility staff on issues related to the medical care of residents.

(k) Laboratory services. The facility shall provide or obtain clinical laboratory services to meet the needs of its residents. The facility shall be responsible for the quality and timeliness of the services.

(1) If the facility provides its own clinical laboratory services, it shall meet all of the following requirements:

(A) The services shall meet applicable statutory and regulatory requirements for a clinical laboratory.

(B) The facility staff shall follow manufacturer's instructions for performance of the test.

(C) The facility shall maintain a record of all controls performed and all results of tests performed on residents.

(D) The facility shall ensure that staff who perform laboratory tests do so in a competent and accurate manner.

(2) If the facility does not provide the laboratory services needed by its residents, the facility shall have written arrangements for obtaining these services from a laboratory as required in 42 CFR 483.75(j), as published on October 1, 1993, and hereby adopted by reference.

(3) All laboratory services shall be provided only on the order of a physician.

(4) The facility shall ensure that the physician ordering the laboratory service is notified promptly of the findings.

(5) The facility shall ensure that the signed and dated clinical reports of the laboratory findings are documented in each resident's clinical record.

(6) The facility shall assist the resident, if necessary, in arranging transportation to and from the source of laboratory services.

(l) Radiology and other diagnostic services. The facility shall provide or obtain radiology and other diagnostic services to meet the needs of its residents.

(1) If the facility provides its own radiology and diagnostic services, the services shall meet applicable statutory and regulatory requirements for radiology and other diagnostic services.

(2) If the facility does not provide the radiology and diagnostic services needed by its residents, the facility shall have written arrangements for obtaining these services from a licensed provider or supplier.

(3) All radiology and diagnostic services shall be provided only on the order of a physician.

(4) The facility shall ensure that the physician ordering the radiology or diagnostic services is notified promptly of the findings.

(5) The facility shall document signed and dated clinical reports of the radiological or diagnostic findings in the resident's clinical record.

(6) The facility shall assist the resident, if necessary, in arranging transportation to and from the source of radiology or diagnostic services.

(m) Clinical records.

(1) The facility shall maintain clinical records on each resident in accordance with accepted professional standards and practices. The records shall meet the following criteria:

- (A) Be complete;
- (B) be accurately documented; and
- (C) be systematically organized.

(2) Clinical records shall be retained according to the following schedule:

- (A) At least five years following the discharge or death of a resident; or
- (B) for a minor, five years after the resident reaches 18 years of age.

(3) Resident records shall be the property of the facility.

(4) The facility shall keep confidential all information in the resident's records, regardless of the form or storage method of the records, except when release is required by any of the following:

- (A) Transfer to another health care institution;
- (B) law;
- (C) third party payment contract;
- (D) the resident or legal representative; or

(E) in the case of a deceased resident, the executor of the resident's estate, or the resident's spouse, adult child, parent, or adult brother or sister.

(5) The facility shall safeguard clinical record information against loss, destruction, fire, theft, and unauthorized use.

(6) The clinical record shall contain the following:

- (A) Sufficient information to identify the resident;
- (B) a record of the resident's assessments;
- (C) admission information;
- (D) the plan of care and services provided;

(E) a discharge summary or report from the attending physician and a transfer form after a resident is hospitalized or transferred from another health care institution;

- (F) physician's orders;
- (G) medical history;
- (H) reports of treatments and services provided by facility staff and consultants;
- (I) records of drugs, biologicals, and treatments administered; and

(J) documentation of all incidents, symptoms, and other indications of illness or injury, including the date, the time of occurrence, the action taken, and the results of action.

(7) The physician shall sign all documentation entered or directed to be entered in the clinical record by the physician.

(8) Documentation by direct care staff shall meet the following criteria:

(A) List drugs, biologicals, and treatments administered to each resident;

(B) be an accurate and functional representation of the actual experience of the resident in the facility;

(C) be written in chronological order and signed and dated by the staff person making the entry;

(D) include the resident's response to changes in condition with follow-up documentation describing the resident's response to the interventions provided;

(E) not include erasures or use of white-out. Each error shall be lined through and the word "error" added. The staff person making the correction shall sign and date the error. An entry shall not be recopied; and

(F) in the case of computerized resident records, include a system to ensure that when an error in documentation occurs, the original entry is maintained and the person making the correction enters the date and that person's electronic signature in the record.

(9) Clinical record staff.

(A) The facility shall assign overall supervisory responsibility for maintaining the residents' clinical records to a specific staff person.

(B) The facility shall maintain clinical records in a manner consistent with current standards of practice.

(C) If the clinical record supervisor is not a qualified medical record practitioner, the facility shall provide consultation through a written agreement with a qualified medical record practitioner.

(n) Disaster and emergency preparedness.

(1) The facility shall have a detailed written emergency management plan to meet potential emergencies and disasters, including, fire, flood, severe weather, tornado, explosion, natural gas leak, lack of electrical or water service, and missing residents.

(2) The plan shall be coordinated with area governmental agencies.

(3) The plan shall include written agreements with agencies that will provide needed services, including providing a fresh water supply, evacuation site, and transportation of residents to an evacuation site.

(4) The facility shall ensure disaster and emergency preparedness by the following means:

(A) Orienting new employees at the time of employment to the facility's emergency management plan;

(B) periodically reviewing the plan with employees; and

(C) annually carrying out a tornado or disaster drill with staff and residents.

(5) The emergency management plan shall be available to staff, residents, and visitors.

(o) Transfer agreement. The facility shall have in effect a written transfer agreement with one or more hospitals that reasonably assures both of the following:

(1) Residents will be transferred from the facility to the hospital, and timely admitted to the hospital, when transfer is medically appropriate, as determined by the attending physician.

(2) Medical and other information needed for care and treatment of residents will be exchanged between the institutions.

(p) Quality assessment and assurance.

(1) The facility shall maintain a quality assessment and assurance committee consisting of these individuals:

(A) The director of nursing services;

(B) a physician designated by the facility; and

(C) at least three other members of the facility's staff.

(2) The quality assessment and assurance committee shall perform the following:

(A) Meet at least quarterly to identify issues with respect to what quality assessment and assurance activities are necessary; and

(B) develop and implement appropriate plans of action to correct identified quality deficiencies and prevent potential quality deficiencies.

(Authorized by and implementing K.S.A. 39-932; effective Nov. 1, 1993; amended Feb. 21, 1997; amended Oct. 8, 1999.)

***** Authenticated Kansas Administrative Regulation *****