

DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

Health Facilities Regulation Division

STANDARDS FOR HOSPITALS AND HEALTH FACILITIES

CHAPTER VII - ASSISTED LIVING RESIDENCES

6 CCR 1011-1 Chap 07

[Editor's Notes follow the text of the rules at the end of this CCR Document.]

Copies of these regulations may be obtained at cost by contacting:

Division Director

Colorado Department of Public Health and Environment

Health Facilities Division

4300 Cherry Creek Drive South

Denver, Colorado 80222-1530

Main switchboard: (303) 692-2800

These chapters of regulation incorporate by reference (as indicated within) material originally published elsewhere. Such incorporation, however, excludes later amendments to or editions of the referenced material. Pursuant to 24-4-103 (12.5), C.R.S., the Health Facilities Division of the Colorado Department of Public Health And Environment maintains copies of the incorporated texts in their entirety which shall be available for public inspection during regular business hours at:

Division Director

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1.101 STATUTORY AUTHORITY AND APPLICABILITY

- 1.101(1) Authority to establish minimum standards through regulation and to administer and enforce such regulations is provided by sections 25-1.5-103, et seq., C.R.S., 25-27-101, and 25-27-104, C.R.S.

1.101(2) Assisted living residences, as defined herein, shall be in compliance with all applicable federal and state statutes and regulations, including but not limited to, the following:

101(2)(a) This Chapter VII.

101(2)(b) 6 CCR 1011-1, Chapter II, pertaining to general licensure requirements.

101(2)(c) 6 CCR 1011-1, Chapter XXIV and Section 25-1.5-301, et seq., C.R.S, pertaining to medication administration.

1.102 DEFINITIONS.

For purposes of this chapter, the following definitions shall apply, unless the context requires otherwise:

1.102(1) "Abuse" means emotional, physical and sexual abuse, as defined herein.

1.102(2) "Administrator" means a person who is responsible for the overall operation, and daily administration, management and maintenance of the facility. "Administrator" also refers to "operator" as that term is used in Title 25, Section 27, Part 1.

1.102(3) "Activities of daily living" include but are not limited to the following:

102(3)(a) Assisting resident or providing reminders for the following:

- (i) bathing, shaving, dental hygiene, caring for hair;
- (ii) dressing;
- (iii) eating;
- (iv) getting in or out of bed.

102(3)(b) Making available, either directly or indirectly through the resident agreement, at least the following:

- (i) meals;
- (ii) laundry;
- (iii) cleaning of all common areas, bedrooms, and bathrooms;
- (iv) managing money, as necessary and by agreement;
- (v) making telephone calls;
- (vi) arranging appointments and schedules;
- (vii) shopping;
- (viii) writing letters;
- (ix) recreational and leisure activities.

1.102(4) "Alternative care facility" means an assisted living residence certified by the Colorado Department of Health Care Policy and Financing to receive Medicaid reimbursement for the

services provided by the facility.

1.102(5) "Assess or assessment" as used herein means recognizing a significant change in the resident's condition. It does not mean making clinical judgments unless the person conducting such assessment is licensed to make such judgments.

1.102(6) "Assisted living residence" means any of the following:

102(6)(a) A residential facility that makes available to three or more adults not related to the owner of such facility, either directly or indirectly through a resident agreement with the resident, room and board and at least the following services: personal services; protective oversight; social care due to impaired capacity to live independently; and regular supervision that shall be available on a twenty-four-hour basis, but not to the extent that regular twenty-four hour medical or nursing care is required.

102(6)(b) A residential treatment facility for the mentally ill which is an assisted living residence similar to the definition under Section 1.102 (6)(a), except that the facility is operated and maintained for no more than sixteen (16) mentally ill individuals who are not related to the licensee and are provided treatment commensurate to the individuals' psychiatric needs which has received program approval from the Department of Human Services.

102(6)(c) The term "assisted living residence" does not include:

(i) Any facility licensed in this state by the Department of Human Services as a residential care facility for individuals with developmental disabilities pursuant to Section 27-10.5-101, C.R.S., et seq.; or

(ii) Any individual residential support services for individuals with developmental disabilities provided in accordance with Section 27-10.5-101, C.R.S., et seq., unless specifically authorized to be an assisted living residence by the Department of Human Services.

1.102(7) "Auxiliary aid" means any device used by persons to overcome a physical disability and includes but is not limited to a wheelchair, walker or orthopedic appliance.

1.102(8) "Bedridden" means a resident who is unable to ambulate or move about, independently or with the assistance of an auxiliary aid, who also requires assistance in turning and repositioning in bed.

1.102(9) "Care plan" means a written description in lay terminology of the functional capabilities of an individual, the individual's need for personal assistance, and the services to be provided by the facility in order to meet the individual's needs and may also mean a service plan for those facilities which are licensed to provide services specifically for the mentally ill.

1.102(10) "Deficiency" means a violation of regulatory and/or statutory requirements governing assisted living residences, as cited by the Department.

1.102(11) "Deficiency list" means a listing of deficiency citations which contains:

102(11)(a) a statement of the statute or regulation violated; and

102(11)(b) a statement of the findings, with evidence to support the deficiency.

1.102(12) "Department" means the Colorado Department of Public Health and Environment or its designee.

- 1.102(13) "Discharge" means termination of the resident agreement and the resident's permanent departure from the facility.
- 1.102(14) "Emergency contact" means one of the individuals identified on the face sheet of the resident record to be contacted in the case of an emergency.
- 1.102(15) "Emotional abuse" means harassment; threats of punishment, harm, or deprivation directed toward the resident.
- 1.102(16) "External services" means personal services and protective oversight services provided to a resident by family members or by professionals who are not employees, contractors, or volunteers of the facility. External services providers include, but are not limited to, home health, hospice, private pay caregivers and family members.
- 1.102(17) "Facility" means an assisted living residence.
- 1.102(18) "High Medicaid Utilization facility" means an assisted living residence that is certified as an alternative care facility and is eligible for a modified fee schedule.
- 1.102(19) "Individualized social supervision" means social care, as defined below.
- 1.102(20) "Licensee" means the person or entity to whom a license is issued by the Department pursuant to Section 25-1.5-103 (1) (a), C.R.S., to operate a facility within the definition herein provided. For the purposes of this Chapter VII, the term "licensee" shall be the same as the term "owner."
- 1.102(21) "Medical or nursing care" means care provided under the direction of a physician and maintained by on-site nursing personnel.
- 1.102(22) "Medication administration" means assisting a resident in the use of medication in accordance with state law.
- 1.102(23) "Monitoring" with respect to medications means involvement with a resident's use of medication in accordance with state law.
- 1.102(24) "Neglect" means failure to fulfill a caretaking responsibility that leads to physical harm.
- 1.102(25) "NFPA" means the National Fire Protection Association.
- 1.102(26) "Ombudsman" means, unless otherwise specified, long term care ombudsman.
- 1.102(27) "Owner" means the entity in whose name the license is issued. The entity is responsible for the financial and contractual obligations of the facility. Entity means any individual, corporation, limited liability corporation, firm, partnership, or other legally formed body, however organized. For the purposes of the background check required pursuant to Section 1.104 (3) of the owner, if the owner is an entity other than an individual, one person with legal liability for the facility shall be designated to undergo fingerprinting, in accordance with Department requirements.
- 1.102(28) "Personal services" means those services which the administrator and employees of an assisted living residence provide for each resident, including, but not limited to:
- 102(28)(a) an environment that is sanitary and safe from physical harm;
- 102(28)(b) individualized social supervision;

102(28)(c) assistance with transportation whether by providing transportation or assisting in making arrangements for the resident to obtain transportation; and

102(28)(d) assistance with activities of daily living, as herein defined.

1.102(29) "Physical abuse" means causing physical harm in a situation other than an accident. Physical abuse means behavior, including but not limited to, hitting, slapping, kicking or pinching.

1.102(30) "Plan of correction" means a written plan to be submitted by facilities to the Department for approval, detailing the measures that shall be taken to correct all cited deficiencies.

1.102(31) "Plan review" means the review by the Department, or its designee, of new construction or remodeling plans to ensure compliance by the facility with the National Fire Protection Association (NFPA) Life Safety Code and with this Chapter VII. Plan review consists, as appropriate, of:

102(31)(a) the examination of new construction or remodeling plans; and

102(31)(b) onsite inspections.

1.102(32) "Protective oversight" means guidance of a resident as required by the needs of the resident or as reasonably requested by the resident including the following:

102(32)(a) being aware of a resident's general whereabouts, although the resident may travel independently in the community; and

102(32)(b) monitoring the activities of the resident while on the premises to ensure the resident's health, safety, and well-being, including monitoring the resident's needs and ensuring that the resident receives the services and care necessary to protect the resident's health, safety, and well-being.

1.102(33) "Resident's legal representative" means one of the following:

102(33)(a) the legal guardian of the resident, where proof is offered that such guardian has been duly appointed by a court of law, acting within the scope of such guardianship;

102(33)(b) an individual named as the agent in a power of attorney (POA) that authorizes the individual to act on the resident's behalf, as enumerated in the POA;

102(33)(c) an individual selected as a proxy decision-maker pursuant to Section 15-18.5-101, C.R.S., et seq., to make medical treatment decisions. For the purposes of this regulation, the proxy decision-maker serves as the resident's legal representative for the purposes of medical treatment decisions only; or

102(33)(d) a conservator, where proof is offered that such conservator has been duly appointed by a court of law, acting within the scope of such conservatorship.

1.102(34) "Restraints" means any involuntary restraint as defined in 26-20-102 (6) C.R.S. and 6 CCR 1011-1, Chapter II, Part 8, Section 102 (5). For the purposes of this chapter, restraint also includes voluntary restraints. A secured environment that meets the requirements in Section 1.108 of these regulations shall not be considered a restraint.

1.102(35) "Restrictive egress alert device" means a device used to prevent the elopement of a resident who is at risk if he or she leaves the facility unsupervised. This includes any device used with residents who have confusion or dementia and is used to prohibit their egress or to immediately

redirect them after they exit the facility. Egress alert devices are not considered restrictive when used only to alert staff regarding the ingress and egress of residents, visitors, and others. Restrictive egress alert devices shall not lock any door in a means of egress, including access to a means of egress.

- 1.102(36) "Secured environment" means, unless the context requires otherwise, any grounds, building or part thereof, method or device, other than restrictive egress alert devices used consistent with Section 1.104 (5)(m), that prohibits free egress of residents. An environment is secured when the right of any resident thereof to move outside the environment during any hours is limited. *[Eff. 11/01/2008]*
- 1.102(37) "Sexual abuse" means non-consensual sexual contact as defined in Section 18-3-401 (4), C.R.S and sexual contact with any person incapable of giving consent. Sexual abuse includes, but is not limited to, sexual harassment, sexual coercion, or sexual assault.
- 1.102(38) "Social care" means the organization, planning, coordination, and conducting of a resident's activity program in conjunction with the resident's care plan.
- 1.102(39) "Staff" means employees; and contract staff intended to substitute for, or supplement staff who provide resident care services. This does not include individuals providing external services, as defined herein.
- 1.102(40) "Therapeutic diet" means a diet ordered by a physician as part of a treatment of disease or clinical condition, or to eliminate, decrease, or increase specific nutrients in the diet. Examples include, but are not limited to: a calorie counted diet, a specific sodium gram diet, and a cardiac diet.

1.103 DEPARTMENT OVERSIGHT

1.103(1) General *[Eff. 12/30/2008]*

103(1)(a) Issuing Licenses

- (i) The Department shall issue or renew a license when it is satisfied that the applicant or licensee is in compliance with the requirements set out in these regulations. An initial license, other than a provisional, shall be valid for one year from the date of issuance unless voluntarily relinquished by the facility, revoked, suspended or otherwise sanctioned pursuant to these regulations. A renewal license shall be valid for one year from the prior expiration date unless voluntarily relinquished by the facility, revoked, suspended or otherwise sanctioned pursuant to these regulations.
- (ii) No license shall be issued or renewed by the Department if the owner, applicant, or licensee of the assisted living residence has been convicted of a felony or of a misdemeanor, which felony or misdemeanor involves moral turpitude, as defined by law, or involves conduct that the Department determines could pose a risk to the health, safety, and welfare of residents of the assisted living residence.

103(1)(b) Provisional Licenses

- (i) The Department may issue a provisional license to an applicant for the purpose of operating an assisted living residence for a period of ninety days if the applicant is temporarily unable to conform to all the minimum standards required under these regulations, except no license shall be issued to an applicant if the operation of the applicant's facility will adversely affect the health, safety, and

welfare of the residents of such facility.

- (ii) As a condition of obtaining a provisional license, the applicant shall show proof to the Department that attempts are being made to conform and comply with applicable standards. No provisional license shall be granted prior to the submission of a criminal background check in accordance with 25-27-105 (2.5), C.R.S.
- (iii) A provisional license shall not be renewed.

103(1)(c) Action Against a License

- (i) General. The Department may suspend, revoke, or not renew the license of any facility which is out of compliance with the requirements of these regulations in conformance with the provisions and procedures specified in article 4 of title 24, C.R.S.
- (ii) Denials. When an application for an original license has been denied by the Department, the Department shall notify the applicant in writing of the denial by mailing a notice to the applicant at the address shown on the application. Any applicant aggrieved by such a denial may pursue the remedy for review provided in article 4 of title 24, C.R.S., by petitioning the Department, within thirty days after receiving such notice.

1.103(2) **License Fees** [Eff. 12/30/2008]

Unless otherwise specified in this chapter, all licensing and plan review fees paid to the Department shall be deemed non-refundable.

103(2)(a) High Medicaid Utilization Facilities

- (i) Fee. High Medicaid utilization facilities shall pay a modified license fee as set forth below.
- (ii) Eligible facilities. Facilities identified as high Medicaid utilization are those that have:
 - (A) no less than 35 percent of the licensed beds occupied by Medicaid enrollees as indicated by complete and accurate fiscal year claims data; and
 - (B) served Medicaid clients and submitted claims data for a minimum of nine (9) months of the relevant fiscal year.

103(2)(b) Facilities Serving a Disproportionate Share of Low Income Residents

- (i) Fee. Facilities serving a disproportionate share of low-income residents shall pay a reduced initial license fee of \$2,500.
- (ii) Eligible facilities. Facilities eligible for the reduced initial license fee shall:
 - (A) have qualified for federal or state low income housing assistance;
 - (B) plan to serve low income residents with incomes at or below 80 percent of the area median income; and

(C) submit evidence of such qualification, as required by the Department.

103(2)(c) Initial License

- (i) The appropriate fee, as set forth below, shall accompany a facility's application for initial license.

Three to eight licensed beds: \$5,000.

Nine beds or more: \$6,000.

103(2)(d) License Renewal

- (i) For licenses with a renewal between December 31, 2009 and December 31, 2011, the appropriate fee, as set forth below, shall accompany the renewal application:

(A) \$150 per facility plus \$56 per bed.

(B) for a high Medicaid utilization facility, \$150 per facility plus \$15 per bed.

- (ii) For licenses with a renewal date on or after January 1, 2012, the appropriate fee, as set forth below, shall accompany the renewal application:

(A) \$150 per facility plus \$30 per bed.

(B) \$150 per facility plus \$15 per bed for a high Medicaid utilization facility.

103(2)(e) Provisional Licensure

- (i) Any facility approved by the Department for a provisional license, shall submit a fee of \$1,000 for the provisional licensure period.

103(2)(f) Other License Fees

- (i) In addition to any other applicable fees, the following fees shall apply to the circumstances described.

(A) Any facility applying for a change of address, shall submit a fee of \$75 with the application.

(I) For purposes of this subsection, a corporate change of address for multiple facilities shall be considered one change of address.

(B) Any facility applying

(C) Any facility applying for an increased number of licensed beds shall submit a fee of \$360 with the application.

(D) Any facility applying for a change of administrator shall submit a fee of \$500 with the application.

(E) Any facility seeking to open a secured unit shall submit a fee of \$1,600 with the first submission of the applicable building plans.

(F) Any facility applying for a change of ownership shall submit a fee of \$5,000

with the application.

- (l) If the same purchaser buys more than one facility from the same seller in a single business transaction, the change of ownership fee shall be \$5,000 for the first facility and \$2,800 for each additional facility included in the transaction. The appropriate fee total shall be submitted with the application.

103(2)(g) Fee Cap

Notwithstanding the fees that become effective January 1, 2009, any fee increases requested by the Department for adoption by the Board of Health before June 30, 2014, shall be subject to the following restriction: the dollar amount increase in total annual revenue generated by the changed fees shall not be more than a dollar amount equal to 37 percent of the total annual revenue generated during state fiscal year 2010-11.

1.103(3) **Plan Review**

In reference to the National Fire Protection Association requirements, the Department is the authority having jurisdiction for state licensure.

103(3)(a) When Plan Review is Required

- (i) Application for an initial license, when such initial license is not a change of ownership, addition of previously uninspected or unlicensed square footage to an existing occupancy, or relocation of a currently licensed facility to a different physical plant. This includes new facility construction and new occupancy of existing structures.
- (ii) Remodeling that commences on or after January 1, 2009, ¹ and that includes, but is not limited to:

¹ Instances where remodeling shall be deemed to have commenced before January 1, 2009 are: a) when the local jurisdiction issued a building permit for such remodeling on or before December 31, 2008; or b) if a building permit is not required by the local jurisdiction, where architectural and engineering plans have been drafted and/or onsite construction began on or before December 31, 2008, with a completion date of June 30, 2010.

- (A) Structural alterations of any size to the resident sleeping area.
- (B) Alteration of an existing area of the facility into space for a secured environment.
- (C) Relocation, removal or installation of walls that results in alteration of 25% or more of the existing habitable square footage. ²

² Areas such as unfinished basements and garages that have not been used as habitable space shall not be included in the calculation of existing habitable square footage.

- (D) Conversion of existing space not previously used for providing resident services, including storage space, to space used for the delivery of services to residents.
- (E) Addition, alteration or relocation of any egress component including, but not limited to, corridors, stairwells, exit enclosures, or points of refuge.
- (F) Installation of any new sprinkler systems or the addition, removal or relocation of 20 or more sprinkler heads.

(G) Installation of any new fire alarm system; or addition, removal or relocation of 20 or more fire alarm appliances including, but not limited to, pull stations, detectors and notification devices.

(H) Installation, removal or renovation of any kitchen hood suppression system.

103(3)(b) Process for Submission and Approval of Building Plans

- (i) General. The building plans subject to plan review under this Chapter VII, shall be submitted in accordance with 6 CCR 1011-1, Chapter II, Part 1, Submission of Construction Plans/Documents and Completion of the Plan Review Process, Section 1.103 and 1.104.
- (ii) Secured Environments. If the addition, remodeling or new construction involves areas to be used for secured environments, information about the following shall also be submitted as part of the plan review:
- (A) locking devices for egress and egress access doors.
- (B) location of locked egress and egress access doors.
- (C) how the fencing or other enclosure around the secured outdoor area will be installed such that it prevents elopement and protects the safety and security of the residents.

103(3)(c) Plan Review Fees

- (i) The fee for review of a building plan as described in section 1.103(3)(a)(i) of this Chapter shall be determined as follows:

Licensed beds:	0 – 8	9 -16	17 – 30
Fee:	\$2,500	\$3,200	\$4,000

(A) If a facility has more than one structure used for providing client services on its campus, each structure shall be assessed a separate fee based upon the above chart. The fees for all structures shall be combined to determine the total facility plan review fee.

(B) The appropriate plan review fees shall accompany the facility's first submission of building plans to the department.

- (ii) The fee for review of a remodeling plan as described in section 1.103(3)(a)(ii) of this Chapter shall be based upon the following chart and shall accompany the facility's first submission of remodeling plans to the Department:

Project size:	Fee:
Up to 1,500 square feet	\$1,875
1,501 to 4,500 sq. ft	\$2,250
4,501 to 15,000 sq. ft.	\$2,625
15,001 to 30,000 sq. ft.	\$3,000
30,001 to 45,000 sq. ft.	\$3,375
45,001 to 60,000 sq. ft.	\$3,750
60,001 to 75,000 sq. ft.	\$4,125

75,000+ sq. ft	\$4,500
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1.103(4) **Citing Deficiencies** [Eff. 12/30/2008]

103(4)(a) The level of the deficiency shall be based upon the number of sample residents affected and the level of harm, as follows:

Deficiency level	Number of Sample ³	Level of Harm
Level A	Isolated ⁴	Potential harm to the resident(s)
Level B	Pattern ⁵	Potential harm to the resident(s)
Level C	Isolated	Actual harm to the resident(s)
Level D	Pattern	Actual harm to the resident(s)
Level E	Isolated or Pattern	Life threatening to the resident(s)

3 Sample may consist of residents, rooms, staff, etc.

4 One or a limited number of the sample is affected.

5 More than a limited number of the sample is affected.

103(4)(b) When a Level E deficiency is cited, the facility shall immediately remove the cause of the life-threatening risk and provide evidence, either verbal or written as required by the Department, that the risk has been removed.

1.103(5) **Plans of Correction (POCs)** [Eff. 12/30/2008]

The Department shall require a plan of correction by facilities pursuant to Section 25-27-105 (2), C.R.S.

103(5)(a) General

- (i) The facility shall develop a POC, in the format required by the Department, for every deficiency cited by the Department in the deficiency list.
- (ii) The POC shall be typed or printed legibly in ink.
- (iii) The date of correction shall be no longer than 30 calendar days from the date of the mailing of the deficiency to the facility, unless otherwise required or approved by the Department.

103(5)(b) Process for Submission and Approval of POC

- (i) A facility shall submit a POC to the Department no later than ten (10) working days of the date of the deficiency list letter sent by the Department.
- (ii) If an extension of time is needed to complete the POC, the facility shall request an extension in writing from the Department prior to the POC due date. An extension of time may be granted by the Department not to exceed seven (7) calendar

days.

- (iii) The POC is subject to Department approval.

1.103(6) Intermediate Restrictions or Conditions

The Department may impose intermediate restrictions or conditions on a licensee as provided in Section 25-27-106, C.R.S. [Eff. 12/30/2008]

- 103(6)(a) General. The Department may impose intermediate restrictions or conditions on a licensee that may include at least one of the following: [Eff. 12/30/2008]

- (i) Retaining a consultant to address corrective measures. The consultant shall not be affiliated with the corporation or the facility on which the intermediate restriction/condition is required; ⁶ [Eff. 12/30/2008]

⁶ facility may be required to retain a consultant in order to address deficient practice resulting from systemic failure. Systemic failure involves violations regarding a facility system, where such violations resulted or could have resulted in physical or emotional harm to residents. It will be the responsibility of the facility to select the consultant and the consultant's services. An example of a facility system is the facility's medication administration program. [Eff. 12/30/2008]

- (ii) Monitoring by the Department for a specific period;
 - (iii) Providing additional training to employees, owners, or operators of the residence;
 - (iv) Complying with a directed written plan, to correct the violation; or
 - (v) Paying a civil fine not to exceed two thousand dollars (\$2,000) in a calendar year.

103(6)(b) Imposition of Restrictions/Conditions

- (i) General . Intermediate restrictions or conditions may be imposed when the Department finds the facility has violated statutory or regulatory requirements. The factors that may be considered include, but are not limited to, the following:

- (A) level of actual or potential harm to a resident(s);
 - (B) the number of residents affected;
 - (C) whether the behaviors leading to the imposition of the restriction are isolated or a pattern;
 - (D) the licensee's prior history of noncompliance in general, and specifically with reference to the cited deficiencies.

- (ii) Optional . Intermediate restrictions or conditions may be imposed for Levels A, B and C deficiencies.

- (iii) Mandatory Imposition

- (A) A minimum of one intermediate restriction or condition shall be imposed for all cases where the deficiency list includes Levels D or E deficiencies.
 - (B) For all Level E deficiencies, the Department shall impose a minimum civil fine of \$500, not to exceed the \$2,000 cap established by statute; shall require the immediate correction of the circumstances that give rise to

the life threatening situation; and may impose other restrictions or conditions as the Department finds necessary.

103(6)(c) *Submission of the Written Plan*

- (i) Non-life threatening situations other than fines and Department monitoring . No later than ten (10) working days after the date the notice is received from the Department, unless otherwise extended, the licensee shall submit a written plan, as part of the plan of correction, regarding the implementation of the restriction or condition. This plan shall be subject to Department approval. The plan shall include:

- (A) how the restriction or condition will be implemented; and
- (B) the timeframe for implementing the restriction or condition.

103(6)(d) *Appealing the Imposition of Intermediate Restrictions/Conditions* . A licensee may appeal the imposition of an intermediate restriction or condition pursuant to procedures established by the Department and as provided by Section 25-27-106, C.R.S.

- (i) Informal review . Informal review is an administrative review process conducted by the Department that does not include an evidentiary hearing.

- (A) A licensee may submit a written request for informal review of the imposition of an intermediate restriction no later than ten (10) working days after the date notice is received from the Department of the restriction or condition. If an extension of time is needed, the facility shall request an extension in writing from the Department prior to the submittal due date. An extension of time may be granted by the Department not to exceed seven (7) calendar days. Informal review may be conducted after the plan of correction has been approved.

- (B) Civil fines . For civil fines, the licensee may request in writing that the informal review be conducted in person, which would allow the licensee to orally address the informal reviewer(s).

- (ii) Administrative Procedures Act (APA) . A licensee may appeal the imposition of an intermediate restriction or condition in accordance with Section 24-4-105, C.R.S. of the APA. A licensee is not required to submit to the Department's informal review before appealing pursuant to the APA.

(iii) *Implementation of Restrictions/Conditions*

- (A) Life-threatening situations . The licensee shall implement the restriction or condition immediately upon receiving notice of the restriction or condition.

- (iv) Non life-threatening situations. The restriction or condition shall be implemented:

- (A) for restriction/conditions other than fines, immediately upon the expiration of the opportunity for appeal or from the date that the Department's decision is upheld after all administrative appeals have been exhausted.
- (B) for fines, within 30 calendar days from the date the Department's decision is upheld after all administrative appeals have been exhausted.

1.103(7) Facility Reporting Requirements

103(7)(a) Occurrences

- (i) Reporting . The facility shall be in compliance with occurrence reporting requirements pursuant to 6 CCR 1011, Chapter II, Section 3.2.
- (ii) Facility investigation of occurrences
 - (A) Occurrences shall be investigated to determine the circumstances of the event and institute appropriate measures to prevent similar future situations.
 - (B) Documentation regarding investigation, including the appropriate measures to be instituted, shall be made available to the Department, upon request.
 - (C) A report with the investigation findings will be available for review by the Department within five working days of the occurrence.
 - (D) Nothing in this Section 1.103 (7)(a) shall be construed to limit or modify any statutory or common law right, privilege, confidentiality or immunity.

103(7)(b) *Mistreatment of Residents/Mishandling of Resident Property*. The declaration required in Section 2.4.3(K), Chapter II of 6 CCR 1011-1, shall also include any action related to the treatment of residents or the handling of their property.

103(7)(c) *Notification Regarding Relocations* . The facility shall notify the Department within 48 hours of the relocation of one or more residents occurs due to any portion of the facility becoming uninhabitable as a result of fire or other disaster.

103(7)(d) *Proof of Fire Suppression or Detection Equipment Testing* . Written proof that such fire suppression or detection equipment has been tested and approved as fully functional and operational, shall be submitted with the application prior to the issuance of a new license or license renewal.

1.103(8) Certification of Administrator Training .

A program of certification shall be approved by the Department if all of the following requirements are met:

103(8)(a) The program or program components are conducted by:

- (i) an accredited college, university, or vocational school, or
- (ii) an organization, association, corporation, group, or agency with specific expertise in that area; and
- (iii) the curriculum includes at least thirty (30) actual hours.

103(8)(b) At least fifteen (15) hours shall comprise a discussion of each the following topics:

- (i) resident rights;
- (ii) environment and fire safety, including emergency procedures and first-aid;

- (iii) assessment skills;
- (iv) identifying and dealing with difficult situations and behaviors; and
- (v) nutrition.

103(8)(c) The remaining fifteen (15) hours shall provide emphasis on meeting the personal, social and emotional care needs of the resident population served, for example, the elderly, Alzheimers, or the severely and persistently mentally ill.

1.104 ORGANIZATION AND STAFFING

1.104(1) Owner

104(1)(a) Regulatory Compliance. The owner shall be responsible for meeting the requirements in these regulations.

104(1)(b) Oversight of Staff. The owner is responsible for assuring that there is adequate training and supervision for staff.

1.104(2) Administrator

104(2)(a) Minimum Age Requirement. The administrator shall be at least 21 years of age.

104(2)(b) Minimum Education, Training and Experience Requirements

- (i) Any person commencing service as an administrator July 1, 1993, shall meet the minimum education, training, and experience requirements in one of the following ways:
 - (A) successful completion of a program approved by the Department pursuant to Section 1.103 (6); or
 - (B) documented previous job related experience or related education equivalent to successful completion of such program. The Department may require additional training to ensure that all the required components of the training curriculum are met.
- (ii) Any person already serving as an administrator on July 1, 1993, shall either meet subparagraph (i) above or meet the minimum education, training, and experience requirements in one of the following ways:
 - (A) successful completion of a program approved by the Department, pursuant to Section 1.103 (4) , if completed within a period of eighteen (18) months following July 1, 1993;
 - (B) submission of evidence of successful completion of such a program within the five (5) years immediately prior to July 1, 1993; or
 - (C) previous job related experience equivalent to successful completion of such a program.
- (iii) The administrator shall be familiar with all applicable federal and state laws and regulations concerning licensure and certification.

1.104(3) **Personnel**

104(3)(a) General

(i) Communicable diseases

(A) All staff and volunteers, shall be free of communicable disease that can be readily transmitted in the workplace.

(B) All staff shall be required to have a tuberculin skin test prior to direct contact with the residents. In the event of a positive reaction to the skin test, evidence of a chest x-ray and other appropriate follow-up shall be required in accordance with community standards of practice.

(ii) Physical/mental impairment . Any person who is physically or mentally unable to adequately and safely perform duties that are essential functions, may not be approved as a licensee, or employed as staff member, or used as a volunteer.

(iii) Alcohol or substance abuse . The facility shall not employ any person or use a volunteer who is under the influence of a controlled substance, as defined in C.R.S. Sections 18-18-203, 18-18-204, 18-18-205, 18-18-206, and 18-18-207, or who is under the influence of alcohol in the worksite. This does not apply to employees or volunteers using controlled substances under the direction of a physician, and in accordance with their health care provider's instructions.

(iv) Access to policies and procedures . All staff and all volunteers shall have access to the facility's policies, procedure manuals, and other information necessary to perform their duties and to carry out their responsibilities.

104(3)(b) Personnel Files. The facility shall maintain personnel files for staff members as well as for volunteers performing personal services and protective oversight under the auspices of the facility. Files of current employees and volunteers shall be available onsite for Department review.

(i) General . Files shall include documentation required in these Chapter VII regulations, evidencing:

(A) training, including copies of current first aid certification, if applicable;

(B) TB testing, if applicable;

(C) background checks;

(D) date of hire;

(E) If a Qualified Medication Administration Person (QMAP), also:

(I) a copy of the certificate of completion of the medication training course required by these regulations for QMAPs, and

(II) for those QMAPs filling medication reminder boxes, a signed disclosure that they have not had a professional medical, nursing, or pharmacy license revoked.

104(3)(c) Background Checks - Owner and Administrator

- (i) The owner and administrator of a facility shall be of good, moral, and responsible character. As part of this determination, the owner and the administrator shall undergo a state fingerprint check with notification of future arrests from a criminal justice agency designated by the Department. The information, upon such request and subject to any restrictions imposed by such agency, shall be forwarded by the criminal justice agency directly to the Department.
- (ii) Background checks shall be conducted for all of the following:
 - (A) owners and administrators for initial licensure, as part of the application process.
 - (B) existing owners and administrators who have not undergone a state fingerprint check with notification of future arrests.
 - (C) new owners in a change a ownership, as part of the application process.
 - (D) new administrators in a change of administrators.
- (iii) No license shall be issued or renewed by the Department if the owner of the assisted living facility has been convicted of a felony or of a misdemeanor, which felony or misdemeanor involves moral turpitude, as defined by law, or involves conduct that the Department determines could pose a risk to the health, safety, and welfare of residents of the assisted living residence.
- (iv) The owner shall ascertain whether the administrator has been convicted of a felony or a misdemeanor that could pose a risk to the health, safety, and welfare of the residents, when making employment decisions.
- (v) Cost of background checks All costs of obtaining a criminal history record pursuant to this requirement shall be borne by the facility, the contract staff agency, or the individual who is the subject of the criminal history record, as appropriate.

104(3)(d) Background Checks - Other Staff and Volunteers

- (i) When a background check shall be conducted . The staff who has direct personal contact with the residents of a facility and any volunteer performing personal services or protective oversight, under the auspices of the facility for residents of such facility, shall be of good, moral, and responsible character. In making such a determination, the owner or licensee of a facility shall obtain, prior to such staff or volunteer performing duties, any criminal history record information from a criminal agency, subject to any restrictions imposed by such agency, for any person responsible for the care and welfare of residents of such facility. If the individual is contract staff, the facility shall ensure that a background check has been conducted on such individual within 12 months prior to the date of hire by the facility. The facility shall have documentation of such background checks.
- (ii) Use of information by the facility . The facility shall ascertain whether prospective staff or volunteers have been convicted of a felony or a misdemeanor that could pose a risk to the health, safety, and welfare of the residents, when making employment decisions.
- (iii) Costs of background checks . All costs of obtaining a criminal history record from a criminal justice agency shall be borne by the facility, the contract staff agency, or the individual who is the subject of the criminal history record, as appropriate.

104(3)(e) Qualifications

- (i) General . All staff and all volunteers shall have sufficient skill and ability to perform their respective duties, services, and functions.
- (ii) Licensed and certified staff . Licensed or certified staff shall perform duties in accordance with applicable statutes and regulations. Staff and volunteers shall not perform duties that they are not licensed or certified to provide.
- (iii) Qualified Medication Administration Persons
 - (A) To be a qualified medication administration person, an individual shall have completed a medication training course given by a licensed nurse, physician, physician's assistant, or pharmacist, and approved by the Department and/or shall have passed an approved Department competency test for assisting with medications in accordance with 25-1.5-301, et seq. and the regulations promulgated thereto.
 - (B) Every qualified medication administration staff member who administers medications, whether prescribed or non-prescribed, shall be able to read and understand the information and directions printed or written on the label.
- (iv) Current First Aid Certification
 - (A) There shall be one staff member onsite at all times who has current certification in first aid specific to adults.
 - (B) The first aid certification shall show that it meets the standards of either the American Red Cross or the American Heart Association.

104(3)(f) Training. The facility shall document the evaluation of previous related experience for volunteers, as applicable, and for staff and that these personnel have all of the training, including on-the-job training, required in this section.

- (i) On-the-job training/Evaluation of experience . All staff and all volunteers shall be given on-the-job training or have related experience in the job assigned to them and shall be supervised until they have completed on-the-job training appropriate to their duties and responsibilities or had previous related experience evaluated.
- (ii) Training requirements . Staff shall receive the following training, as appropriate. Volunteers providing direct care shall receive training appropriate to their duties and responsibilities.
 - (A) Prior to providing direct care, the facility shall provide an orientation of the physical plant and adequate training on each of the following topics:
 - (I) training specific to the particular needs of the populations served (e.g., residents in secured environments, mentally ill, frail elderly, AIDS, Alzheimer's, diabetics, dietary restrictions and bedfast);
 - (II) resident rights;
 - (III) first aid and injury response including the procedures for lift assistance;

- (IV) the care and services for the current residents;
- (V) certified first aid training as necessary to ensure compliance with section 1.104(3)(e)(iv) of this chapter.
- (VI) the facility's medication administration program.

(B) Emergency and Fire Escape Plan

- (I) Within three (3) days of date of hire or commencement of volunteer service, the facility shall provide adequate training in emergency and fire escape plan procedures.
- (II) Every two (2) months, there shall be a review of all components of the emergency plan, including each individual employee's responsibilities under the plan, with the staff of each shift.

(C) Within one month of the date of hire, the facility shall provide adequate training for staff on each of the following topics:

- (I) assessment skills;
- (II) infection control;
- (III) identifying and dealing with difficult situations and behaviors;
- (IV) residents rights, unless previously covered through other training; and
- (V) health emergency response, unless previously covered through other training.

1.104(4) Staffing Requirements

104(4)(a) Staffing

- (i) General . The owner shall employ sufficient staff to ensure the provision of services necessary to meet the needs of the residents.
- (ii) Staffing levels . In determining staffing, the facility shall give consideration to factors including but not limited to:
 - (A) services to meet the residents' needs,
 - (B) services to be provided under the care plan, and
 - (C) services to be provided under the resident agreement.
- (iii) Minimum Staffing . Each facility shall ensure that at least one staff member who has the qualifications and training listed under Sections 1.104 (3)(e) and (f), and who shall be at least 18 years of age, is present in the facility when one or more residents is present.

104(4)(b) Use of Residents. Residents may participate voluntarily in performing housekeeping duties and other tasks suited to the resident's needs and abilities. However, residents

who provide services for the facility on a regular basis, or on an exchange or fee-for-service basis may not be included in the facility's staffing plan in lieu of facility employees except for trained, tested, and supervised residents in those facilities which are licensed to provide services specifically for the mentally ill.

104(4)(c) Use of Volunteers. Volunteers may be utilized in the facility but may not be included in the facility's staffing plan in lieu of facility employees.

1.104(5) Policies and Procedures. Unless otherwise indicated in this Section 1.104 (5), all facilities shall develop, adopt, and follow written policies and procedures that include the requirements listed below and shall comply with all applicable state and federal statutes and regulations. Required disclosures to residents or their legal representatives, as appropriate, regarding the policies and procedures shall be documented in the resident record.

104(5)(a) Admissions. The facility's criteria for admission shall be based upon its ability to meet all the identified care needs of residents. The facility shall consider at least all of the following in making its admission decision: the facility's physical plant, financial resources, and availability of adequately trained staff.

104(5)(b) Emergency Plan and Fire Escape Procedures

- (i) Emergency plan . The emergency plan shall include planned responses to fire, gas explosion, bomb threat, power outages, and tornado. Such plan shall include provisions for alternate housing in the event evacuation is necessary.
- (ii) Fire escape procedures . The fire escape procedures shall include a diagram developed with local fire department officials which shall be posted in a conspicuous place.
- (iii) Disclosure to residents . Within three (3) days of admission, the plan and diagram shall be explained to each resident or legal representative, as appropriate.

104(5)(c) Serious Illness, Serious Injury, or Death of the Resident

- (i) The policy shall describe the procedures to be followed by the facility in the event of serious illness, serious injury, or death of a resident.
- (ii) The policy shall include a requirement that the facility notify an emergency contact when the resident's injury or illness warrants medical treatment or face-to-face medical evaluation. In the case of an emergency room visit or unscheduled hospitalization, a facility must notify an emergency contact immediately, or as soon as practicable.

104(5)(d) CPR Directive

- (i) At the time of admission, the facility shall inform residents or their legal representatives regarding the resident's right to receive CPR or have a written CPR directive refusing CPR. At least annually or upon a significant change in health condition, the facility shall review the CPR options with each resident or that resident's legal representative
- (ii) Upon admission and at each subsequent review, the facility and the resident or the resident's legal representative shall sign and date documentation acknowledging that the resident's CPR options were reviewed and understood. Such documentation shall be maintained in each resident's record.

- (iii) The facility shall ensure that staff are aware of or know where to immediately locate each resident's CPR directive.

104(5)(e) Lift Assistance

- (i) The facility shall describe in writing the procedure for determining when it is appropriate for staff to assist a resident who has fallen and when the local emergency medical responder should be contacted.
- (ii) The facility's lift assistance procedure shall be made available to its local emergency medical responder.

104(5)(f) Physician Assessment. The facility shall identify when a physician's assessment will be required, based upon at least the following indicators:

- (i) a significant change in the resident's condition;
- (ii) evidence of possible infection (open sores, etc.);
- (iii) injury or accident sustained by the resident which might cause a change in the resident's condition;
- (iv) known exposure of the resident to a communicable disease;
- (v) development of any condition which would have initially precluded admission to the facility.

104(5)(g) Resident Rights

- (i) General . The policy shall incorporate the provisions under Section 1.106 (1). This policy shall not exclude, take precedence over, or in any way abrogate legal and constitutional rights enjoyed by all adult citizens.
- (ii) Posting . The policy on resident's rights shall be posted in a conspicuous place.
- (iii) Disclosure to residents . Upon admission, the facility shall document the resident or legal representative, as appropriate, has read or had explained the policy on residents' rights.

104(5)(h) Smoking

- (i) General . The policy shall address residents, staff, volunteers and visitors.
- (ii) Disclosure to residents/staff . Prior to admission or employment, residents and staff shall be informed of any prohibitions.

104(5)(i) Discharge

- (i) General . The policy shall include all of the following:
 - (A) circumstances and conditions under which the facility may require the resident to be involuntarily transferred, discharged or evicted;
 - (B) an explanation of the notice requirements;

- (C) a description of the relocation assistance offered by the facility; and
- (D) the right to call advocates, such as the state ombudsman or the designated local ombudsman and the adult protection services of the appropriate county Department of Social Services, for assistance.

- (ii) Disclosure to residents . Upon admission, the facility shall document that the resident or legal representative, as appropriate, has read or had explained the policy on discharge.

104(5)(j) Management of Resident Funds/Property. The policy shall address the procedures for managing resident funds or property, if the facility provides this service to residents.

104(5)(k) Internal Grievance Process

- (i) General . The policy shall establish a process for routine and prompt handling of grievances brought by residents and their families. Such policy shall also indicate that residents and their families may contact any of the following agencies and shall provide the telephone number and address of each of the following:

- (A) The state and local Long Term Care Ombudsman;
- (B) The Adult Protection Services of the appropriate county Departments of Social Services;
- (C) The Advocacy Services of the Area's Agency on Aging;
- (D) The Colorado Department of Public Health and Environment; and
- (E) The Colorado Department of Human Services in those cases where the facility is licensed to provide services specifically for the mentally ill.

- (ii) Posting . The internal grievance policy and procedure shall be posted in a conspicuous place.

- (iii) Disclosure to residents . Upon admission, the facility shall document that the resident or the resident's representative, as appropriate, has read or had the policy for the internal grievance process explained.

104(5)(l) Investigation of Abuse and Neglect Allegations. The facility shall investigate all allegations of abuse and neglect involving residents in accordance with its written policy, which shall include but not be limited to:

- (i) reporting requirements to the appropriate agencies such as the adult protection services of the appropriate county Department of Social Services and to the facility administrator;
- (ii) a requirement that the facility notify an emergency contact about the allegation within 24 hours of the facility becoming aware of the allegation;
- (iii) the process for investigating such allegations;
- (iv) how the facility will document the investigation process to evidence the required reporting and that a thorough investigation was conducted;

- (v) a requirement that the resident shall be protected from potential future abuse and neglect while the investigation is being conducted;
 - (vi) a requirement that if the alleged neglect or abuse is verified, the facility shall take appropriate corrective action; and
 - (vii) a requirement that a report with the investigation findings will be available for review by the Department not later than five working days of the allegation being lodged with a staff member of the facility.
- 104(5)(m) Restrictive Egress Alert Devices Facilities that use restrictive egress alert devices, shall have policy addressing at minimum, the following:
- (i) How the device will be used to protect the resident from elopement, including but not limited to, which door alarms will be triggered by the device.
 - (ii) Evidence in the resident's record that the facility has:
 - (A) established the legal authority by guardianship, court order, medical durable power of attorney, health care proxy, or other means allowed by Colorado law, for the use of such device;
 - (B) conducted an assessment, prior to use, that evaluates the appropriateness of the device and reassessment(s) within 3 calendar days of a significant change in the resident's condition that warrants intervention or different care needs. The assessment and reassessment shall include written findings and their basis. The assessment and reassessment(s) shall be completed by a qualified professional, such as the resident's physician, a social worker, physician's assistant or nurse practitioner. If the qualified professional is a member of the facility staff or has been hired by the facility to conduct the evaluation, the qualified professional shall consult with the resident's physician or other independent person qualified to review the care needs of the resident.
 - (iii) How the facility will respond to prevent elopement when an alarm is triggered, including but not limited to:
 - (A) the system that will be used to alert staff regarding which door(s) have been breached;
 - (B) the staff member(s) responsible for responding to the alarm and for conducting the behavior management intervention; and
 - (C) how staff will continue providing protective oversight for other residents while the behavior management intervention, such as redirection, is taking place.
 - (iv) How the facility will provide access to a secure outdoor area, consistent with Section 108 (9)(c) (i) and (ii).
 - (v) Monthly testing to ensure that the devices are functioning properly and written evidence of such testing.

1.105 ADMINISTRATIVE FUNCTIONS

1.105(1) **Admissions** [Eff. 11/01/2008]

105(1)(a) Who May be Admitted to the Facility. Only residents whose needs can be met by the facility within its licensure category shall be admitted. The facility's ability to meet resident needs shall be based upon a comprehensive pre-admission assessment of the resident's physical, health and social needs; preferences; and capacity for self care.

105(1)(b) Who May Not be Admitted to the Facility. A facility shall not admit or keep any resident requiring a level of care or type of service which the facility does not provide or is unable to provide, and in no event shall a facility admit or keep a resident who:

- (i) Is consistently, uncontrollably incontinent unless the resident or staff is capable of preventing such incontinence from becoming a health hazard.
- (ii) Is totally bedridden with limited potential for improvement. A facility may keep a resident who becomes bedridden after admission if there is documented evidence of each of the following:
 - (A) an order by a physician describing the services required to meet the health needs of the resident, including but not limited to, the frequency of assessment and monitoring by the physician or by other licensed medical professionals.
 - (B) ongoing assessment and monitoring by a licensed or Medicare/Medicaid certified home health agency or hospice service. The assessment and monitoring shall ensure that resident's physical, mental, and psychosocial needs are being met. The frequency of the assessment and monitoring shall be in accordance with resident needs, but shall be conducted no less frequently than weekly.
 - (C) adequate staffing, with staff who are trained in the provision of caring for bedridden residents, and provision of services to meet the needs of the resident.
- (iii) Needs medical or nursing services, as defined herein, on a twenty-four hour basis, except for care provided by a psychiatric nurse in those facilities which are licensed to provide services specifically for the mentally ill.
- (iv) Needs restraints, as defined herein, of any kind except as otherwise provided in 27-10-101, et seq. C.R.S. for those facilities which are licensed to provide services specifically for the mentally ill. The placement of residents in his or her room for the night and the use of time-out, as provided for in Section 26-20,102 (6), C.R.S., shall be conducted only as part of a treatment plan developed in consultation with a physician board certified in psychiatry or an advance practice nurse with a specialty in psychiatry. The appropriateness of these provisions in the treatment plan shall be reassessed by either one of these psychiatric clinicians every three months.
- (v) Has a communicable disease or infection that is: 1) reportable under 6 CCR 1009 Regulation 1 and 2) potentially transmissible in a facility, unless the resident is receiving medical or drug treatment for the condition and the admission is approved by a physician; or
- (vi) Has a substance abuse problem, unless the substance abuse is no longer acute and a physician determines it to be manageable.

1.105(2) **Resident Agreement.** A written agreement shall be executed between the facility and the resident or the resident's legal representative at the time of admission. The parties may amend the agreement provided such amendment is evidenced by the written consent of both parties. No agreement shall be construed to relieve the facility of any requirement or obligation imposed by law or regulation. *[Eff. 11/01/2008]*

105(2)(a) Content. The written agreement shall specify the understanding between the parties regarding, at a minimum the following:

- (i) charges, refunds and deposit policies;
- (ii) services included in the rates and charges, including optional services for which there will be an additional, specified charge;
- (iii) types of services provided by the facility, those services which are not provided, and those which the facility will assist the resident in obtaining;
- (iv) the amount of any fee to hold a place for the resident in the facility while the resident is absent from the facility and the circumstances under which it will be charged;
- (v) transportation services;
- (vi) therapeutic diets;
- (vii) whether the facility or the resident will be responsible for providing bed and bath linens, as outlined in Section 110 (3)(a) or furnishings and supplies, as outlined in Section 112(3)(f); and
- (viii) a provision that if the facility closes without giving residents thirty days notice of such closure, that security deposits shall be reimbursed.

105(2)(b) Addenda. The written agreement shall have as addenda:

- (i) the care plan outlining functional capability and needs; and
- (ii) house rules, established pursuant to Section 1.105(4).

105(2)(c) Disclosures. There shall be written evidence that the following have been disclosed, upon admission unless otherwise specified, to the resident or the resident's legal representative, as appropriate:

- (i) the facility policies and procedures listed under Section 1.104(5).
- (ii) the method for determining staffing levels based on resident needs, the onsite availability of first aid certified staff, and the extent to which certified or licensed health care professionals are available onsite.
- (iii) types of daily activities, including examples of such activities, that will be provided for the residents.
- (iv) whether or not the facility has automatic fire sprinkler systems.
- (v) if the facility uses restrictive egress alert devices, the types of individuals exhibited by persons that need such devices.

1.105(3) **Management of Resident Funds/Property.** A facility may enter into a written agreement with the resident or resident's legal representative for the management of a resident's funds or property. However, there shall be no requirement for the facility to handle resident funds or property.

105(3)(a) *Written Agreement.* A resident or the resident's legal representative may authorize the owner to handle the resident's personal funds or property. Such authorization shall be in writing and witnessed and shall specify the financial management services to be performed.

105(3)(b) *Fiduciary Responsibility.* In the event that a written agreement for financial management services is entered into, the facility shall exercise fiduciary responsibility for these funds and property, including, but not limited to, maintaining any funds over the amount of five hundred dollars (\$500) in an interest bearing account, separate from the general operating fund of the facility, which interest shall accrue to the resident.

105(3)(c) *Surety Bond.* Facilities which accept responsibility for residents' personal funds shall post a surety bond in an amount sufficient to protect the residents' personal funds.

105(3)(d) *Accounting*

(i) A running account, dated and in ink, shall be maintained of all financial transactions. There shall be at least a quarterly accounting provided to the resident or legal representative itemizing in writing all transactions including at least the following: the date on which any money was received from or disbursed to the resident; any and all deductions for room and board and other expenses; any advancements to the resident; and the balance.

(ii) An account shall begin with the date of the first handling of the personal funds of the resident and shall be kept on file for at least three years following termination of the resident's stay in the facility. Such record shall be available for inspection by the Department.

105(3)(e) *Receipts.* Residents shall receive a receipt for and sign to acknowledge disbursed funds.

1.105(4) **House Rules .** The facility shall establish written house rules.

105(4)(a) *Content.* House rules shall list all possible actions which may be taken by the facility if any rule is knowingly violated by a resident. House rules may not violate or contravene any regulation herein, or in any way discourage or hinder a resident's exercise of those rights guaranteed herein. Such rules shall address at least the following:

(i) smoking.

(ii) cooking.

(iii) protection of valuables on premises.

(iv) visitors.

(v) telephone usage including frequency and duration of calls.

(vi) use of common areas, including the use of television, radio, etc.

(vii) consumption of alcohol.

(viii) dress.

(ix) pets. A facility may keep household pets including dogs, cats, birds, fish, and other animals as permitted by local ordinance, with evidence of compliance with state and local vaccination and inoculation requirements and in accordance with house rules. In no event shall such rules prohibit service or guide animals.

105(4)(b) *Posting*. The facility shall prominently post written house rules which shall be available at all times to residents.

105(4)(c) *Disclosure to Residents*. There shall be documentation in the resident's record that a copy of the rules was provided to the resident or the legal representative, as appropriate, prior to admission.

1.105(5) **Resident Record** A confidential record shall be maintained for each resident. Records shall be dated and legibly recorded in ink or in electronic format.

105(5)(a) *Content of Resident Record*. Resident records shall contain at least, but not be limited to, the following:

(i) Demographic and medical information

(A) Face sheet . The face sheet shall contain the following information:

- (I) resident's full name, including maiden name if applicable;
- (II) resident's sex, date of birth, marital status and social security number, where needed for medicaid or employment purposes;
- (III) date of admission;
- (IV) name, address and telephone number of relatives or legal representative(s), or other person to be notified in an emergency;
- (V) name, address and telephone number of resident's primary physician, and case manager if applicable, and an indication of religious preference, if any, for use in emergency;
- (VI) resident's diagnoses, at the time of admission;
- (VII) current record of the resident's allergies.

(B) Progress notes of any significant change in physical, behavioral, cognitive and functional condition and action taken by staff to address the resident's changing needs;

(C) Medication administration record;

(D) Documentation of on-going services provided by external services providers, such as physical therapy and home health services;

(E) Advance directives, if applicable;

(F) Physician's orders;

(ii) The resident agreement;

(iii) The care plan, as that term is defined herein;

(iv) Resident's most recent former address of residence.

105(5)(b) *Who May Access Resident Records.* Records shall be available for inspection by and release to:

(i) the resident or the resident's legal representative, if so authorized ,

(ii) the resident's attorney of record;

(iii) the state or local Long Term Care ombudsman with the permission of the resident and in accordance with Section 25-1-801, C.R.S.;

(iv) the Department; and

(v) those otherwise authorized by law.

105(5)(c) *Resident Record Storage and Retention*

(i) Records shall be maintained and stored in such a manner as to be protected from loss, damage or unauthorized use.

(ii) Records shall be maintained in the facility or in a central administrative location readily available to facility staff and the department. Records necessary to respond to the current care needs of the resident shall be maintained onsite at the facility.

(iii) Records for discharged residents shall be complete and maintained for a period of three years following the termination of the resident's stay in the facility.

105(5)(d) *Confidentiality.* The confidentiality of the resident record including all medical, psychological and sociological information shall be protected at all times, in accordance with all applicable state and federal laws and regulations.

1.105(6) **Discharge**

105(6)(a) A resident shall be discharged only for one or more of the following reasons:

(i) When the facility cannot protect the resident from harming him or herself or others.

(ii) When the facility is no longer able to meet the resident's identified needs, based on the facility's discharge policy.

105(6)(b) A resident may be discharged for one or more of the following reasons:

(i) Nonpayment for basic services, including rent, in accordance with the resident agreement; or

(ii) Failure of the resident to comply with the resident agreement which contains notice that discharge may result from violation of the agreement.

105(6)(c) Written notice of discharge shall be provided to the resident or resident's legal representative as follows:

(i) thirty (30) days in advance of discharge for discharge in accordance with Sections 1.105 (6)(a)(ii), 1.105 (6)(b)(i) and 1.105 (6)(b)(ii);

(ii) in cases of medical emergency, or in accordance with Section 1.105 (6)(a)(i), the responsible party shall be notified as soon as possible.

105(6)(d) A copy of the 30 day written notice shall be sent to the state or local ombudsman, within 5 calendar days of the date that it is provided to the resident or the resident's legal representative.

105(6)(e) Discharge shall be coordinated with the resident, the resident's family or resident's legal representative, or the appropriate agency.

1.106 RESIDENT RIGHTS

1.106(1) **General.** Residents shall have the following rights:

106(1)(a) The right to be treated with respect and dignity.

106(1)(b) The right to privacy.

106(1)(c) The right not to be isolated or kept apart from other residents.

106(1)(d) The right not to be sexually, verbally, physically or emotionally abused, humiliated, intimidated, or punished.

106(1)(e) The right to be free from neglect.

106(1)(f) The right to live free from involuntary confinement, or financial exploitation and to be free from physical or chemical restraints as defined within these regulations except as otherwise provided in Section 27-10-101, et seq. C.R.S. for those facilities which are licensed to provide services specifically for the mentally ill.

106(1)(g) The right to full use of the facility common areas, in compliance with the documented house rules.

106(1)(h) The right to voice grievances and recommend changes in policies and services.

106(1)(i) The right to communicate privately including but not limited to communicating by mail or telephone with anyone.

106(1)(j) The right to reasonable use of the telephone, in accordance with house rules, which includes access to operator assistance for placing collect telephone calls. At least one telephone accessible to residents utilizing an auxiliary aid shall be available if the facility is occupied by one or more residents utilizing such an aid.

106(1)(k) The right to have visitors, in accordance with house rules, including the right to privacy during such visits.

106(1)(l) The right to make visits outside the facility in which case the administrator and the resident shall share responsibility for communicating with respect to scheduling.

- 106(1)(m) The right to make decisions and choices regarding their care and treatment, in the management of personal affairs, funds, and property in accordance with their abilities.
- 106(1)(n) The right to expect the cooperation of the facility in achieving the maximum degree of benefit from those services which are made available by the facility.
- 106(1)(o) The right to exercise choice in attending and participating in religious activities.
- 106(1)(p) The right to be reimbursed at an appropriate rate for work performed on the premises for the benefit of the administrator, staff, or other residents, in accordance with the resident's care plan.
- 106(1)(q) The right to 30 days written notice of changes in services provided by the facility, including but not limited to changes in charges for any or all services. Exceptions to this notice are:
- (i) changes in the resident's medical acuity that result in a documented decline in condition and that constitute an increase in care necessary to protect the health and safety of the resident; and
 - (ii) requests by the resident or the family for additional services to be added to the care plan.
- 106(1)(r) The right to have advocates, including members of community organizations whose purposes include rendering assistance to the residents.
- 106(1)(s) The right to wear clothing of choice unless otherwise indicated in the resident's care plan and in accordance with reasonable house rules.
- 106(1)(t) The right to choose to participate in social activities, in accordance with the care plan.
- 106(1)(u) The right to receive services in accordance with the resident agreement and the care plan.

1.106(2) **Ombudsman Access.** A facility shall permit access during reasonable hours to the premises and residents by the State Ombudsman and the designated local long-term care ombudsman in accordance with the federal "Older Americans Act of 1965", pursuant to Section 25-27-104 (2) (d), C.R.S.

1.106(3) **Restraints.** Restraints as defined within these regulations are prohibited except as otherwise provided in 27-10-101, et seq. C.R.S. for those facilities which are licensed to provide services specifically for the mentally ill. The measures in Section 26-20-102 (6)(d) and 26-10-102 (6)(e), C.R.S., may only be used in accordance with a treatment plan developed in consultation with and based on a written order by a physician board certified in psychiatry or a psychiatric clinical nurse specialist listed on the advance practice registry. The treatment plan, which shall document that less restrictive measures were unsuccessful, shall be evaluated by a clinician with such credentials every three months.

1.106(4) ***Mechanisms to Address Resident/Resident Family Concerns***

106(4)(a) ***Internal Grievance Process.*** The facility shall implement an internal process for the routine and prompt handling of grievances brought by residents and their families.

106(4)(b) ***Facilities with Less than 17 Beds - House Meetings***

- (i) House meetings shall be held in addition to implementing the internal grievance process pursuant to Subsection (4)(a), above.
- (ii) In facilities with less than seventeen (17) beds, house meetings shall be held at least quarterly with residents, the appropriate staff, family and friends of residents in order that residents have the opportunity to voice concerns and make recommendations concerning facility policies.
- (iii) Written minutes of such meetings shall be maintained for review by residents at any time.

106(4)(c) *Facilities with 17 Beds or More - Residents' Council*

- (i) Resident council meetings shall be held in addition to implementing the internal grievance process pursuant to Subsection (4)(a), above.
- (ii) In facilities with seventeen (17) or more beds, a residents' council shall be established.
- (iii) The residents' council shall have full opportunity to meet without the presence of staff.
- (iv) The council shall meet at least monthly with the administrator and a staff representative to voice concerns and make recommendations concerning facility policies. Staff shall respond to these suggestions in writing prior to the next regularly scheduled meeting.
- (v) Written minutes of council meetings shall be maintained for review by residents.

1.107 RESIDENT CARE SERVICES

1.107(1) General

107(1)(a) *Facility Census.* The facility shall maintain a current list of residents and their assigned room or apartment.

107(1)(b) *Minimum Services.* The facility shall make available, either directly or indirectly through a resident agreement, the following services, sufficient to meet the needs of the residents:

- (i) a physically safe and sanitary environment;
- (ii) room and board;
- (iii) personal services;
- (iv) protective oversight; and
- (v) social care.

1.107(2) Social and Recreational Activities

107(2)(a) The facility, in consultation with the residents, shall provide opportunities for social and recreational activities both within and outside the facility and shall coordinate community resources and promote resident participation in activities both in and away from the

residence.

107(2)(b) The facility shall encourage resident participation in planning, organizing, and conducting the residents' activity program, taking into consideration the individual interests and wishes of the residents.

107(2)(c) In determining the types of activities offered, the facility shall take into account the physical, social and mental stimulation needs of the residents as well as their personal and religious preferences.

1.107(3) **Care Planning** The facility shall develop and implement a written care plan for each resident to monitor and oversee the resident's care needs.

107(3)(a) *Care Plan.* A written care plan for each resident shall be completed at the time of admission and shall include at least the following:

(i) a comprehensive assessment of the resident's physical health, behavioral, and social needs; preferences; and capacity for self care. The assessment shall include, but not be limited to:

(A) whether medication is self-administered or whether assistance is required from staff;

(B) special dietary instructions, if any; and;

(C) any physical or mental limitations.

(ii) a description of the services which the facility will provide to meet the needs identified in the comprehensive assessment.

107(3)(b) *Care Plan Modifications.* The resident may request a modification of the services identified in the care plan at any time.

107(3)(c) *Reassessments.* The resident shall be reassessed yearly or more frequently, if necessary, to address significant changes in the resident's physical, behavioral, cognitive and functional condition and identify the services that the facility shall provide to address the resident's changing needs. The care plan shall be updated to reflect the results of the reassessment.

107(3)(d) *External Services.* If the resident is receiving personal care and/or protective oversight services from external services provider(s), the facility shall coordinate and document in the care plan the services that are to be provided by the external services provider(s) as well as the services to be provided by the facility to ensure that the resident needs are met.

1.107(4) **Medication**

107(4)(a) *Personal Medication*

(i) All personal medication is the property of the resident and no resident shall be required to surrender the right to possess or self-administer any personal medication, except as otherwise specified in the care plan of a resident of a facility which is licensed to provide services specifically for the mentally ill or if a physician or other authorized medical practitioner has determined that the resident lacks the decisional capacity to possess or administer such medication

safely.

- (ii) Personal medication shall be returned to the resident or resident's legal representative, upon discharge or death, except that return of medication to the resident may be withheld if specified in the care plan of a resident of a facility which is licensed to provide services specifically for the mentally ill or if a physician or other authorized medical practitioner has determined that the resident lacks the decisional capacity to possess or administer such medication safely. The return of medication shall be documented by the facility.
- (iii) Notwithstanding the provisions of Section 107 (4)(a)(ii), if donated by the resident or the resident's next of kin, the facility may return to a pharmacist unused medications in accordance with state laws, including Section 12-22-133, C.R.S (2005). For purposes of this paragraph, unused medications means prescription medications that are not controlled substances. [Eff. 01/30/2007]

107(4)(b) *Misuse of Medication*

- (i) Misuse or inappropriate use of known medications for persons who are self-administering shall be reported to the resident's physician or other authorized practitioner.
- (ii) No resident shall be allowed to take another's medication nor shall staff be allowed to give one resident's medication to another resident.
- (iii) Medication which has a specific expiration date shall not be administered after that date and shall be disposed of appropriately.

107(4)(c) *Labeling*

- (i) Medications shall be labeled with the resident's full name and pursuant to Article 22 of Title 12. This does not apply to medications that are self-administered by and in the possession of the resident.
- (ii) Any medication container which has a detached, excessively soiled or damaged label, shall be returned to the issuing pharmacy for relabeling or disposed of appropriately.

107(4)(d) *Storage*. All medication shall be stored in a manner that ensures the safety of the residents.

(i) Central location

- (A) Medication which is kept in a central location, including refrigerators, shall be kept under lock and shall be stored in separate or compartmentalized packages, containers, or shelves, for each resident in order to prevent intermingling of medication.
- (B) Residents shall not have access to medication which is kept in a central location.

- (ii) Refrigeration. Medications which require refrigeration shall be stored separately in locked containers in the refrigerator. If medication is stored in a refrigerator dedicated to that purpose, and the refrigerator is in a locked room, then the medications do not need to be stored in locked containers.

- (iii) Bulk Quantities. Prescription and over-the-counter medication shall not be kept in stock or bulk quantities, unless such medication is administered by a licensed medical practitioner.

1.107(5) *Administration of Medication and Treatment*

107(5)(a) *Qualified Medication Administration Staff.* Qualified medication administration staff members may administer or assist the resident in administration of medication.

107(5)(b) *Medication Administration Record*

- (i) For residents whose medications are monitored or administered by the facility staff, a current record shall be maintained of the resident's medications including name of drug, dosage, route of administration of medication and directions for administration of medication.
- (ii) The administration of medication shall be documented at the time of administration.

107(5)(c) *Written Orders*

- (i) The facility shall only administer medications upon the written order of a licensed physician or other authorized practitioner.
- (ii) If the facility assists the resident with the administration of one or more medications and the resident also self-administers the same or other medication, the written order shall specify that such self-administration is authorized.

107(5)(d) *Telephone Orders*

- (i) Only a licensed nurse may accept telephone orders for medication from a physician or other authorized practitioner.
- (ii) All telephone orders shall be evidenced by a written and signed order within fourteen (14) days and documented in resident's record and the facility's medical administration record.

107(5)(e) *Compliance with Physician Orders*

- (i) This applies to medications and treatment which do not conflict with state law and regulations pertaining to assisted living residences and which are within the scope of services provided by the facility, as outlined in the resident agreement or the house rules.
- (ii) The facility shall be responsible for complying with physician orders, associated with the administration of medication or treatment, unless the resident self-administers such medication or treatment. The facility shall implement a system that:
 - (A) Obtains clarification from the physician, as necessary and documents that the physician:
 - (I) has been asked whether refusal of the medication or treatment should result in physician notification.
 - (II) has been notified, where such notification is appropriate.

Documentation of such notification shall be made in the medication administration record or in the progress notes.

- (B) Coordinates care with external providers or accepts responsibility to perform the care using facility staff.
- (C) Trains staff regarding the parameters of the ordered care as appropriate.
- (D) documents delivery of the care, including refusal by the resident of the medication or treatment.

107(5)(f) *Drugs Used to Affect or Modify Behavior*

- (i) Any drugs used to affect or modify behavior, including psychotropic drugs may not be administered by unlicensed persons as a "PRN" or "as needed" medication, except:
 - (A) in those residential treatment facilities which are licensed to provide services for the mentally ill, or
 - (B) where a resident understands the purpose of the medication, is capable of requesting the drug of his or her own volition and the facility has documentation from a licensed medical professional that the use of such drug in this manner is appropriate.

107(5)(g) *Oxygen* . Residents may administer oxygen, and staff shall assist with the administration as needed, when prescribed by a physician and if the facility follows appropriate safety requirements regarding oxygen herein.

(i) General

- (A) Oxygen tanks shall be secured upright at all times to prevent falling over and secured in a manner to prevent tanks from being dropped or from striking violently against each other.
- (B) Tank valves shall be closed except when in use.
- (C) Transferring oxygen from one container to another shall be conducted in a well-ventilated room with the door shut. Transfer shall be conducted by a trained staff member or by the resident for whom the oxygen is being transferred, if the resident is capable of performing this task safely. When the transfer is being conducted, no resident, except for a resident conducting such transfer, shall be present in the room. Tanks and other oxygen containers shall not be exposed to electrical sparks, cigarettes or open flames.
- (D) Tanks shall not be placed against electrical panels or live electrical cords where the cylinder can become part of an electric circuit.

(ii) Handling

- (A) Tanks shall not be rolled on their side or dragged.
- (B) Smoking shall be prohibited in rooms where oxygen is used. Rooms in which oxygen is used shall be posted with a conspicuous "No Smoking"

sign.

(iii) Storage

(A) Smoking shall be prohibited in rooms where oxygen is stored and such rooms shall be posted with a conspicuous "No Smoking" sign.

(B) Tanks shall not be stored near radiators or other heat sources. If stored outdoors, tanks shall be protected from weather extremes and damp ground to prevent corrosion.

1.108 SECURED ENVIRONMENT

Facilities choosing to operate a secured environment must comply with the regulations contained in this section as well as the other provisions within these regulations.

1.108(1) ***Disclosure to Residents.*** A facility that operates a secured environment shall disclose to the resident and the resident's legal representative, if applicable, prior to the resident's admission to the facility, that the facility operates a secured environment. The disclosure shall include information about the types of resident diagnoses or behaviors that the facility serves and for which staff of the secured environment is trained to provide services.

1.108(2) ***Resident Rights.*** The resident who believes that he or she has been inappropriately admitted to the secured environment may request the assistance of the facility in contacting the state and local ombudsman and the resident's legal representative. Upon such request the facility shall assist the resident in making such contact.

1.108(3) *Who May be Admitted to the Secured Environment*

108(3)(a) ***Needs Can be Met.*** Only those residents who need a secured environment placement and whose needs can be met by the facility, as determined by an assessment, may be admitted. Upon completion of the assessment, a resident who has been determined to be a danger to self or others shall not be admitted to the secured environment.

108(3)(b) ***Legal Authority/Voluntary Admission.*** A resident shall not be admitted to a secured environment unless legal authority for admitting the resident has been established by guardianship, court order, medical durable power of attorney, health care proxy or other means allowed by Colorado law. However, a resident may voluntarily be admitted or may remain in a secured environment if his or her egress is not restricted.

108(3)(c) ***Mentally Ill.*** Facilities that serve residents who are mentally ill shall not admit such residents into a secured environment unless there is no less restrictive alternative and unless they are otherwise in compliance with the requirements of Article 10 of Title 27, Colorado Revised Statutes.

108(3)(d) ***Developmentally Disabled.*** Facilities that serve residents with developmental disabilities as defined in Article 10.5 of Title 27, Colorado Revised Statutes shall not admit such residents into a secured environment, unless the facility is in compliance with the requirements of such article.

1.108(4) *Secured Environment Assessments and Reassessments*

108(4)(a) Prior to admission, there shall be an assessment of the resident that evaluates the appropriateness of placement in a secured environment. The assessment shall include

written findings and their basis regarding admission to the secured environment and an evaluation of less restrictive alternatives.

108(4)(b) Reassessments must be completed within 10 days of a significant change in the medical or physical condition of the resident that warrants intervention or different care needs, or when the resident becomes a danger to self or others, to determine whether the resident's stay in the secured environment is still appropriate.

108(4)(c) The assessment and reassessment shall be completed by a qualified professional such as the resident's physician, a social worker, physician's assistant or nurse practitioner. If the qualified professional is a member of the facility staff or has been hired by the facility to conduct the evaluation, the qualified professional shall consult with the resident's physician or other independent person qualified to review the care needs of resident.

1.108(5) **Documentation in the Resident Record.** The following shall be documented in the resident's record:

108(5)(a) The legal authority for admission.

108(5)(b) The assessment.

108(5)(c) The reassessment(s).

1.108(6) **Staffing**

108(6)(a) The facility shall provide a sufficient number of trained staff members to meet the needs of the residents in the secured environment. In addition to the requirements set forth in Section 1.104 (4)(a) (iii) there shall always be at least one trained staff member in attendance in the secured environment at all times.

1.108(7) **Family Council**

108(7)(a) Facilities with secured environments shall establish a forum for family members of residents in secured environments to voice suggestions, concerns and grievances.

108(7)(b) The forum shall allow families to meet with the administrator and a staff representative to make recommendations concerning facility policies, grievances, incidents, and other matters of concern to the residents. Staff shall respond to these suggestions in writing prior to the next regularly scheduled meeting.

108(7)(c) The forum shall be offered at least quarterly and may be held in conjunction with resident house or council meetings. Families shall be given the opportunity to meet with facility staff without residents present, upon request. The forum shall be scheduled at a time that reasonably accommodates family participation and schedules.

1.108(8) **Discharge**

108(8)(a) A facility must give at least 30 days written notice to the resident and the resident's legal representative when moving a resident out of a secured environment, unless the move is made at the request of, or voluntarily by, the person who is legally responsible for the resident or in accordance with the requirements of Section 1.105(6)(b) of these regulations.

1.108(9) **Building Requirements, Grounds and Fire Safety**

108(9)(a) *Locking devices*

- (i) General. Locking devices, used to secure facility egress doors and egress access doors, shall be in compliance with one of the following:
 - (A) NFPA Life Safety Code (2003) Section 7.2.1.6.1, Delayed Egress Locks.
 - (B) NFPA Life Safety Code (2003) Section 7.2.1.6.2, Access Controlled Egress Doors.
 - (C) In buildings protected throughout by either an approved supervised automatic fire detection system in accordance with NFPA Life Safety Code (2003) Section 9.6 or an approved supervised automatic sprinkler system in accordance with NFPA Life Safety Code (2003) Section 9.7, the doors may be arranged as follows:
 - (I) the doors unlock upon actuation of the building fire-protective signaling system. The fire-protective signaling system shall be activated by each of the following systems if installed: the approved supervised automatic sprinkler system, the approved supervised fire detection system or an approved manual fire alarm system. The doors shall remain unlocked until the fire-protective signaling system has been manually reset; and
 - (II) the doors unlock upon loss of power controlling the locking mechanism; and
 - (III) there shall be an override device, such as a digital keypad, pushbutton release or key locks. If key locks are used, all staff must carry keys on their person at all times. The override device shall be readily accessible and located within five (5) feet of the locked door.
- (ii) Prior approvals. Special locking arrangements approved by the Department prior to June 1, 2004 may remain in use.

108(9)(b) *Egress Alert Systems and Devices.* Egress alert systems and devices (such as Wanderguard), shall be arranged to sound a proximity alarm only, and shall not lock any door within a means of egress, unless the alarm is in accordance with Section 1.108 (9) (a)(i)(C).

108(9)(c) *Secure Outdoor Area*

- (i) In addition to the interior common areas required by this regulation, the facility shall provide a safe and secure outdoor area for the use of residents year round.
- (ii) Fencing or other enclosures
 - (A) Fencing or other enclosures that prevent elopement and protect the safety and security of the residents shall be installed around secure outdoor areas.
 - (B) Where a locked outdoor fence gate restricts access to the public way, all staff must carry gate lock keys on their person at all times while on duty.

- (iii) In facilities establishing a secured environment on or after June 1, 2004, residents shall be able to access the secure outdoor area independently.

1.109 DIETARY AND DINING SERVICES

1.109(1) **General.** Reserved.

1.109(2) Food Service Sanitation

109(2)(a) *Facilities with Less than 20 Beds*

- (i) Food shall be prepared, handled and stored in a sanitary manner, so that it is free from spoilage, filth, or other contamination, and shall be safe for human consumption.
- (ii) Hazardous materials shall not be stored with food supplies.

109(2)(b) *Facilities with 20 Beds or More.* Facilities licensed for 20 beds or more shall comply with "Colorado Retail Food Establishment Rules and Regulations" Colorado Department of Public Health and Environment, 1999.

1.109(3) **Meals and Snacks**

109(3)(a) *Meals*

- (i) At least three nutritionally balanced meals in adequate portions, using a variety of foods shall be made available, either directly or indirectly through the resident agreement, at regular times daily.
- (ii) In the event the meal provided is unpalatable, a substitute shall be provided.

109(3)(b) *Snacks*

- (i) Between meal snacks of nourishing quality shall be available.

1.109(4) **Menus**

109(4)(a) Menus shall vary daily and shall be adjusted for seasonal changes and holidays.

109(4)(b) Weekly menus shall be available for review by residents in advance of the day of preparation.

109(4)(c) Residents shall be encouraged to participate in planning and in making suggestions as to menus and the facility shall make reasonable efforts to accommodate such suggestions.

1.109(5) **Food Supply**

109(5)(a) There shall be enough food on hand to prepare three nutritionally balanced meals for three days.

1.109(6) **Therapeutic Diets.** A facility may provide therapeutic diets to residents. However, there shall be no requirement that facilities provide this service. If the facility provides therapeutic diets, the following requirements shall apply.

109(6)(a) Therapeutic diets shall be prescribed by a physician.

109(6)(b) If the facility provides therapeutic diets, the facility shall implement a system in order to ensure that the proper diet is provided.

1.109(7) *Dining Area/Services*

109(7)(a) *Dining Area.* A designated dining area accessible by all residents shall be provided in a separate area or areas capable of comfortably seating all residents.

109(7)(b) *Exclusion from Dining Area*

(i) No resident or group of residents shall be excluded from the designated dining area during meal time unless otherwise indicated in the resident's care plan.

(ii) Meals shall not be routinely served in resident rooms unless otherwise indicated in the resident's care plan.

1.109(8) ***Dishwashing*** Dishwashing shall be conducted in a safe and sanitary manner. A two-compartment sink or a single-compartment sink used in conjunction with a domestic dishwashing machine shall be required. Dish-washing machines shall be used in accordance with manufacturer's instructions .

1.110 LAUNDRY SERVICES

1.110(1) ***Provision of Laundry Services.*** The facility shall make laundry services available in one of the following ways, and in accordance with these regulations:

110(1)(a) providing laundry service for the residents;

110(1)(b) providing access to laundry equipment so that the residents may do their own laundry; or

110(1)(c) by making arrangements with a commercial laundry.

1.110(2) ***Separation of Clean/Soiled Laundry.*** Separate storage for soiled linen and clothing shall be provided.

1.110(3) ***Supply of Clean Bed and Bath Linens***

110(3)(a) Facilities which provide bed and bath linens, shall provide such linens at least weekly or more frequently in accordance with residents' needs. Clean blankets shall also be provided as necessary.

1.111 INTERIOR AND EXTERIOR ENVIRONMENT.

The facility shall provide a clean, sanitary environment, free of hazards to health and safety.

1.111(1) ***Interior Environment*** All interior areas including attics, basements, and garages shall be safely maintained.

111(1)(a) *Potential Fire Hazards*

(i) Cooking. Cooking shall not be allowed in bedrooms. Residents may have access to an alternative area where minimal food preparation such as heating or

reheating food or making hot beverages is allowed. In those facilities which make housing available to residents through apartments rather than resident bedrooms, cooking may be allowed in accordance with house rules. Only residents who are capable of cooking safely shall be allowed to do so. The facility shall document such assessment.

(ii) Electrical equipment

(A) Extension cords. Extension cords and multiple use electrical sockets, shall be prohibited in resident bedrooms.

(B) Power strips. Power strips are permitted throughout the facility with the following limitations:

(I) The power strip must be provided with overcurrent protection in the form of a circuit breaker or fuse.

(II) The power strip must have a UL (underwriters laboratories) label.

(III) The power strips cannot be linked together when used.

(IV) Extension cords cannot be plugged into the power strip.

(V) Power strips can have no more than six receptacles.

(VI) The use will be restricted to one power strip per resident per bedroom.

(C) Personal appliances. Personal appliances shall be allowed in resident bedrooms only under the following circumstances:

(I) such appliances are not used for cooking;

(II) such appliances do not require use of an extension cord or multiple use electrical sockets;

(III) such appliance is in good repair as evaluated by the administrator; and

(IV) such appliance is used by a resident who the administrator believes to be capable of appropriate and safe use. The facility shall document such assessment.

(D) Electric blanket/Heating pad. In no event shall a heating pad or electric blanket be used in a resident room without either staff supervision or documentation that the administrator believes the resident to be capable of appropriate and safe use.

(iii) Accumulation of refuse. All interior areas including attics, basements, and garages shall be free from accumulations of extraneous materials such as refuse, discarded furniture, and old newspapers.

(iv) Combustibles. Combustibles such as cleaning rags and compounds shall be kept in closed metal containers.

- (v) Portable Heaters. Kerosene (fuel fired) heaters shall not be permitted within the facility. Electric or space heaters shall not be permitted within resident bedrooms and may only be used in common areas of the facility if owned, provided, and maintained by the facility.
- (vi) Fire resistant wastebaskets. Enclosed areas on the premises where smoking is allowed shall be equipped with fire resistant wastebaskets. In addition, bedrooms occupied by smokers, even when house rules prohibit smoking in bedrooms, shall have fire resistant wastebaskets.

111(1)(b) *Potential Infection/Injury Hazards*

- (i) Insect/rodent infestations. The facility shall be maintained free of infestations of insects and rodents and all openings to the outside shall be screened.
- (ii) Storage of hazardous substances. Solutions, cleaning compounds and hazardous substances shall be labeled and stored in a safe manner .

111(1)(c) *Heating, Lighting, Ventilation*

- (i) Each room in the facility shall be installed with heat, lighting and ventilation sufficient to accommodate its use and the needs of the residents.
- (ii) All interior and exterior steps and interior hallways and corridors shall be adequately illuminated.

111(1)(d) *Water*

- (i) Potable water. There shall be an adequate supply of safe, potable water available for domestic purposes.
- (ii) Hot water.
 - (A) Hot water shall not measure more than 120 degrees Fahrenheit at taps which are accessible by residents.
 - (B) There shall be a sufficient supply of hot water during peak usage demands.

111(1)(e) *Telephone*

- (i) There shall be a telephone available for regular telephone usage by residents and staff.

1.111(2) ***Exterior Environment***

111(2)(a) *Potential Hazards*

- (i) Maintenance of the grounds. Exterior premises shall be kept free of high weeds and grass, garbage and rubbish. Grounds shall be maintained to prevent hazardous slopes, holes, or other potential hazards.
- (ii) Staircases. Exterior staircases of three (3) or more steps and porches shall have handrails. Staircases and porches shall be kept in good repair.

1.112 PHYSICAL PLANT, FURNISHINGS, EQUIPMENT AND SUPPLIES

1.112(1) **Compliance with State and Local Laws/Codes.** Facilities shall be in compliance with all applicable:

112(1)(a) Local zoning, housing, fire and sanitary codes and ordinances of the city, city and county, or county where the facility is situated to the extent that such codes are consistent with the federal "Fair Housing Amendment Act of 1988", as amended, 42 U.S.C., sec. 3601, et seq.

112(1)(b) State and local plumbing laws and regulations. Plumbing shall be maintained in good repair, free of the possibility of backflow and backsiphonage, through the use of vacuum breakers and fixed air gaps, in accordance with state and local codes.

112(1)(c) Sewage disposal requirements. Sewage shall be discharged into a public sewer system or disposed of in a manner approved by the local health department, or local laws if no local health department exists, and the Colorado Water Quality Control Commission.

1.112(2) **Common Areas**

112(2)(a) Common areas sufficient to reasonably accommodate all residents shall be provided.

112(2)(b) All common areas and dining areas shall be accessible to residents utilizing an auxiliary aid without requiring transfer from a wheelchair to walker or from a wheelchair to a regular chair for use in dining area. All doors to those rooms requiring access be at least 32 inches wide.

112(2)(c) A minimum of two entryways shall be provided for access and egress from the building by residents utilizing a wheelchair if the facility is occupied by one or more residents utilizing a wheelchair.

1.112(3) **Bedrooms and Occupancy Ratios**

112(3)(a) *Bedroom Assignment.* No resident shall be assigned to any room other than a regularly designated bedroom.

112(3)(b) *Occupancy Ratios.* No more than two (2) residents shall occupy a bedroom. However, facilities licensed prior to July 1, 1986 may have up to four (4) residents per room until either a substantial remodeling or a change of ownership occurs.

112(3)(c) *Square Footage Requirements*

(i) On or after June 1, 2004, facilities applying for initial licensure, when such initial license is not a change of ownership, shall have at least 100 square feet for single occupancy bedrooms and 60 square feet per person for double occupancy bedrooms. Bathroom areas and closets shall not be included in the determination of square footage.

(ii) Single occupancy bedrooms shall have at least 100 square feet; double occupancy bedrooms shall have at least 60 square feet per person. However, any facility licensed prior to January 1, 1992 may have bedrooms of not less than 80 square feet for one occupant until either substantial remodeling or a change of ownership occurs. Bathroom areas shall not be included in the determination of square footage.

112(3)(d) *Storage Space.* Each resident shall have storage facilities adequate for clothing and personal articles such as a closet.

112(3)(e) *Windows.* Each bedroom shall have at least one window of eight (8) square feet which shall have opening capability. Any facility licensed prior to January 1, 1992 may have a window of smaller dimensions until either a substantial remodeling or a change of ownership occurs.

112(3)(f) *Furnishings and Supplies*

(i) In facilities which provide furnishings for resident bedrooms pursuant to a resident agreement, each resident bedroom shall be equipped as follows for each resident:

(A) a comfortable, standard-sized bed equipped with a comfortable, clean mattress, mattress protector and pad, and pillow. Rollaway type beds, cots, folding beds or bunk beds shall not be permitted.

(B) a standard-sized chair in good condition.

(C) a towel rack.

1.112(4) ***Bathrooms***

112(4)(a) *Number of Bathrooms Per Resident.* There shall be at least one full bathroom for every six (6) residents. A full bathroom shall consist of at least the following fixtures: toilet, handwashing sink, toilet paper dispenser, mirror, tub or shower, and towel rack. However, any facility licensed to provide services specifically for the mentally ill prior to January 1, 1992 may have one bathroom for every eight (8) residents until either a substantial remodeling or a change of ownership occurs.

112(4)(b) *Bathroom Accessibility*

(i) General. There shall be a bathroom on each floor having resident bedrooms which is accessible without requiring access through an adjacent bedroom.

(ii) Residents using auxiliary aids. In any facility which is occupied by one or more residents utilizing an auxiliary aid, the facility shall provide at least one full bathroom as defined herein with fixtures positioned so as to be fully accessible to any resident utilizing an auxiliary aid.

112(4)(c) *Fixtures*

(i) Non-skid surfaces. Bathtubs and shower floors shall have non-skid surfaces.

(ii) Grab bars. Grab bars shall be properly installed at each tub and shower, and adjacent to each toilet in any facility which is occupied by one or more residents utilizing an auxiliary aid or as otherwise indicated by the needs of the resident population.

(iii) Toilet seats. Toilet seats shall be constructed of non-absorbent material and free of cracks.

112(4)(d) *Supplies*

(i) Individualized supplies. The use of common personal care articles, including soap and towels, is prohibited.

- (ii) Toilet paper. Toilet paper in a dispenser shall be available at all times in each bathroom of the facility.
- (iii) Liquid soap and paper towels. Liquid soap and paper towels shall be available at all times in the common bathrooms of the facility.

1.113 FIRE SAFETY

These regulations incorporate by reference National Fire Protection Association (NFPA) Life Safety Code 2003 and Guide on Alternative Approaches to Life Safety 2004. Such incorporation does not include later amendments to or editions of the referenced material. The Department of Public Health and Environment maintains copies of the complete text of the incorporated materials for public inspection during regular business hours, and shall provide certified copies of the incorporated material at cost upon request. Information regarding how the incorporated material may be obtained or examined is available from:

Division Director

Health Facilities and Emergency Medical Services Division

Colorado Department of Public Health and Environment

4300 Cherry Creek Drive South

Denver, CO 80246

Phone: 303-692-2800

Copies of the incorporated materials have been provided to the State Publications Depository and Distribution Center, and are available for interlibrary loan. Any incorporated material may be examined at any state publications depository library.

1.113(1) General

- 113(1)(a) *Multiple Buildings Under One License.* Any facility operating under one license but comprised of multiple buildings shall have the Life Safety Code requirements determined for each building on an individual basis.
- 113(1)(b) *Chair Glides.* Chair glides (powered resident movement equipment) cannot be installed within any required means of egress or required access to a means of egress if the installation reduces the egress width below the required minimum. Chair glides that reduce the required minimum width of a means of egress, or access thereto, will result in the egress route not being credited. Under no circumstance can a chair glide be installed on a stairway that is the primary means of escape from any level or story used by residents.
- 113(1)(c) *Resident Evacuation Capability.* In any facility where the evacuation capability of the resident population is required to be rated, the "Procedure for Determining Evacuation Capability" published by NFPA is to be used by the facility whether the facility is evaluated utilizing the NFPA 101A, Guide on Alternative Approaches to Life Safety (2004), or NFPA Standard 101, Life Safety Code (2003). The Level of Evacuation Difficulty for each facility will be determined by the scores developed in the Worksheet for Rating Residents completed by responsible staff for each resident and the level of staffing maintained at the facility. It is the responsibility of the owner or administrator to insure that the abilities of the residents are accurately rated in accordance with the

published instructions. Each new resident shall be rated utilizing the Worksheet for Rating Residents within two (2) weeks of their admission to the facility. All resident rating scores shall be reviewed at least annually, or when there are significant changes in a resident's physical or cognitive abilities.

1.113(2) Compliance with National Fire Protection Association (NFPA) Life Safety Code Requirements [Eff. 11/01/2008]

113(2)(a) Chapter 32, NFPA 101 (2003). The following facilities shall meet the requirements of Chapter 32, New Residential Board and Care Occupancies, NFPA 101 (2003):

- (i) Facilities which apply for licensure on or after June 1, 2004.
- (ii) Facilities required to submit building plans for plan review, pursuant to Section 1.103 of this chapter, for additions or remodeling of more than 25 percent of the habitable floor space on or after June 1, 2004.
- (iii) Facilities licensed on or after June 1, 2004, that met the automatic sprinkler exception requirements of Life Safety Code Section 32.2.3.5.2 that subsequently apply for a change of ownership shall meet the requirements of 32.2.3.5.1 upon change of ownership.

113(2)(b) Chapter 33, NFPA 101 (2003). The following facilities shall meet the requirements of Chapter 33, Existing Residential Board and Care Occupancies, NFPA 101 (2003):

- (i) Facilities that were constructed and that obtained a building permit for such construction on or between January 1, 1993 and May 31, 2004. Existing life safety features that met the requirements for new buildings at the time of licensure shall be maintained and not diminished.
- (ii) Facilities that underwent addition, remodeling or renovation to 50 percent or more of its floor area, and obtained a permit for such remodeling on or between January 1, 1993 and May 31, 2004. Such remodeling or renovation may have been completed as part of a single project or through a series of projects over a period of time. Existing life safety features that met the requirements for new buildings at the time of licensure shall be maintained and not diminished.
- (iii) However, facilities with less than 17 beds that were approved by the Department for prompt and slow evacuation levels prior to June 1, 2004 based on the installation of the automatic NFPA Standard 13D or 13R, for automatic fire suppression systems may remain in compliance with this standard, without necessitating the extension of sprinkler coverage in small closets of 24 square feet or less.

113(2)(c) Chapter 33, NFPA 101 (2003) or NFPA 101-A Guide on Alternative Approaches to Life Safety (2004). The following facilities shall meet the requirements of either Chapter 33, Existing Residential Board and Care Occupancies, NFPA 101 (2003) or NFPA 101-A Guide on Alternative Approaches to Life Safety (2004) ⁷ unless otherwise specified.
[Eff. 12/30/2008]

⁷ For those facilities complying with NFPA 101-A, Guide on Alternative Approaches to Life Safety (2004), the requirements for existing facilities shall apply. [Eff. 12/30/2008]

- (i) Facilities with eight or less licensed beds that apply for a change of ownership, on or after June 1, 2004. These facilities, licensed on or before June 1, 2004, are allowed one change of ownership prior to having to meet the sprinkler requirements set forth in Life Safety Code section 32.2.3.5.

- (ii) Facilities with nine or more licensed beds that apply for a change of ownership, on or after June 1, 2004. The new owner in a change of ownership transaction shall have three years from the date that the initial license was issued to comply with the automatic sprinkler requirements of Life Safety Code sections 32.2.3.5 or 32.3.3.5, as applicable. Facilities with existing sprinkler systems meeting the requirements of NFPA standard 13R will continue to be acceptable.
- (iii) any currently licensed facility not described under subsections (a) or (b) above.

1.113(3) **Fire Drills**

- 113(3)(a) Drills shall be designed to provide residents with experience in exiting through all exits required by the Life Safety Code, although exiting through egress windows shall not be required. Exits not used in any fire drill shall not be credited in meeting the requirements of the Life Safety Code.
- 113(3)(b) Drills may be announced in advance to the residents. However, such advance notice shall not be construed to be prompting of residents immediately prior to sounding the building's fire alarm.
- 113(3)(c) For those facilities for which the evacuation of residents is part of the emergency plan, the drills shall involve the actual evacuation of all residents to a predetermined assembly point outside the building or the relocation to a point of safety, as defined by the Life Safety Code. If the facility fire emergency plan, developed in conjunction with the local fire authority, outlines a "defend in place" strategy (which typically requires residents to remain in their rooms), an impractical level of evacuation capability shall apply. Existing large facilities that are determined to be impractical level of evacuation capability will be allowed to meet the equivalency requirements through application of the NFPA Standard 101A, Guide on Alternative Approaches to Life Safety (2004) Chapter 4, Fire Safety Evaluation System for Health Care Facilities, Worksheet 4.7.8A for an Existing Facility.
- 113(3)(d) During the first year of operation, fire drills shall be conducted monthly. After the first year of operation, fire drills shall be conducted every other month. There shall be at least two (2) fire drills annually conducted during the overnight hours when residents are sleeping.

1.113(4) **Equipment**

- 113(4)(a) *First Aid.* First aid equipment shall be maintained on the premises in a readily available location and staff shall be instructed in its use.
- 113(4)(b) *Telephone.* There shall be at least one telephone, not powered by household electrical current, in the facility which may be used by staff, residents, and visitors at all times for use in emergencies. The telephone numbers of police, fire, ambulance [9-1-1, if applicable] and poison control center telephone numbers shall be readily accessible to staff.
- 113(4)(c) *Fire Suppression or Detection Equipment.* Any fire suppression or detection equipment shall be fully operational and functional. All inspections for fire alarm and smoke detection systems, automatic fire sprinkler systems and fixed kitchen systems must fully documented with written records maintained on premises for review.
 - (i) Fire alarm and smoke detection systems. Any fire alarm or supervised smoke detection system, installed for life safety purposes, must be inspected by trained and qualified personnel at least annually. Inspection and personnel requirements

are defined in NFPA Standard 72, National Fire Alarm Code.

- (ii) Automatic fire sprinkler systems. Automatic fire sprinkler systems must be inspected annually by a sprinkler contractor that is currently registered to perform inspection and maintenance services with the State of Colorado - Division of Fire Safety.
- (iii) Fixed kitchen extinguishing systems. Fixed kitchen extinguishing systems must be inspected by trained and qualified personnel on a semi-annual basis in accordance with NFPA Standard 96, Ventilation Control and Fire Protection of Commercial Cooking Operations.
- (iv) Portable fire extinguisher. The facility shall have a portable fire extinguisher of the ABC type of at least 3 pound capacity located in the kitchen area, common area, and at least one on each floor of the facility. Fire extinguishers shall be checked monthly, by staff, to ensure that they are mounted in a location that is easily accessible and that the pressure gauge is within the safe zone. Portable fire extinguishers shall be inspected annually and tagged by a qualified fire extinguisher maintenance contractor.

Editor's Notes

6 CCR 1011-1 has been divided into separate chapters for ease of use. Versions prior to 05/01/2009 and rule history are located in the main section, 6 CCR 1011-1. Prior versions can be accessed from the History link that appears above the text in 6 CCR 1011-1. To view versions effective on or after 05/01/2009, select the desired chapter, for example 6 CCR 1011-1 Chap IV or 6 CCR 1011-1 Chap XVIII.

History

Chapter VII Sections 1.102, 1.104, 1.105, 1.113 eff. 11/01/2008.

Chapter VII Sections 1.103, 1.113(2) eff. 12/30/2008.