

RULES AND REGULATIONS
FOR LICENSING
RESIDENTIAL CARE AND ASSISTED LIVING FACILITIES
(R23-17.4-RCAL)

State of Rhode Island and Providence Plantations

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NOTE: "Emergency" language appears with underlining and ~~strikeouts~~.

INTRODUCTION

These rules and regulations are promulgated pursuant to the authority conferred under Chapter 23-17.4 of the General Laws of Rhode Island, as amended, and are established for the purpose of defining the minimum standards for licensed residential care and assisted living facilities for adults.

Pursuant to the provisions of section 42-35 3(c) of the General Laws of Rhode Island, as amended, the following were given consideration in arriving at the regulations: (a) alternative approaches to the regulations; (b) duplication or overlap with other state regulations; and (c) significant economic impact. No alternative approach was identified; nor any duplication or overlap.

Furthermore, the protection of the health, safety and welfare of the public necessitates the adoption of these regulations despite any economic impact which may be incurred as a result.

These rules and regulations shall supersede all previous *Rules and Regulations for Licensing Residential Care and Assisted Living Facilities* (R23-17.4-RCAL) promulgated by the Rhode Island Department of Health and filed with the Secretary of State.

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PART I **LICENSURE REQUIREMENTS**

Section 1.0 **Definitions**

Whenever used in these rules and regulations, the following terms shall be construed as follows:

- 1.1 **"Abuse"** means any assault as defined in Chapter 11-5 of the Rhode Island General Laws, as amended, including, but not limited to hitting, kicking, pinching, slapping or the pulling of hair, provided however, unless such is required as an element of offense, it shall not be necessary to prove that the patient or resident was injured thereby, or any assault as defined in Chapter 11-37 of the Rhode Island General Laws, as amended, or any offense under Chapter 11-10 of the General Laws; or
- ☐ any conduct which harms or is likely to physically harm the resident except where the conduct is a part of the care and treatment, and in furtherance of the health and safety of the resident; or
 - ☐ intentionally engaging in a pattern of harassing conduct which causes or is likely to cause emotional or psychological harm to the resident, including but not limited to ridiculing or demeaning a patient or resident, making derogatory remarks to a patient or resident or cursing directed towards a patient or resident, or threatening to inflict physical or emotional harm on a patient.
- 1.2 **"Act"** refers to Chapter 23-17.4 of the General Laws of Rhode Island, entitled "Residential Care and Assisted Living Facility Licensing Act."
- 1.3 **"Administrator"** means the person who has responsibility for day to day administration or operation of a residential care/assisted living facility for adults.
- 1.4 **"Alzheimer's special care unit/program"** means any residential care and assisted living facility that locks, secures, segregates, or provides a special program or a special unit for residents with a diagnosis of probable Alzheimer's or a related disorder, to prevent or limit access by a resident outside the designated or separated area; and that advertises or markets the facility as providing specialized Alzheimer/dementia care services.
- 1.5 **"Capable of self-preservation"** means the physical mobility and judgmental ability of the individual to take appropriate action in emergency situations. Residents not capable of self-preservation are limited to facilities that meet more stringent life safety code requirements as provided under section 23-17.4-6(b)(3) of the General Laws of Rhode Island, as amended.
- 1.6 **"Change in operator"** means a transfer by the governing body or operator of a residential care and assisted living facility for adults to any other person (excluding delegations of authority to the administrative staff of the facility) of the governing body's authority to:
- a) hire or fire the chief executive officer of the residential care and assisted living facility;
 - b) maintain and control the books and records of residential care and assisted living facility;

- c) dispose of assets and incur liabilities on behalf of the residential care and assisted living facility; or
- d) adopt and enforce policies regarding operation of the residential care and assisted living facility.

This definition is not applicable to circumstances wherein the governing body of a residential care and assisted living facility for adults retains the immediate authority and jurisdiction over the activities enumerated in subsections (a) through (d) herein.

1.7 **"Change in operator/owner"** means:

- (1) in the case of a residential care/assisted living facility which is a partnership, the removal, addition or substitution of a partner which results in a new partner acquiring a controlling interest in such partnership;
- (2) in the case of a residential care/assisted living facility for adults which is an unincorporated solo proprietorship, the transfer of the title and property to another person;
- (3) in the case of a residential care/assisted living facility for adults which is a corporation:
 - a) a sale, lease, exchange or other disposition of all, or substantially all of the property and assets of the corporation; or
 - b) a merger of the corporation into another corporation; or
 - c) the consolidation of two or more corporations, resulting in the creation of a new corporation; or
 - d) in the case of a residential care and assisted living facility for adults which is a business corporation, any transfer of corporate stock which results in a new person acquiring a controlling interest in such corporation; or
 - e) in the case of a residential care and assisted living facility for adults which is a non-business corporation, any change in membership which results in a new person acquiring a controlling vote in such corporation.

1.8 **"Director"** means the Director of the Rhode Island Department of Health.

1.9 **"Division of Fire Safety"** means the Division of Fire Safety, Executive Department, state of Rhode Island.

1.10 **"Employee"** means any individual, whether paid or unpaid, directly employed by or under contract with the facility, who provides or delivers direct care services to residents and/or who has routine contact with residents without the presence of other employees.

- 1.11 **"Fiduciary agent"** means one who holds a fiduciary relation or acts in a fiduciary capacity.
- 1.12 **"High managerial agent"** means an officer of a facility, the administrator and assistant administrator of the facility, the director and assistant director of nursing services, or any other agent in a position of comparable authority with respect to the formulation of policies of the facility or the supervision in a managerial capacity of subordinate employees.
- 1.13 **"Indirect supervision"** means supervision provided by a licensed professional, as indicated in section 19.3.2, who does not need to be on the premises while medication duties are being performed, but who is responsible for the assignment of duties and evaluation of the performance of the staff who are centrally storing and administering medications.
- 1.14 **"Level of service"** means the licensed authority to admit residents according to the following classifications: [note that facilities must have both an "F" (Fire) and an "M" (medication) classification].
- a) **Level F1 licensure:** for residents who are not capable of self preservation (requiring a more stringent life safety code, as defined in section 1.16); AND/OR
 - b) **Level F2 licensure:** for residents who are capable of self preservation; AND/OR
 - c) **Level M1 licensure:** for residents who require central storage and administration of maintenance dose (level) medications;
 - d) **Level M2 licensure:** for facilities which only assist (as elaborated in section 19.3.1) residents with self-administration of medications.
- 1.15 **"Licensing agency"** means the Rhode Island Department of Health.
- 1.16 **"Life Safety Code"** means the current applicable Rhode Island State Fire Safety Code, as found in reference 7.
- 1.17 **"Mistreatment"** means the inappropriate use of medications, isolation, or use of physical or chemical restraints as punishment, for staff convenience, as a substitute for treatment or care, in conflict with a physician's order, or in quantities which inhibit effective care of treatment, which harms or is likely to harm the patient or resident.
- 1.18 **"Neglect"** means the intentional failure to provide treatment, care, goods and services necessary to maintain the health and safety of the patient or resident, or the intentional failure to carry out a plan of treatment or care prescribed by the physician of the patient or resident, or the intentional failure to report patient or resident health problems or changes in health conditions to an immediate supervisor or nurse, or the intentional lack of attention to the physical needs of a patient or resident including, but not limited to toileting, bathing, meals and safety. Provided, however, no person shall be considered to be neglected for the sole reason that he or she relies or is being furnished treatment in accordance with the tenets and teachings or a well recognized church or denomination by a duly-accredited practitioner thereof.

- 1.19 **"Person"** means any individual, trust or estate, partnership, corporation (including associations, joint stock companies, or limited liability companies) state or political subdivision or instrumentality of a state.
- 1.20 **"Personal assistance"** means the provision of twenty-four (24) hour adult staffing of the home, and of one (1) or more of the following services, as required by the resident or as reasonably requested by the resident, including: (a) assisting the resident with personal needs; (b) assisting the resident with self-administration of medication; or administration of medications by appropriately licensed staff; (c) assisting the resident in arranging for supportive services as may be reasonably required; (d) monitoring the activities of the resident while on the premises of the residence to ensure his or her health, safety, and well-being; and (e) reasonable recreational, social and personal services.
- 1.21 **"Resident"** means an individual who is an adult, not requiring medical or nursing care as provided in a health care facility but may require the administration of medication, and who as a result of age, and/or physical or mental limitation requires personal assistance, lodging and meals. A resident must be capable of self-preservation in emergency situations, unless the facility meets a more stringent life safety code as required under 23-17.4-6(b)(3) of the General Laws of Rhode Island, as amended.
- 1.22 **"Residential care and assisted living facility"** means a publicly or privately operated residence that provides directly or indirectly by means of contracts or arrangements personal assistance, lodging, and meals to two (2) or more adults who are unrelated to the licensee or administrator, excluding however, any privately operated establishment or facility licensed pursuant to Chapter 23-17 of the General Laws of Rhode Island, as amended, and those facilities licensed by or under the jurisdiction of the Department of Mental Health, Retardation and Hospitals, the Department of Children, Youth, and Families, or any other state agency. Residential care and assisted living facilities include sheltered care homes, and board and care residences, or any other entity by any other name providing the above services which meet the definition of residential care and assisted living facility.

Section 2.0 ***General Requirements for Licensing***

2.1 No person, acting alone or jointly with any other person, shall conduct or maintain a residential care and assisted living facility for adults in this state without a license in accordance with the requirements of section 23-17.4-4 of reference 1 and in conformity with the rules and regulations herein.

2.1.1 A residential care and assisted living facility shall only admit residents according to the level of service for which the facility has been licensed. A residence may have areas within the facility which are licensed separately.

Such levels shall include:

- a) ***Level F1:*** licensure for residents who are not capable of self preservation;
AND/OR
- b) ***Level F2:*** licensure for residents who are capable of self preservation; OR
- c) ***Level M1:*** licensure for residents who require that the facility centrally store and administer medications;
- d) ***Level M2:*** licensure for residents who require assistance (as elaborated in section 19.3.1) with self-administration of medications;
- e) Or combination per area of facility.

2.2 No person and/or combination per area of facility shall represent itself as a residential care and assisted living facility for adults or use the term residential care or any other similar term in its title, advertising, publication or other form of communication, unless licensed as a residential care and assisted living facility for adults in accordance with the provisions herein.

Financial Interest Disclosure

2.3 Any licensed residential care/assisted living facility which refers clients to any health care facility licensed pursuant to Chapter 23-17 of the Rhode Island General Laws, as amended, or to another residential care/assisted living facility licensed pursuant to Chapter 23-17.4 or to a certified adult day care program in which the referring entity has a financial interest shall, at the time a referral is made, disclose the following information to the client: (1) that the referring entity has a financial interest in the facility or provider to which the referral is being made; (2) that the client has the option of seeking care from a different facility or provider which is also licensed and/or certified by the state to provide similar services to the client.

2.4 The referring entity shall also offer the client a written list prepared by the Department of Health of all such alternative licensed and/or certified facilities or providers. Said written list may be obtained by contacting:

Rhode Island Department of Health, Division of Facilities Regulation

3 Capitol Hill, Room 306
Providence, RI 02908
401.222.2566

- 2.5 Non-compliance with sections 2.3 and 2.4 (above) shall constitute grounds to revoke, suspend or otherwise discipline the licensee or to deny an application for licensure by the Director, or may result in imposition of an administrative penalty in accordance with Chapter 23-17.10 of the Rhode Island General Laws, as amended.

Section 3.0 ***Application for License***

- 3.1 Application for a license to conduct, maintain or operate a residential care and assisted living facility for adults shall be made to the licensing agency upon forms provided by the licensing agency and shall contain such information as the licensing agency reasonably requires which may include affirmative evidence of ability to comply with the provisions of reference 1 and the rules and regulations therein.
- 3.1.1 Each application shall be accompanied by a non-refundable application fee of two hundred fifty dollars (\$250.00) per license plus an additional fee of twenty two dollars and fifty cents (\$22.50) per licensed bed, made payable to the Rhode Island General Treasurer.
- 3.2 A notarized listing of the names and addresses of direct and indirect owners whether individual, partnership, or corporation, with percentages of ownership designated, shall be provided with the application for licensure and shall be updated annually. If a corporation, the list shall include all officers, directors and other persons or any subsidiary corporation owning stock.

Section 4.0 ***Issuance and Renewal of License***

- 4.1 Upon receipt of an application for a license, the licensing agency shall issue a license if the applicant meets the requirements of reference 1 and the rules and regulations herein.
- The license issued, unless sooner suspended or revoked, shall expire by limitation on the 31st day of December following its issuance and may be renewed from year to year subject to inspection and approval by the licensing agency, including the Office of Food Protection, and the Division of Fire Safety.
- 4.1.1 All renewal applications shall be accompanied by a non-refundable application fee of two hundred fifty dollars (\$250.00) per license plus an additional fee of twenty two dollars and fifty cents (\$22.50) per licensed bed, made payable to the Rhode Island General Treasurer.
- 4.2 Each license shall be issued only for the premises and persons named in the application, and shall not be transferable or assignable except with the written approval of the licensing agency.
- 4.3 The license will specify the level of service or combination of services that the facility may provide, and the area where service can be provided (i.e., residents requiring assistance with

self preservation, and/or medication may only be admitted to facilities [or areas] with appropriate licensing level).

- 4.4 A license issued hereunder shall be the property of the state and loaned to such licensee and it shall be kept posted in a conspicuous place on the premises.

Section 5.0 ***Inspections***

- 5.1 The licensing agency shall make or cause to be made such inspections and investigations as it deems necessary by duly authorized agents of the Director at such time and frequencies as determined by the licensing agency.
- 5.2 A duly authorized representative of the licensing agency shall have the right to enter at any time without prior notice, to inspect the premises and services for which an application has been received, or for which a license has been issued.
- 5.2.1 Refusal to permit inspection or investigation shall constitute a valid ground for suspension or revocation of license or curtailment of activities.
- 5.3 Every facility shall be given notice by the licensing agency of all deficiencies reported as a result of an inspection or investigation.

Section 6.0 ***Change of Ownership, Operation and/or Location***

- 6.1 When a change of ownership or operation or location of a residential care and assisted living facility for adults or when discontinuation of services is contemplated, the licensing agency shall be given written notice of pending changes.
- 6.2 A license shall immediately become void and shall be returned to the licensing agency when operation of a residential care/assisted living facility is discontinued or when any changes in ownership occur.
- 6.2.1 When there is a change in ownership or in the operation or control of the facility, the licensing agency reserves the right to extend the expiration date of such license, allowing the facility to operate under the same license which applied to the prior licensee for such time as shall be required for the processing of a new application or reassignment of residents, not to exceed six (6) weeks.
- 6.3 When a change of certified administrator is contemplated, the licensing agency shall be given written notice prior to the change and at the time of the actual change.

Section 7.0 ***Denial, Suspension, Revocation of License or Curtailment of Activities***

- 7.1 The licensing agency is authorized to deny, suspend or revoke the license or curtail activities of any residential care and assisted living facility which: (1) has failed to comply with the rules and regulations herein; (2) has offered or provided service to residents outside of the scope of its appropriate level of license; (3) has failed to correct deficiencies or complete corrective action plan; or (4) has failed to comply with the provisions of reference 1.

- 7.1.1 Reports of deficiencies shall be maintained on file in the licensing agency and shall be considered by the licensing agency in rendering determinations to deny, suspend or revoke the license or to curtail activities of the residential care and assisted living facility.
- 7.2 Whenever an action shall be proposed to deny, suspend or revoke a residential care and assisted living facility license, or curtail its activities, the licensing agency shall notify the facility by certified or registered mail or by personal service setting forth reasons for the proposed action, and the applicant or licensee shall be given an opportunity for a prompt and fair hearing in accordance with section 23-17.4-8 of reference 1 and section 42-35-9 of the General Laws of Rhode Island, as amended, and the provisions of section 28.0 herein.
 - 7.2.1 However, if the licensing agency finds that the safety and welfare of residents requires emergency action and incorporates a finding to that effect in its order, the licensing agency may order summary suspension of license or curtailment of activities pending proceedings for revocation or other action in accordance with sections 42-35-14 (c) and 23-1-21 of the General Laws of Rhode Island, as amended.
- 7.3 The appropriate state and federal agencies shall be notified of any action taken by the licensing agency pertaining to either denial, suspension, or revocation of license, or curtailment of activities.

PART II ***ORGANIZATION & MANAGEMENT***

Section 8.0 ***Administrative Management***

- 8.1 Each facility shall designate in writing a certified administrator who shall be responsible for no less than the following:
- 8.1.1 the management and operation of the facility;
 - 8.1.2 compliance with federal, state, and local laws and rules and regulations pertaining to, but not limited to: the management and operation of residential care and assisted living facilities for adults, fire, safety, zoning, building codes, sanitation, food service, communicable and reportable diseases, other relevant health and safety requirements, and all rules and regulations herein.
 - 8.1.3 staffing the facility with adequate and qualified personnel to attend to the food preparation, general housekeeping, assistance with personal care, medication administration, if applicable, and other such services;
 - 8.1.4 establishment of written policies and procedures governing the operation of the facility which are aimed, to the extent possible, at maintaining the self-independence of residents. Such policies shall include provisions to implement no less than the following:
 - a) the appropriate provisions of section 12.0 herein and other applicable provisions pertaining to admission, transfer, discharge, visitation privileges, availability and utilization of community resources, leisure time and such other;
 - b) accountability of the facility when acting as a fiduciary agent for the resident pursuant to section 12.0 herein;
 - c) notification of next of kin or other responsible person designated by the resident in the event of illness, accident or death; and
 - d) such other provisions as may be deemed appropriate.
 - 8.1.5 compliance with all requirements appropriate to the service level for which the facility is licensed.
- 8.2 A certified administrator shall be in charge of no more than three facilities with an aggregate bed total of no more than one hundred twenty (120) residents.
- 8.3 The certified administrator shall not leave the premises without delegating necessary authority for operation of the facility to a competent employee(s).

8.3.1 Each facility shall have responsible adult(s) who are employee(s) or who have a contractual relationship with the facility to provide the services required herein who is at least eighteen (18) years of age and

- a) awake and on the premises at all times,
- b) designated in charge of the operation of the facility; and
- c) physically and mentally capable of communication with emergency personnel.

8.4 Requirements for certification can be found in section 9.0.

8.5 ***Other Staffing Requirements:***

All facilities must provide staffing which is sufficient to provide the necessary care and services to attain or maintain the highest practicable physical, mental and psychosocial well being of the residents, according to the appropriate level of licensing.

8.5.1 Staff shall have documentation of training as appropriate for maintaining the above conditions within the facility, specifically in the areas of:

- a) fire safety procedures
- b) medical emergency procedures
- c) emergencies
- d) residents rights
- e) first aid
- f) cardiopulmonary resuscitation: At all times, one person on-site shall be trained by the American Heart Association, the American Red Cross, or the National Safety Council at a health care provider level to perform cardiopulmonary resuscitation.

8.5.2 Orientation and training appropriate for job specifications shall be provided in the areas of:

- a) assistance with medications
- b) assistance with personal care
- c) supervision
- d) record keeping
- e) housekeeping/sanitation
- f) food service
- g) infection control.

8.6 ***Personnel Records***

8.6.1 The facility shall maintain personnel records for each staff member.

8.6.2 Said personnel records shall be reviewed and updated annually and shall include, but not be limited to, all of the following components:

- a) completed job application and/or resume;
- b) written statements of references or documentation of verbal reference check;
- c) written functional job descriptions;
 - i) These descriptions shall be updated annually and shall include, but not be limited to, minimal qualifications for the position, major duties and responsibilities, and shall be signed and dated by the individual employee.
- d) evidence of credentials, current professional licensure and/or certification;
- e) documentation of education and/or continuing training, including continuing education units (CEUs) related to administrator certification, food management, etc.
- f) documentation of attendance at in-service training and/or orientation;
- g) documentation of at least one (1) performance evaluation annually;
- h) signed copy of employee's awareness of resident's rights;
- i) results of the criminal record (BCI) check.

8.7 *Personnel Criminal Records Check*

8.7.1 Pursuant to section 23-17.4-27 of the Rhode Island General Laws, as amended, all employees of residential care and assisted living facilities, hired after October 1, 1991, and having routine contact with a patient or resident without the presence of other employees, shall be subject to a criminal background check, prior to, or within one (1) week of employment.

8.7.2 Said employee, through the employer, shall apply to the bureau of criminal identification of the state or local police department for a statewide criminal records check. Fingerprinting shall not be required as part of this check.

8.7.3 In those situations in which no disqualifying information has been found, the bureau of criminal identification (BCI) of the state or local police shall inform the applicant and the employer in writing.

8.7.4 Any disqualifying information as defined in these regulations, according to the provisions of section 23-17.4-30 of the Rhode Island General Laws, as amended, will be conveyed to the applicant in writing, by the bureau of criminal identification. The

employer shall also be notified that disqualifying information has been discovered, but shall not be informed of the nature of the disqualifying information.

- 8.7.5 The employer shall maintain on file, subject to inspection by the Department of Health, evidence that criminal records checks have been initiated on all employees seeking employment after October 1, 1991, as well as the results of said check. Failure to maintain this evidence shall be grounds to revoke the license or registration of the employer.
- 8.7.6 If an applicant has undergone a statewide criminal records check within eighteen (18) months of an application for employment, then an employer may request from the bureau a letter indicating if any disqualifying information was discovered. The bureau will respond without disclosing the nature of the disqualifying information. This letter may be maintained on file to satisfy the requirements of Chapter 23-17.4-28 of the Rhode Island General Laws, as amended.
- 8.7.7 An employee against whom disqualifying information has been found may request that a copy of the criminal background report be sent to the employer who shall make a judgement regarding the continued employment of the employee.

Management of Services

- 8.8 Each facility shall provide services with adequate professional and ancillary staff and in accordance with applicable state law. Further, the facility shall assure that all services are rendered in a safe and effective manner and consistent with the requirements herein.
- 8.9 The facility shall have a policy and procedure manual that is reviewed and updated annually by the governing body, and shall include, but not be limited to, the following items:
 - 8.9.1 a written description of all services available to residents that shall be designed to promote the resident's efforts to maintain independence;
 - 8.9.2 a written statement of admission criteria that shall include, at a minimum, the following information regarding the resident population: (a) nature and extent of disabling condition(s) served; and (b) restrictions (if any).
 - a) The statement of admission criteria shall include a statement that no otherwise qualified applicant shall be denied admission to the facility solely on the basis of race, creed, color, religion, sexual orientation, or national origin.
 - 8.9.3 The facility shall develop and maintain written admission procedures that shall include no less than the following components:
 - a) procedures for informing residents of house rules (e.g., necessary information, tour of facility);
 - b) a resident assessment process;

- c) procedures to be followed, including those for referral (in those cases where an applicant is found to be ineligible for admission);
 - d) Prior to admission, the resident and/or legal guardian shall be informed of any charges for services rendered, including charges for special diets, if any.
- 8.9.4 The facility shall develop, maintain, and enforce written policies and procedures for staff documentation of personal care services/activities of daily living (ADLs) rendered to residents.
- 8.9.5 The facility shall maintain a written policy and procedures for assisting a resident in locating and/or obtaining needed services, as appropriate.
- 8.9.6 The facility shall maintain a written policy regarding reportable incidents that involve facility operations, resident services, or related events. The Department shall be notified of all reportable incidents within two (2) business days of the occurrence on the form provided in Appendix "B" herein.
- 8.9.7 The facility shall develop and maintain a statement of discharge criteria that specifies the conditions under which a resident is considered to be ineligible for continued residency and conditions under which a resident's advanced rental fees are refunded.
- 8.9.8 Policies and procedures pertaining to the provision of services, and supported by appropriate manuals or reference materials where applicable, shall be established by a designated professional staff member or administrator and approved by the governing body. Such policies shall pertain to no less than the following:
 - a) facility staffing patterns;
 - b) staff responsibility(ies) for the provision of services;
 - c) a statement that services rendered shall be performed in accordance with all applicable laws and regulations for each service provided;
 - d) a description of services that are included in the monthly charge(s) and the additional cost(s), if any, for other available services or amenities;
 - e) policies/procedures regarding medication management and/or assistance with medication(s);
 - f) a policy that medical waste as defined in the *Rules and Regulations Governing the Generation, Transportation, Storage, Treatment, Management and Disposal of Regulated Medical Waste* (DEM-DAH-MW-01-92, April 1994) promulgated by the Rhode Island Department of Environmental Management, shall be managed in accordance with the provisions of the aforementioned regulations;

- g) a policy regarding compliance with food service and *Food Code* requirements;
- h) disclosure of resident information in accordance with the requirements of reference 10 herein;
- i) the procedure(s) for resolution of resident grievances, including the inclusion of the name, address, and telephone number of all pertinent resident advocacy groups, the state ombudsman, and the Department.

Section 9.0 ***Administrator Qualifications For Certification***

Pursuant to the provisions of section 23-17.4-15.2, administrators of residential care/assisted living facilities shall be certified and shall meet the qualifications specified in section 9.1 below:

9.1 ***Qualifications of the Certified Administrator:***

The Department shall annually issue a person a certificate as an administrator of a residential care and assisted living facility for a period of one (1) year if the person meets all of the following requirements:

- a) twenty-one years (21) of age or older;
- b) good moral and responsible character and reputation;
- c) literacy in English as defined by the ability to read and write in English;
- d) management or administrative ability to carry out the requirements of the Act;
- e) initial training that meets one (1) of the following criteria:
 - i) successfully completes a forty (40) hour training program administered by an approved organization and includes a curriculum that covers the following:
 - A) resident service plan
 - B) characteristics of resident disabilities
 - C) resident health issues
 - D) community resources
 - E) social and recreational activities
 - F) nutrition and food service
 - G) first aid
 - H) medication
 - I) business administration
 - J) maintenance and housekeeping
 - K) resident's rights
 - L) state and federal regulations
 - M) staff management and training; or

- ii) As assisted living administrator certification by the American College of Healthcare Administrators (ACHCA); or
 - iii) A degree in health care administration from a regionally accredited college/university that includes coursework covering all the topics cited in section 9.1(e)(i) (above); or
 - iv) A current Rhode Island nursing home administrator's license.
- f) For each year following initial certification, the licensee shall have completed sixteen (16) hours of Department-approved continuing education within the previous twelve (12) months.
- 9.2 The Department may suspend or revoke the certification of an administrator for cause, including but not limited to, failure to maintain compliance with the above qualifications, repeated or intentional violations of the Act or these regulations, or conviction (including but not limited to a plea of nolo contendere) to charges of resident abuse under the provisions of Chapter 23-17.8 of the Rhode Island General Laws, as amended, or a conviction of a felony, or exploitation.

PART III **RESIDENCY REQUIREMENTS**

Section 10.0 **Residency Requirements**

10.1 Each residential care and assisted living facility through their assessment and evaluation procedures shall be responsible to ensure that admission to and residency in a residential care assisted living facility be limited to those individuals: who are adults not requiring medical or nursing care as provided in a health care facility but may require the administration of medication and who as a result of age, and/or physical or mental limitation require personal assistance, lodging, and meals. A resident must be capable of self-preservation in emergency situations, unless the facility meets a more stringent life safety code as required under section 23-17.4-6 (b)(3) of the Rhode Island General Laws, as amended.

~~10.1.1 capable of self-preservation pursuant to section 1.5 herein; OR~~

~~10.2.2 reasonably oriented and who do not require care beyond that permitted by the level of service for which the facility is licensed.~~

Section 11.0 **Residency Records**

11.1 Each facility shall maintain, at a minimum, an individual record for each resident that includes the following information:

- a) the resident's name;
- b) the resident's last address;
- c) the name of the person or agency referring the resident to the home;
- d) the name, specialty (if any), telephone number, and emergency telephone number of each physician who has treated the resident during the preceding twelve (12) months;
- e) the date the resident began residing in the home;
- f) a list of medications taken by the resident, including dosage;
- g) written acknowledgments that the resident has signed and received copies of the rights as provided in section 23-17.4-16;
- h) information about any specific health problems of the resident, which may be useful in a medical emergency, including diagnostic and/or therapeutic orders;
- i) a record of personal property and funds which the resident has entrusted to the facility;
- j) the name, address, and telephone number of a person identified by the resident who should be contacted in the event of an emergency or death of the resident and the name, address, and telephone number of the legal guardian;

- k) any other health-related emergency, or pertinent information which the resident requests the home to keep on record; and
 - l) copy of the admission evaluation signed by the administrator.
- 11.2 A comprehensive initial evaluation shall be conducted by a facility designee prior to or during admission and it shall include, but not be limited to, the following components:
- a) a history of the resident's health problems, including any current problems, age of onset, duration, and impact on the resident (including any health, psychological, familial, social, recreational and/or life skills issues);
 - b) any other relevant personal information, which may include living skills, cultural issues, education, traumas, current stresses, or psychiatric conditions.
- 11.3 An individual service plan shall be developed and signed by the resident and the administrator.
- a) Information gathered in the initial assessment shall be utilized to determine the resident's capabilities for self-preservation and a determination of services required for the development of the resident's individual service plan.
 - b) The service planning process shall include the involvement of the resident and/or legal guardian, the family, or the resident's physician.
 - c) The service planning process shall include, where appropriate, documentation relating to personal assistance, medication, special diets, recreational activities, and other similar services rendered.
- 11.4 The individual service plan shall be signed and dated by the resident (or family member/legal guardian, as required) and the facility owner or administrator and a copy placed in the record.
- a) The plan shall be revised as services, medications, or physician's orders change.
- 11.5 In accordance with section 23-17.4-16.1 of the Rhode Island General Laws, as amended, each resident and/or legal guardian shall be given a written statement of the resident's rights and responsibilities in the facility that shall be signed by the resident and/or guardian attesting to his/her comprehension of these rights and responsibilities as explained by the staff person who shall witness the resident's signature. A copy of the signed document shall also be placed in the resident's record.

Section 12.0 ***Reporting on Illness, Injury, Death and/or Abuse***

- 12.1 The person responsible for the operation of the facility shall promptly notify the next of kin as instructed or other responsible person designated by the resident or guardian of any illness, injury or death of a resident.

- 12.2 Accidents on the premises resulting in hospitalization or death of any resident shall be reported in writing to the licensing agency (Department of Health, Division of Facilities Regulation) by the end of the next working day on the form supplied in Appendix "B" herein. A copy of each report shall be retained by the facility for review during subsequent inspections by the licensing agency.
- 12.3 The death of any resident of a residential care and assisted living facility for adults occurring on the premises within twenty-four (24) hours of assuming residency shall be reported to the Office of the State Medical Examiners including all deaths occurring in the facility which are sudden or unexpected, suspicious or unnatural, the result of trauma, remote or otherwise, or when unattended by a physician in accordance with the provisions of reference 2.
- 12.4 Any employee or of a residential care/assisted living facility who has reasonable cause to believe that a resident has been abused, exploited or neglected shall within twenty-four (24) hours of the receipt of said information, transfer such to the Director of the Department of Health. Any person required to make a report pursuant to this section shall be deemed to have complied with these requirements if a report is made to a high managerial agent. Once notified, said agent shall be required to meet the above reporting requirements.
- 12.4.1 Upon receipt of such information or allegation, the Director of Health or his/her designee, shall forthwith conduct such investigation as may be necessary and submit a report of findings of the investigation(s) to the Attorney General of the State of Rhode Island.
- 12.5 Reporting requirements, pursuant to Chapter 23-17.8 of the Rhode Island General Laws, as amended, must be posted in the facility in plain view of all residents and staff.
- 12.6 The Department shall be notified of all reportable events or incidents that involve facility operations, resident services, or related events within two (2) business days of the occurrence on the form provided in Appendix "B" herein.

Section 13.0 ***Rights of Residents***

- 13.1 In accordance with section 23-17.4-16 of the Rhode Island General Laws, as amended, "Rights of Residents", every residential care/assisted living facility for adults licensed hereunder shall observe the following standards and such other standards as may be prescribed in rules and regulations promulgated by the licensing agency with respect to each resident of the facility:

For purposes of sections (2)(b), (d), (k), (m), (n), (q) and (r)(i), the term "resident" shall also mean the resident's agent as designated in writing or legal guardian.

- (1) Residents are entitled to all rights recognized by law with respect to discrimination, service decisions (including the right to refuse services), freedom from abuse and neglect, privacy, association, and other areas of fundamental rights including the right to freedom of religious practice. Some of these basic rights include:

- (a) To be offered care without discrimination as to sex, race, color, religion,

national origin, or source of payment.

- (b) To be free from verbal, sexual, physical, emotional and mental abuse, corporal punishment and involuntary seclusion;
 - (c) To be free from a physical or chemical restraints for the purpose of discipline or convenience, and not required to treat the resident's medical symptoms. No chemical or physical restraints will be used except on order of a physician;
 - (d) To have their medical information protected by applicable state confidentiality laws.
 - (e) To have a service animal, consistent with the "reasonable accommodations" clause of the fair housing act. (Such as seeing eye dog); and
- (2) In addition to these basic rights enjoyed by other adults, the residents of assisted living also have the right to:
- (a) Be treated as individuals and with dignity, be assured choice and privacy and the opportunity to act autonomously;
 - (b) Upon request have access to all records pertaining to the resident, including clinical records, within the next business day or immediately in emergency situations;
 - (c) Arrange for services not available through the setting at their own expense as long as the resident remains in compliance with the resident contract and applicable state law and regulations;
 - (d) Upon admission and during the resident's stay be fully informed in a language the resident understands, of all resident rights and rules governing resident conduct and responsibilities;
 - (i) Each resident shall receive a copy of their rights.
 - (ii) Each resident shall acknowledge receipt in writing; and
 - (iii) Each resident shall be informed promptly of any changes.
 - (e) Remain in their room or apartment unless a change in room or apartment is related to resident preference or to transfer conditions stipulated in their contract;
 - (f) Consistent with the terms of the resident contract, furnish their own rooms and maintain personal clothing and possessions as space permits, consistent with applicable life safety, fire or similar laws, regulations and ordinances;
 - (g) Be encouraged and assisted to exercise rights as a citizen; to voice grievances

through a documented grievance mechanism and suggest changes in policies and services to either staff or outside representatives without fear of restraint, interference, coercion, discrimination, or reprisal;

- (h) Have visitors of their choice without restrictions so long as those visitors do not pose a health or safety risk to other residents, staff, or visitors, or a risk to property, and comply with reasonable hours and security procedures;
- (i) Have personal privacy in their medical treatment, written communications and telephone communications, and to the fullest extent possible, in accommodation, personal care, visits, and meetings;
- (j) Have prominently displayed a posting of the facility's grievance procedure, the names, addresses and telephone numbers of all pertinent resident advocacy groups, the state ombudsperson and the state licensing agency;
- (k) Choose his or her own physician(s) and to have ready access to the name, specialty and way of contacting the physician(s) responsible for the resident's care;
- (l) Have the facility record and periodically update the address and telephone number of the resident's legal representative or responsible party;
- (m) Manage his or her financial affairs. The facility may not require residents to deposit their personal funds with the facility. Upon written authorization of a resident and with the agreement of the facility, the facility holds, safeguards, manages and accounts for personal funds of the resident as follows:
 - (i) Funds in excess of three hundred dollars (\$300) must be in an interest bearing account, separate from any facility operating account, that credits all interest on the resident's funds to that account and the facility shall purchase a surety bond on this account;
 - (ii) A full and separate accounting of each resident's personal funds maintained must be available through quarterly statements and on request of the resident;
 - (iii) Resident funds shall not be commingled with facility funds or with funds of any person other than another resident;
 - (iv) Upon the death of a resident, the facility must convey within thirty (30) days the resident's funds deposited with the facility, and a full accounting of those funds to the resident's responsible party, or the administrator of the resident's estate;
- (n) Have access to representatives of the state ombudsperson and to allow the ombudsperson to examine a resident's records with the permission of the resident and consistent with state law;

- (o) Be informed in writing, prior to, or at the time of admission or during his or her stay of:
 - (i) the services available and of related charges, including charges not covered either under federal and/or state programs by other third party payors or by the facility's basic rate;
 - (ii) the facility's policies regarding overdue payment including notice provisions and a schedule for late fee charges;
 - (iii) the facility's policy regarding acceptance of state and federal government reimbursement for care in the facility both at time of admission and during the course of residency if the resident depletes his or her own private resources;
- (p) To be encouraged to meet with and participate in activities of social, religious, and community groups at the resident's discretion;
- (q) Upon provision of at least thirty (30) days notice, if a resident chooses to leave a facility, the resident shall be refunded any advanced payment made provided that the resident is current in all payments;
- (r) The facility can discharge a resident only for the following reasons and within the following guidelines:
 - (i) except in life-threatening emergencies and for nonpayment of fees and costs, the facility gives thirty (30) days' advance written notice of discharge with a statement containing the reason, the effective date of termination, and the resident's right to an appeal under state law;
 - (ii) if resident does not meet the requirements for residency criteria stated in the residency agreement or requirements of state or local laws or regulations;
 - (iii) if resident is a danger to self or the welfare of others; and the facility has attempted to make a reasonable accommodation without success to address resident behavior in ways that would make discharge or change unnecessary; which would be documented in the resident's records;
 - (iv) for failure to pay all fees and costs stated in the contract, resulting in bills more than thirty (30) days outstanding. A resident who has been given notice to vacate for nonpayment of rent has the right to retain possession of the premises, up to any time prior to eviction from the premises, by tendering to the provider the entire amount of fees for services, rent, interest, and costs then due. The provider may impose

reasonable late fees for overdue payment; provided that the resident has received due notice of such charges in accordance with the facility's policies. Chronic and repeated failure to pay rent is a violation of the lease covenant. However the facility must make reasonable efforts to accommodate temporary financial hardship and provide information on government or private subsidies available that may be available to help with costs; and

- (v) the facility makes a good faith effort to counsel the resident if the resident shows indications of no longer meeting residence criteria or if service with a termination notice is anticipated;
- (s) The facility provides for a safe and orderly discharge, including assistance with identifying a resource to help locate another setting, regardless of reason for move-out;
- (t) To have the resident's responsible person, and physician notified when there is:
 - (i) an accident involving the resident which results in injury and required physician intervention;
 - (ii) a significant change in the resident's physical, mental or psychosocial status or treatment;
- (u) To be able to share a room with a spouse or other consenting resident of the facility in accordance with terms of the resident contract;
- (v) To live in a safe and clean environment;
- (w) To have and use his or her own possessions where reasonable and have an accessible lockable space provided for security of small personal valuables;
- (x) To receive a nourishing, palatable, well-balanced diet that meets his or her daily nutritional and special medical dietary needs;
- (y) To attain or maintain the highest practicable physical, mental, and psychosocial well-being; and
- (z) To be allowed to maintain an amount of money to cover reasonable monthly personal expenses the amount of which shall be at least equal to that amount required for individuals on SSI as provided under Rhode Island General Laws section 40-6-27(a)(3).
- (aa) The facility must implement written policies and procedures to ensure that all facility staff are aware of and protect the resident's rights contained herein.

- 13.2 Each facility shall provide each resident or his or her representative upon admission, a copy of the provisions of section 23-17.4-16 "Rights of Residents," and shall display in a conspicuous place on the premises a copy of the "Rights of Residents."

Section 14.0 *Accessibility to the Facility and Residents*

- 14.1 Pursuant to section 23-17.4-11, accessibility to a residential care and assisted living facility for adults and its residents by individuals other than relatives and friends of the residents, shall be permitted at reasonable hours by duly authorized agents of state and municipal agencies other than the licensing agency and the division of fire safety, private or public institutions, organizations, associations or such other service agencies whose purpose includes discharging legally authorized responsibilities or rendering volunteer assistance or service to residents with respect to personal, social, legal, religious services or such other as civil and human rights. Such access shall not substantially disrupt the operation of the facility.
- 14.1.1 Anyone entering the facility shall produce appropriate identification prior to being granted permission to enter the premises. Entering a resident's room and visitation privilege with residents by such persons referred to in section 14.1 herein shall be subject to the provisions of the "Rights of Residents" (see section 13.0 herein).

PART IV ***RESIDENTIAL CARE SERVICES***

Section 15.0 ***Illness and Emergencies***

- 15.1 Each facility shall have written procedures for residents in the event of temporary illness and emergencies which shall include procedures for the evacuation of the premises.
- 15.2 Residents shall not be restricted from obtaining community health services at any time or when confined to the residence for a temporary illness.
- 15.3 When infectious diseases present a potential hazard to residents or personnel, or when outbreaks of food borne illness are suspected, such shall be reported promptly to the Rhode Island Department of Health, Division of Disease Control.

Section 16.0 ***Food Services***

- 16.1 Residents shall be provided three balanced, varied meals each day.
- 16.2 The food service in each facility shall comply with the appropriate requirements of references 3, 4, and 5 and such other applicable statutory or regulatory provisions.
- 16.3 In the event of any construction, addition or alteration, the facility shall comply with the requirements of reference 6.
- 16.4 Weekly menus shall be posted in each facility and followed accordingly.
- 16.5 Facilities must provide residents with a diet appropriate to their medical regime.
- 16.6 All food services shall be conducted in accordance with the *Rules and Regulations Pertaining to Certification of Managers in Food Safety (R21-27-CFS)*, promulgated by the Department of Health, that include but are not limited to the following provisions:
 - 16.6.1 Each facility where potentially hazardous foods are prepared shall employ at least one (1) full-time, on-site manager certified in food safety who is at least eighteen (18) years of age.
 - 16.6.2 Facilities that employ ten (10) or more full-time equivalent employees directly involved in food preparation shall employ at least two (2) full time, on-site managers certified in food safety.
 - 16.6.3 Facilities that primarily serve the elderly and individuals with diminished immune systems shall have a manager certified in food safety present during preparation of all hot potentially hazardous foods.
 - 16.6.4 Once a manager certified in food safety terminates employment, establishments shall have sixty (60) days to employ a new manager certified in food safety, or have an individual enrolled in a Division of Food Protection-approved food manager

certification program in food safety. However, said time period may be extended by the Division of Food Protection at the Department of Health.

16.6.5 Department of Health certificates for managers certified in food safety shall be prominently posted in the facility next to the license to operate. The certificate shall be removed when the individual is no longer employed by the facility.

16.6.6 No person shall use the title "Manager Certified in Food Safety", or in any way represent himself as a manager certified in food safety unless he holds a current certificate pursuant to the *Rules and Regulations Pertaining to Certification of Managers in Food Safety (R21-27-CFS)*.

Section 17.0 ***Housekeeping***

17.1 The facility shall maintain a comfortable, safe, clean, sanitary and orderly environment, free of litter, rubbish and offensive odors.

Section 18.0 ***Laundry Services***

18.1 Each facility shall make provisions for the cleaning of personal laundry of residents and all linens and other washable goods either directly or through other suitable arrangement.

Section 19.0 ***Medication Services***

19.1 ***Medication Services:***

For M1 and M2 licensure levels, each resident shall have the right to:

19.1.1 retain the services of his/her own personal physician and dentist;

19.1.2 select the pharmacy or pharmacist of his/her choice provided that the pharmacy or pharmacist supplies medications suitably packaged for the facility's program;

19.1.3 refuse any or all medications;

19.1.4 retain possession and control of his/her medications, provided that such possession and control is deemed safe by the resident, the resident's guardian, if appropriate, and the administrator or his/her designee in consultation with the resident's physician(s).

19.2 For M1 and M2 licensure levels, the facility shall have the right:

19.2.1 to inform family, guardian, physician, or other party designated by the resident or guardian if a resident has refused medication(s).

19.2.2 not to accept, and/or to evict a resident who refuses assistance with medications if the facility reasonably feels that the resident cannot safely possess and control medications

without danger to self or others, in accordance with the requirements of the Resident's Rights statement.

19.3 Each facility shall provide medication services only in accordance with the appropriate level of service for which the facility is licensed, which shall be as follows:

19.3.1 For residential care and assisted living facilities licensed at the M2 Level, assistance with self-administration by unlicensed staff means that the facility shall only be responsible for reminding residents to take medications, and:

- a) The resident or guardian must provide written authorization for the facility to provide assistance with medications;
- b) The facility must provide, in writing, a description of services provided by the facility to each physician prescribing for a resident, including limitations on services;
- c) Staff may only remind the resident and observe the self-administration of medication;
- d) The resident shall not require nursing assessment of health status before receiving the medication, nor nursing assessment of the therapeutic or side effects after the medication is taken;
- e) Except as provided in section 19.3.1(g) below, the medication shall be in the original pharmacy-dispensed container with proper label and directions attached;
- f) Unlicensed staff shall not monitor health indicators, make medication decisions, adjust medications or provide other medical or nursing decisions;
- g) For residents capable of self-administration of medication but who wish to ask residential care/assisted living staff to use a medi-set (pre-poured packaging distribution system), only a certified medication technician, licensed nurse or pharmacist shall organize the medications for up to one (1) week;
- h) All medication in the facility, regardless of whether controlled by staff or by the resident, shall be stored securely. All medications shall be stored in a manner to prevent spoilage, dosage errors, administrative errors or inappropriate access; There shall be documented policies or procedures regarding medication disposal and inventory procedures.
- i) Each person assisting residents with self-administration of medications shall:
 - i. be an employee of the facility;
 - ii. be literate in English; and

- iii. receive orientation, instruction and on-the-job training regarding relevant policies and procedures; or
 - iv. be a licensed nurse.
- j) M2 level facilities may limit record keeping for residents who retain possession and control of medications to the requirements of section 11.1(f) herein.

19.3.2 For residential care and assisted living facilities licensed at the M1 level, licensed staff (registered nurses, licensed practical nurses) or unlicensed persons who have completed a state-approved course in drug administration (and are under indirect supervision by a nurse, physician or pharmacist) may administer medications and monitor health indicators.

Administration of Medications:

Facilities licensed at the M1 level may administer medications to residents including, but not limited to, removing medication containers from storage, assisting with the removal of a medication from a container for residents with disability which prevents independence in this act, and/or administering the medication directly to the resident.

Furthermore:

- a) The resident or guardian must provide written authorization for the facility to provide administration of medications.
- b) Medications shall be administered in accordance with written orders of a physician. The facility must provide in writing, a description of services provided by the facility to each physician, including limitations on service.
- c) All medications must be checked against a physician's orders by a licensed nurse, or pharmacist.
- d) The resident must be identified prior to administration of any medication.
- e) The medication must be in the original pharmacy-dispensed container with proper label and directions attached.
- f) Injectable medications, including but not limited to insulin, which cannot be self-administered by the resident, must be administered by a licensed nurse.
- g) There shall be written a policy/procedure for the disposal of hypodermic needles, syringes and other such instruments, in accordance with the requirements of reference 14 herein.

- h) Individual medication records must be retained for each resident to whom medications are being administered and each dose administered to the resident must be properly recorded.
- i) Any medication administered by the facility and refused by a resident shall be documented and reported, as appropriate.
- j) Such records shall be retained by the facility for five (5) years in accordance with the provisions of reference 10.
- k) Medications shall be stored securely and in such a manner to prevent spoilage, dosage errors, administration errors, and/or inappropriate access.

19.3.3 ***Nurse Review***

Nurse review is necessary under all levels of medication licensure.

A registered nurse shall visit the facility at least once every thirty (30) days and shall:

- a) monitor the medication regimen for all residents at a minimum of every thirty (30) days;
- b) evaluate the health status of all residents by identifying symptoms of illness and/or changes in mental/physical health status;
- c) make any necessary recommendations to the administrator;
- d) follow up on previous recommendations;
- e) provide a signed, written report in the facility every thirty (30) days documenting:
 - i. date and time of visit;
 - ii. recommendations for follow-up;
 - iii. progress on previous recommendations;
 - iv. verification that the medication listed by the pharmacist on the mediset, blister pak or medication container is current with physician orders;
 - v. physical assessment identifying symptoms of illness and/or changes in mental or physical health status and appropriateness of placement;
 - vi. such reports shall be on file at the facility.

19.3.4 For M1 and M2 licensure levels, unused or discontinued prescription medications that are left with a facility shall be disposed of in accordance with the *Rules and Regulations Governing the Disposal of Legend Drugs (R21-31-LEG)* of reference 13.

19.3.5 ***Ordering medications:***

In M1 and M2 facilities, when assistance is needed, the certified administrator, or his/her qualified designee, shall assist with ordering medications. Assistance shall include coordinating prescriptions and delivery of medications, reorders of prescriptions, and receiving deliveries.

20.0 ***Other Services:***

20.1 Reasonable recreational and social activities and/or services shall be offered to each resident to:

20.1.1 promote opportunities for engaging in normal pursuits including religious activities of the resident's choice;

20.1.2 promote the physical, social and mental well-being of each resident;

20.1.3 promote independent as well as group activities;

20.1.4 harmonize with each resident's needs.

20.2 Personal assistance shall be provided as necessary, pursuant to the provisions of section 1.20 herein and shall consist of activities such as bathing, oral hygiene, fingernail care, shampooing, shaving, dressing or assistance with ambulation or nutrition and hydration.

20.3 An assessment of the resident's participation in recreational and social activities shall be addressed in the individual service plan (see also section 11.0 herein).

20.4 ***Special Care Unit Disclosure***

20.4.1 Any residential care and assisted living facility which offers to provide or provides care for patients or residents with Alzheimer's disease or other dementia by means of an Alzheimer's Special Care Unit shall be required to disclose the form of care or treatment provided, in addition to that care and treatment required by the rules and regulations herein.

20.4.2 Said disclosure shall be made to the licensing agency and to any person seeking placement in an Alzheimer's Special Care Unit of a residential care and assisted living facility.

20.4.3 The information disclosed shall explain the additional care that is provided in each of the following areas:

- a) ***Philosophy:*** the Alzheimer's Special Care Unit's written statement of its overall philosophy and mission which reflects the needs of residents afflicted with dementia;
- b) ***Pre-admission, Admission & Discharge:*** the process and criteria for placement, transfer or discharge from the unit;
- c) ***Assessment, Care Planning & Implementation:*** the process used for assessment and establishing the service plan and its implementation, including the method by which the service plan evolves and is responsive to changes in condition;
- d) ***Staffing Patterns & Training Ratios:*** staff training and continuing education practices;
- e) ***Physical Environment:*** the physical environment and design features appropriate to support the functioning of cognitively impaired adult residents;
- f) ***Resident Activities:*** the frequency and types of resident activities;
- g) ***Family Role in Care:*** the involvement in families and family support programs;
- h) ***Program Costs:*** the cost of care and any additional fees.

20.4.4 The licensing agency shall develop a standard disclosure form and shall review the information provided on the disclosure form by the residential care and assisted living facility to verify the accuracy of the information reported on it. Any significant changes in the information provided by the residential care and assisted living facility shall be reported to the licensing agency at the time the changes are made.

PART V ***PHYSICAL PLANT***

Section 21.0 ***New Construction***

- 21.1 All new construction shall be subject to the provisions of references 7 and 8 and such other applicable state and local laws, codes and regulations as may be applicable. Where there is a difference between codes, the code having the more stringent standard shall apply.

Section 22.0 ***General Provisions***

- 22.1 Existing facilities shall be constructed, equipped and maintained to protect the safety and well-being of residents, and shall provide a comfortable, sanitary environment, and shall furthermore comply with the applicable requirements of reference 7 as determined by the Division of Fire Safety and the rules and regulations herein.
- 22.1.1 Pursuant to section 23-17.4-6 of reference 1, a facility with fire code deficiencies must submit a plan of correction acceptable to the Division of Fire Safety.
- 22.1.2 A facility with residents who are blind, deaf, and physically disabled shall be subject to the applicable requirements of the American National Standards Institute (ANSI STANDARDS) (All 7.1) (1961).
- 22.1.3 Resident occupancy shall be permitted only in those areas where building design or structural limitations do not prevent, delay or reduce a resident from exercising self-preservation in an emergency.
- 22.2 Residential care and assisted living facilities for adults shall not be utilized for any other purposes, unless such purposes are compatible with the objectives and the nature of a residential care and assisted living facility and are approved by the licensing agency.
- 22.3 All rooms utilized by resident(s) shall have proper ventilation and shall have an outside opening with satisfactory screening.
- 22.4 All steps, stairs and corridors shall be suitably lighted, both day and night. Stairs used by residents shall have banisters, hand rails or other types of support. All stair treads shall be well maintained to prevent hazards.

Section 23.0 ***Residents Rooms, Toilets and Bathing Fixtures***

- 23.1 The bedroom of residents shall be designed and equipped with suitable furnishings for the safety, comfort and privacy of each resident and with no more than two (2) beds per room.
- 23.1.1 Single rooms shall be no less than one hundred (100) square feet in area and no less than eight (8) feet wide, exclusive of toilet rooms, closets, lockers, wardrobes, alcoves or vestibules.

- 23.1.2 Double bedrooms shall be no less than one hundred sixty (160) square feet in area and no less than ten (10) feet wide, exclusive of toilet rooms, closets, lockers, wardrobes, alcoves or vestibules.
- 23.2 Provisions shall be made for an area within the resident's bedroom and/or facility to be under lock for the safe keeping of personal possessions.
- 23.3 Each bedroom shall have a window which can be easily opened. The window sill shall not be higher than three (3) feet above the floor and shall be above ground level.
- 23.4 Comfortable temperature levels shall be maintained in all parts of the facility occupied by residents with a centralized heating system to maintain a minimum of seventy degrees Fahrenheit (70°F) during the coldest periods.
- 23.5 There shall be no less than one (1) bath per ten (10) beds and one (1) toilet per eight (8) beds or fraction thereof on each floor where residents rooms are located and which are not otherwise serviced by bathing facilities within the resident's room.
- 23.5.1 Policies and procedures shall be in place to ensure resident comfort and safety regarding water temperature at each site in the facility where residents shower or bathe. Provided, however, such policies/procedures shall state that in resident areas hot water temperatures shall not be less than one hundred degrees Fahrenheit (100°F) nor exceed one hundred ten degrees Fahrenheit (110°F) (plus or minus two (2) degrees). Thermometers (accuracy of which can be plus or minus two (2) degrees) shall be provided in resident areas to check water temperature periodically at each site where residents bathe or shower.

Section 24.0 ***Dining and Living Areas***

- 24.1 Each facility shall provide one (1) or more clear, orderly and appropriately furnished and easily accessible room of adequate size to include all residents for resident dining and activity, which shall be appropriately lighted.
- 24.1.1 If a multi-purpose room is used, there must be sufficient space to accommodate all residents for dining and activities and to prevent interference between activities.

Section 25.0 ***Safety Requirements***

- 25.1 Halls and exit ways shall be free from all encumbrances and/or impediments.
- 25.2 All locks on bedrooms shall be operable by a master key, under the control of the person in charge in accordance with sections 8.2 and 8.3 herein.
- 25.3 Every closet door latch shall be a type that cannot be locked from the inside.
- 25.4 Every bathroom door shall be designed to permit the opening of the locked door from outside in an emergency.

- 25.5 There shall be no portable cooking equipment (employing flame, gasoline, kerosene or exposed electrical heating elements) used in residents' rooms.
- 25.6 Portable space heaters shall not be permitted.
- 25.7 Proper safeguards shall be taken at all times against the fire hazards involved in smoking.
- 25.8 A telephone shall be easily accessible to residents in the event of emergencies. (Pay phones shall not be acceptable substitutes). The telephone number of the local fire department and law enforcement agencies serving the facility shall be posted by each telephone.
- 25.9 Each facility shall develop and maintain a written plan and procedure for the evacuation of the premises in case of fire or other emergency, based on the suggested Evacuation Guidelines of Appendix A.
- 25.9.1 Emergency steps of action shall be clearly outlined and posted in conspicuous locations throughout the facility.
- 25.9.2 Drills simulating emergency conditions, testing the effectiveness of the plan shall be conducted on a quarterly basis with documentation of observed ability of residents to carry out evacuation procedures. At least fifty percent (50%) of these drills shall be obstructed drills, as defined in state fire safety regulations.
- a) Documentation of fire drills shall be maintained and shall include no less than the following information:
- i) name of the person conducting the drill;
 - ii) date and time of the drill;
 - iii) amount of time taken to evacuate the building or unit;
 - iv) type of drill (i.e., obstructed or unobstructed);
 - v) record of problems encountered and steps taken to rectify them;
 - vi) staff observation of each resident's ability to carry out evacuation procedures.
- 25.9.3 Residents shall be instructed in all alternative methods of escape since the primary exit may be unusable due to fire and/or smoke. Such instruction shall be documented in the record described in section 25.9.2 (a) above.
- 25.9.4 Each new resident shall be oriented to the fire drill procedure on admission, with documentation of the orientation placed in the resident's record.
- 25.10 Appropriate fire extinguishers shall be installed on each occupied level and maintained in a usable condition, inspected at specified intervals as stipulated by manufacturers and the Division of Fire Safety.

Disaster Preparedness

- 25.11 Each facility shall develop back-up or contingency plans to address possible internal systems and/or equipment failures.
- 25.12 Each facility shall develop a plan, approved and adopted by the governing board and consistent with the requirements of this section, to address the year 2000 computer/chip problem ("Y2K") by September 30, 1999 and must test such plan by October 30, 1999.
 - 25.12.1 The plan shall include, at a minimum, facility identification of potential problem areas, remediation of identified problems, and testing for functionality, and shall also include consideration of vendor and supplier compliance.

PART VI ***PRACTICES AND PROCEDURES, VIOLATIONS, SANCTIONS AND SEVERABILITY***

Section 26.0 ***Variance Procedure***

- 26.1 The licensing agency may grant a variance either upon its own motion or upon request of the applicant from the provisions of any rule or regulation in a specific case if it finds that a literal enforcement of such provision will result in unnecessary hardship to the applicant and that such a variance will not be contrary to the public interest, public health and/or health and safety of residents.
- 26.2 A request for a variance shall be filed by an applicant in writing, setting forth in detail the basis upon which the request is made.
- 26.2.1 Upon the filing of each request for variance with the licensing agency, and within a reasonable time thereafter, the licensing agency shall notify the applicant by certified mail of its approval or in the case of a denial, a hearing date, time and place may be scheduled if the facility appeals the denial and held in accordance with the provisions of section 28.0 herein.

Section 27.0 ***Deficiencies and Plans of Correction***

- 27.1 The licensing agency shall notify the governing body or other legal authority of a facility of violations of individual standards through a notice of deficiencies which shall be forwarded to the facility within fifteen (15) days of inspection of the facility unless the Director determines that immediate action is necessary to protect the health, welfare, or safety of the public or any member thereof through the issuance of an immediate compliance order in accordance with section 23-1-21 of the General Laws of Rhode Island, as amended.
- 27.2 A facility which received a notice of deficiencies must submit a plan of correction to the licensing agency within fifteen (15) days of the date of the notice of deficiencies. The plan of correction shall detail any requests for variances as well as document the reasons therefore.
- 27.3 The licensing agency will be required to approve or reject the plan of correction submitted by a facility in accordance with section 27.2 above within fifteen (15) days of receipt of the plan of correction.
- 27.4 If the licensing agency rejects the plan of correction, or if the facility does not provide a plan of correction within the fifteen (15) day period stipulated in 27.2 above, or if a facility whose plan of correction has been approved by the licensing agency fails to execute its plan within a reasonable time, the licensing agency may invoke the sanctions enumerated in section 7.0 herein. If the facility is aggrieved by the sanctions of the licensing agency, the facility may appeal the decision and request a hearing in accordance with Chapter 42-35 of the General Laws of Rhode Island, as amended.

- 27.5 The notice of the hearing to be given by the Department of Health shall comply in all respects with the provisions of Chapter 42-35 of the Rhode Island General Laws, as amended. The hearing shall in all respects comply therein.

Section 28.0 ***Rules Governing Practices and Procedures***

- 28.1 All hearings and reviews required hereunder shall be held in accordance with the provisions of Chapter 42-35 of the General Laws of Rhode Island, as amended, and the *Rules and Regulations of the Rhode Island Department of Health Regarding the Practices and Procedures Before the Department of Health and Access to Public Records of the Department of Health (R42-35-PP)* of reference 9.

Section 29.0 ***Violations and Sanctions***

- 29.1 Any person establishing, conducting, managing or operating a residential care and assisted living facility for adults without a license pursuant to the provisions of reference 1 shall be liable to the penalty of section 23-17.4-14 of reference 1.
- 29.2 Any person who obtains access to a residential care and assisted living facility for adults or to its residents under false representation shall be subject to the provisions of section 23-17.4-12 of reference 1.

Section 30.0 ***Severability***

- 30.1 If any provision of the rules and regulations herein or the application thereof to any facility or circumstances shall be held invalid, such invalidity shall not affect the provisions or application of the rules and regulations which can be given effect, and to this end the provisions of the rules and regulations are declared to be severable.

Friday, June 28, 2002
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PART VII **REFERENCES**

1. "Residential Care and Assisted Living Facilities," Chapter 23-17.4 of the General Laws of Rhode Island, as amended.
2. "Office of State Medical Examiners," Chapter 23-4 of the General Laws of Rhode Island, as amended.
3. "Sanitation in Food Establishments," Chapter 21-27 of the General Laws of Rhode Island, as amended.
4. "Rhode Island Food, Drugs and Cosmetics Act," Chapter 21-31 of the General Laws of Rhode Island, as amended.
5. *Food Code (R23-1, 21-27-FOOD)*, Rhode Island Department of Health, Office of Food Protection, July 1994 and subsequent amendments thereto.
6. "Approval of Construction by Director," Section 23-1-31 of the General Laws of Rhode Island, as amended.
7. "Rhode Island State Fire Safety Code," Chapter 23-28.1 of the General Laws of Rhode Island, as amended.
8. "Rhode Island State Building Code," Chapter 23-27.3 of the General Laws of Rhode Island, as amended.
9. *Rules and Regulations of the Rhode Island Department of Health Regarding the Practices and Procedures Before the Department of Health and Access to Public Records of the Department of Health (R42-35-PP)*, Rhode Island Department of Health, ~~May 1997~~ October 2000 and subsequent amendments thereto.
10. "Confidentiality of Health Care Information," Chapter 5-37 of the General Laws of Rhode Island, as amended.
11. *Rules and Regulations Pertaining to the Registration of Nursing Assistants and the State Review and Approval of Nursing Assistant Training and Competency Evaluation Programs (R23-17.9-NA)*, Rhode Island Department of Health, ~~September 1996~~ November 2001 and subsequent amendments thereto.
12. "Special Care Unit Disclosure by Facilities," Chapter 23-17.4-16.2 of the Rhode Island General Laws, as amended.
13. *Rules and Regulations Governing the Disposal of Legend Drugs (R21-31-LEG)*, Rhode Island Department of Health, March 1998 and subsequent amendments thereto.

14. *Rules and Regulations Governing Hypodermic Needles, Syringes & Other Such Instruments (R21-28-CS-4)*, Rhode Island Department of Health, March 1998 and subsequent amendments thereto.
15. *American National Standard: Specifications for Making Buildings and Facilities Accessible to, and Usable by , the Physically Handicapped*, American National Standards Institute, Inc., 1430 Broadway, New York, NY 10018 [Publication number: ANSI A117.1-1961 (R1971)].
16. "The Americans with Disabilities Act," U.S. Code Title 42 Sections 12101--12213; Title 47 Sections 152, 221, 225, 611; Title 29 Section 706 effective July 21, 1990. Amendments effective November 21, 1991: 105 Stat. 1077, 1095.
17. *Rules and Regulations Pertaining to Certification of Managers in Food Safety (R21-27-CFS)*, Rhode Island Department of Health, March 1993 and subsequent amendments thereto.

APPENDIX "A"

SUGGESTED EVACUATION PROCEDURES IN CASE OF FIRE

- 1) Alert all persons in the facility regardless of the size of the fire.
- 2) Call the Fire Department _____ (phone number)
- 3) One responsible person only use fire extinguisher.
- 4) All other responsible persons begin immediately to move residents from the building.
- 5) Residents should be instructed to leave building immediately and be told where to go after leaving.
- 6) Residents in the close vicinity to the fire and upper floors should be moved first.
- 7) Do not take time to dress, if immediately available, take a blanket and leave.
- 8) Neighbors or passers-by should be utilized to assist until arrival of the Fire Department.
- 9) Never prop or wedge fire doors open.
- 10) After leaving the building, residents should go to prearranged destination _____ and stay there until further instructions.
- 11) After all residents have been removed, a responsible person should check for all residents and notify firemen of anyone who is missing.
- 12) A responsible person should be the last to leave the building.

FIRE AND FIRE DRILL INSTRUCTIONS

ALERT ALL PERSONS IN THE FACILITY REGARDLESS OF THE SIZE OF THE FIRE.

The reason for a rule such as this is to prevent you from making a mistake that may be fatal to you and residents. Fire is a treacherous enemy that requires a trained eye to determine the extent of danger involved. What appears to be a minor fire may be concealing a raging furnace within a wall, under a floor, or in an attic. The fire that appears to be extinguished could reoccur.

CALL THE FIRE DEPARTMENT.

In case after case it is determined that a contributing factor in major fires is the delay of sending an alarm. Even five minutes is too long, for a fire can engulf the whole building in that time. Fire departments never complain when the fire is out upon arrival.

ONE RESPONSIBLE PERSON ONLY USE FIRE EXTINGUISHER.

After the alarm bell has been rung and fire department called (or during the time these things are being done by someone else) one responsible person should try to put the fire out using extinguishers or taking other necessary action. If the fire is of such nature that more than one person is required to extinguish it, then it is of sufficient size to endanger life. Your first obligation is protecting and saving the lives entrusted to your care. Other responsible parties should be evacuating residents.

RESIDENTS SHOULD BE INSTRUCTED TO LEAVE BUILDING IMMEDIATELY AND TOLD WHERE TO GO AFTER LEAVING.

By having regular fire drills, and instructing all new incoming residents, the residents should know to leave the building when they hear the alarm bell or when told to do so.

Designate a place outside where all residents and staff will assemble. The residents can be accounted for, kept warm and dry, receive attention, and be fed and clothed if necessary. Large heated garages, churches, business and lodge rooms, etc. are recommended.

Strict adherence to protocol during all drills is required of staff and residents so they will require as little supervision as possible during any actual emergency. Instruct any capable ambulatory residents to assist in emergencies.

NON-AMBULATORY RESIDENTS IN THE CLOSE VICINITY AND UPPER FLOORS SHOULD BE MOVED FIRST.

Non-ambulatory residents, of course, are in great peril and your interest is to get them all out of the building safely.

The residents in the same room as a fire or directly over the fire in the case of basement fires are in the greatest immediate danger and should be moved first. Remember that heat and dangerous smoke or gases travel upward and residents on the upper floors should be moved before the residents in other rooms on the same floor level as the fire is occurring. Fire will seldom travel laterally as fast as it will travel in an upward path. It is the responsibility of the attendant to use this as a guide to intelligent action.

DO NOT TAKE TIME TO DRESS, TAKE A BLANKET AND LEAVE.

The first thought you must have is to the protection or saving of life. Under no circumstance should anyone take time to dress or gather belongings.

NEVER PROP OR WEDGE FIRE DOORS OPEN.

The fire door is required in facilities to keep fire, heat, smoke and gases from traveling from one part of the building to another. A fire door may keep another resident alive until you can return for him or her or until firemen can reach him/her. After all the residents have been moved from a given room, the door should be left completely closed.

MAKE AN EMERGENCY PLAN IN ADVANCE.

Plans for emergency situations must be made before the emergency occurs. An emergency plan for temporary accommodation and all other emergency considerations should be made in advance.

AFTER LEAVING THE BUILDING RESIDENTS SHOULD GO TO SOME DESIGNATED PLACE AND STAY THERE FOR FURTHER INSTRUCTIONS.

Fire drills and designated sites should be executed in advance of any incident. All residents should participate in fire and site location drills as often as necessary.

AFTER THE RESIDENTS HAVE BEEN MOVED, A RESPONSIBLE PERSON SHOULD CHECK FOR ALL RESIDENTS AND NOTIFY FIREMEN OF ANY MISSING PERSONS.

AN ACTUAL HEAD COUNT SHOULD BE CONDUCTED.

NEVER, FOR ANY REASON, RETURN TO THE BUILDING AFTER THE EVACUATION IS COMPLETED UNTIL ORDERED TO DO SO BY ONE OF THE FIRE DEPARTMENT OFFICERS.

ALL STAFF AND RESIDENTS SHOULD READ THESE INSTRUCTIONS AND BE FAMILIAR WITH THEM.

APPENDIX "B"
STATE OF RHODE ISLAND & PROVIDENCE PLANTATIONS
DEPARTMENT OF HEALTH, FACILITIES REGULATION
CONFIDENTIAL REPORT OF INCIDENT

Facility _____ License Number _____

Type of Facility:

(Mark [X] One): _____ Client _____ Staff Names: _____

Date of Incident: ____/____/____ Time of Incident: ____/____/____ AM/PM
(Circle)

Day of Week: (Circle) Sun Mon Tues Wed Thur Fri Sat

Location of Incident: (Include
address) _____

PLEASE FILL IN BOTH COLUMNS BELOW:

Column #1

Nature of Incident: (Mark "X")

1. _____ Serious Accidental Injury
2. _____ Sudden Death
3. _____ Suicide
4. _____ Assault
5. _____ Medication Error
6. _____ Serious Injury
7. _____ Suicide Attempt
8. _____ Fire
9. Other _____

Column #2

Notified: (Mark "X")

1. _____ Police - State/Local (Circle)
2. _____ Fire Department
3. _____ Rescue Squad (treatment related)
4. _____ Physician
5. _____ Medical Examiner
6. _____ Hospital Emergency Room
7. _____ Other _____

Investigation underway: _____ Yes _____ No

If yes, by whom: _____

Description of incident and immediate action taken in response to incident; include name of persons involved, including witnesses.

Reported by: _____ /____/____

Signature

Date

Print Name

Title

COMPLETE THIS FORM AND MAIL WITHIN TWO (2) BUSINESS DAYS TO:

DEPARTMENT OF HEALTH
DIVISION OF FACILITIES REGULATION
3 CAPITOL HILL, ROOM 306
PROVIDENCE, RI 02908-5097

CONFIDENTIAL REPORT OF INCIDENT RESOLUTION

Title