Document #: 34672

Date Filed:	3/7/2023
Dept, Agency, Comm:	Health and Human Services
Title:	175
Book:	NAC
Chapter:	1
Section:	
Subject Matter:	NEW - General Facility and Services Regulations
Effective Date:	3/12/2023
Amendment Date:	

TITLE 175 HEALTH CARE FACILITIES AND SERVICES LICENSURE

CHAPTER 1 GENERAL FACILITY AND SERVICES REGULATIONS

001. SCOPE AND AUTHORITY. These regulations govern credentials issued to health care facilities and health care services set out in Nebraska Revised Statute (Neb. Rev. Stat.) §§ 71-401 to 71-475, except for assisted-living facilities and pharmacies.

002. DEFINITIONS. The definitions in the Nebraska Health Care Facility Licensure Act and the following are adopted for this title.

002.01 ADJOINING. Areas located in a manner to allow access without having to enter a general corridor area or area used by other consumers are adjoining.

002.02 ADMINISTRATOR. The operating officer for the facility or service which may include individuals with titles such as administrator, chief executive officer, manager, director, or other similar designation is an administrator.

002.03 BED CAPACITY. The total number of licensed beds in a facility or service for use by the consumer excluding beds intended for ancillary usage.

002.04 BIOLOGICAL. Any virus, therapeutic serum, toxin, antitoxin or product used for the prevention, treatment or cure of disease or injuries to humans.

002.05 BY LAWS. A set of rules adopted by the facility or service used to govern the facility or service's operation.

002.06 CARDIOPULMONARY RESUSCITATION (CPR). A procedure to restore breathing and heart function through clearance of air passages, artificial respiration, and manual external cardiac massage.

002.07 CARE PLAN. A written plan based on an individual assessment identifying the needs of the consumer and the strategy for meeting those needs. These may also be referred to as treatment plans.

002.08 COMPLAINT. An expression of a concern or dissatisfaction.

002.09 COMPLETE APPLICATION. An initial application or renewal application which contains all of the requested information, with attestation to its truth and completeness, signatures of the applicant(s), submitted with all required fees and documentation.

APPROVED

MAR 0 7 2023

JIM PILLEN
GOVERNOR

FILED
MAR 07 2023
SECRETARY OF STATE
By

APPROVED
DOUGLAS J. PETERSON
ATTORNEY GENERAL

MAR 17 2022

BY
ASSISTANT ATTORNEY GENERAL

002.10 CONSUMER. Consumer has the same definition as defined in Neb. Rev. Stat. § 38-111.

002.11 DEHYDRATION. A lack of sufficient water in the body of a consumer.

002.12 DESIGNEE. A person authorized by law or the consumer to act on the consumer's behalf.

002.13 DIAGNOSIS. The act or process of identifying or determining the nature of a disease or injury.

002.14 EXISTING FACILITY OR SERVICE. A facility or service with a current license or whose construction was approved by the Department prior to the effective date of this chapter.

002.15 FOREIGN CORPORATION. A corporation created by authority outside the state of Nebraska.

002.16 GOVERNING AUTHORITY. The person or persons that control the facility or service license on behalf of the licensee.

002.17 GRIEVANCE. A written expression of dissatisfaction is a grievance.

002.18 HEMODIALYSIS. The mechanical process of removing unwanted waste and fluid from the blood in consumers whose kidneys no longer perform this function.

002.19 INDELIBLE. Documentation that cannot be erased.

002.20 LICENSED CAPACITY. The total number of consumers the facility or service is licensed to serve at one time.

002.21 LICENSEE. The person or entity to whom the Department has issued a license.

002.22 MEDICAL PRACTITIONER. A person credentialed under the Uniform Credentialing Act whose scope of practice includes prescribing medications, diagnosing and treating is a medical practitioner. For the purpose of this chapter, this includes: physician, physician assistant, advanced practice registered nurse, optometrist, podiatrist, dentist, certified nurse midwife and certified registered nurse anesthetist.

002.23 MEDICAL SERVICES. Address the medical concerns, health concerns or needs of the consumer.

002.24 MEDICALLY RELATED SOCIAL SERVICES. Assist the consumer to maintain or improve the ability to manage everyday physical, mental, and psychosocial needs.

002.25 NEBRASKA FOOD CODE. Nebraska Food Code has the same definition as set out in Neb. Rev. Stat. § 81-2,244.01.

MAR 7 2023

002.26 NEW CONSTRUCTION. Changes to the structure of a facility or part of a facility which is enlarged, altered or built from the ground up. New construction does not include remodeling.

002.27 NEW FACILITY OR SERVICE. A facility or service not currently licensed or a new service to be provided by the licensee at an already licensed facility or service.

002.28 PALLIATIVE CARE. Care provided to a consumer that optimizes quality of life by anticipating, preventing, and treating suffering. Palliative care throughout the continuum of illness involves addressing physical, intellectual, emotional, social and spiritual needs and to facilitate consumer autonomy, access to information and choice.

002.29 PARENT. The legal parent or step parent who is legally responsible for a consumer under the age of 19 years.

002.30 PREMISES. The structure which houses the facility or service, the grounds and each building where care and treatment is provided to the consumer.

002.31 RANGE OF MOTION. The degree of motion a joint can be moved.

002.32 QUALIFIED DIETICIAN. A registered dietician or a licensed medical nutrition therapist.

002.33 QUALIFIED INSPECTOR. A Nebraska licensed architect or engineer, an official or employee of a local jurisdiction or a person authorized by a local jurisdiction to make inspections of a building, part of a building, equipment or systems.

002.34 REMODELING. The repair or replacement of existing items which does not affect the physical structure of the building and does not require moving electrical wiring, plumbing, gas, heating or cooling systems.

002.35 RESTRAINT.

(A) CHEMICAL RESTRAINT. A drug that is used to manage behavior of a consumer, which restricts freedom of movement and is not a standard treatment for the consumer's medical or psychiatric condition.

(B) MECHANICAL OR PHYSICAL RESTRAINT. A device attached or adjacent to the consumer's body which the consumer cannot remove that restricts freedom of movement or normal access to the body.

(C) PERSONAL RESTRAINT. The use of physical force for the purpose of restraining free movement of a consumer which does not include briefly holding the consumer in order to calm or comfort them, or holding the hand of the consumer to escort them from one area to another.

002.36 SCHEMATIC PLAN. A basic diagram of the facility.

002.37 SCREENING TOOL. A simple interview or testing procedure to collect basic information regarding the consumer's health status.

002.38 SECLUSION. The involuntary confinement of the consumer in a room or area which prevents the consumer from freely moving about the facility or interacting with others and is used for other than therapeutic purposes. Seclusion is only allowed in mental health substance use treatment facilities and hospitals when it is ordered by a medical practitioner to ensure the safety of the consumer or others.

002.39 SIGNIFICANT CHANGE. A major change in the consumer's status that is not self-limiting and impacts more than one area of their health or status.

002.40 SIGNIFICANT MEDICATION ERROR. A medication error that has the potential to or jeopardizes the health and safety of the consumer.

002.41 SKIN INTEGRITY. The skin condition of the consumer.

002.42 SUBSTANCE USE DISORDER. A condition in which the use of one or more substances leads to a clinically significant impairment and which may have negative social consequences for the consumer.

002.43 THERAPEUTIC DIET. A diet that is provided to the consumer to treat a medical diagnosis.

002.44 TIME OUT ROOM. A room where the consumer is placed under staff observation when they engage in specified inappropriate behaviors.

002.45 UNCREDENTIALED DIRECT CARE STAFF. Personnel who are not credentialed under the Uniform Credentialing Act or other state laws governing the practice of health care and whose primary responsibility is to provide direct care to the consumer.

002.46 VERMIN. Small animals and insects that can be harmful, may transmit diseases or are difficult to control.

002.47 VOLUNTEER. An unpaid individual who performs duties at the facility or service.

003. LICENSING REQUIREMENTS. For all applications for initial licensure, renewal and reinstatement, an applicant or licensee must submit documentation that the applicant or licensee meets the requirements set out in the Neb. Rev. Stat. §§ 4-108 through 4-111. No applicant or licensee may initiate construction of a facility or service prior to obtaining written approval from the Department to begin the construction process and may not utilize a facility or service for the consumer prior to obtaining written approval from the Department after the conclusion of the construction process and obtaining any required license.

003.01 INITIAL LICENSE. Applicants must submit a complete application provided by the Department, meet all requirements of the statutes, of this chapter, and the chapter in 175 Nebraska Administrative Code (NAC) for the type of license being requested. An applicant for an initial facility or service license must comply with all applicable codes, guidelines, and standards specified in regulations pertaining to each specific individual facility or service type.

003.02 INITIAL APPLICATION REQUIREMENTS AND DOCUMENTATION. The applicant must submit:

(A) Schematic plans;
(B) Documentation approving occupancy and operation issued by the State Fire Marshal or the State Fire Marshal's delegated authority;
(C) Current proof of registration and status with the Nebraska Secretary of State Office if operated by a foreign corporate entity;
(D) Current zoning permit; and
(E) For facilities or services completing construction only:
  (i) Architect or engineer certification and a detailed project description; and
  (ii) A completion certificate; or
(F) For facilities or services having no construction or structural changes:
  (i) Operational permit issued by the local building authority; or
  (ii) Signed and dated statement that the building is structurally safe for use and occupancy from a Nebraska licensed architect or engineer.

003.03 RENEWAL LICENSE. To renew a license, a license holder must, prior to the expiration date, submit a complete application for renewal, and the following:

(A) Documentation as set out in 175 NAC 1-003.02 for initial licensure in this chapter, except for 003.02(A), (C), (D), (E), and (F); and
(B) Any specific documentation in the chapter in 175 NAC applicable to the specific facility or service type.

003.04 REINSTATEMENT FROM EXPIRED STATUS. A licensee can request reinstatement of an expired license within 90 days of the expiration date. A letter must be submitted to the Department requesting reinstatement which contains all of the information requested in an application for an initial license, and the chapter in 175 NAC pertaining to the specific facility or service type, and any required fee. The facility or service may not operate during this time.

004. INSPECTIONS. To determine compliance with operational care, treatment and physical plant standards, the Department inspects the facility or service prior to and following licensure.

004.01 INITIAL INSPECTION. An announced initial onsite inspection will be conducted after receipt of a completed application for an initial license.

004.02 COMPLIANCE INSPECTION. An unannounced inspection may be conducted of the facility or service anytime the Department deems necessary, including, the passage of 5 years without an inspection.

005. GENERAL REQUIREMENTS. These requirements pertain to all applicants and licensees governed by Neb. Rev. Stat. §§ 71-401 to 71-475.

005.01 NOTIFICATIONS. An applicant or licensee must notify the Department electronically, in writing, or via facsimile of the following:

(A) At least 30 calendar days before a facility or service is sold, leased, discontinued, or moved to a new location;
(B) A change in the use, location of beds, or both;

MAR 7 2023

(C) At least 30 calendar days prior to the date the facility or service would like to:
  (i) Increase the number of beds for which the facility or service is currently licensed;
  (ii) Change the usage of beds or rooms; or
  (iii) Change the type of services provided;
(D) To request a single license document;
(E) To request simultaneous facility or service licensure inspections for all types of licensure held or sought;
(F) Prior to the start of the construction process if a facility is having construction done; and
(G) Within 24 hours of the following:
  (i) When the licensee has reason to believe abuse, neglect or exploitation of a consumer has occurred;
  (ii) When the death of a consumer at the facility or service occurred due to:
    (1) Suicide;
    (2) A violent act;
    (3) Drowning; or
    (4) The use of restraint or seclusion; and
  (iii) When a consumer who needs supervision, leaves a facility or service without staff knowledge;
  (iv) A fire in the facility or service; or
  (v) Any natural disaster or accident resulting in damage to the physical plant which has a direct or immediate effect on a consumer in the facility or service. Notification must include the steps included to assure the consumer's safety.

005.02 CAPACITY AND USAGE. The licensee must ensure:
(A) When providing beds for the consumer, the licensee must not utilize more beds than are licensed and approved by the Department and must not exceed the maxi-mum occupancy approval of the State Fire Marshal or their delegated authority; and
(B) The total number of consumers receiving care, treatment or services at one time from the facility or service must not exceed the licensed capacity approved by the Department and must not exceed the maximum occupancy approval of the State Fire Marshal or their delegated authority.

005.03 PUBLIC INFORMATION. The licensee must make licenses, the most recent inspection reports, and any disciplinary action notices that are currently in effect, if any, available for public inspection upon request. All facility or service licenses must be displayed on the licensed premises.

005.04 COMPLAINTS AND GRIEVANCES. A licensee must establish, implement and revise as necessary, written policies and procedures to promptly address complaints or grievances filed verbally or in writing. The policies and procedures must include:
(A) Information regarding how the consumer or designee may submit a complaint or grievance;
(B) Timeframes for investigative review and for a response to the consumer or designee;
(C) How the licensee will utilize information from complaints and grievances to improve the quality of care and treatment provided; and

MAR 7 2023

(D) How the licensee will maintain records of complaints and grievances received, actions taken and resolution.

005.05 QUALITY ASSURANCE AND IMPROVEMENT. The licensee must have a quality assurance and improvement program to collect data and assess care and treatment provided to the consumer, both concurrently and retrospectively. The program must include involvement by all disciplines. Results must be recorded quarterly and reported to the licensee's governing authority or licensee annually. The program must address:

(A) Goals and objectives;
(B) How problems or issues to be addressed will be identified;
(C) How recommended changes or actions will be identified;
(D) How recommendations will be implemented;
(E) How changes made will be monitored for effectiveness;
(F) A plan to review and revise actions, policies and recommendations as necessary; and
(G) Identification, by job title, of the person responsible for the effectiveness of the program.

005.06 INFECTION CONTROL. The licensee must have an infection control program to minimize sources and transmissions of infections and communicable diseases. The program must address:

(A) How the licensee will identify, report, investigate and control infections;
(B) How trends will be tracked and identified;
(C) How treatment of any infections or communicable diseases will be monitored for appropriateness and for alteration of treatment when necessary;
(D) Hand hygiene techniques and how the licensee will ensure compliance;
(E) Use of safe work practices and personal protective equipment;
(F) Handling, cleaning, and disinfection of equipment, supplies and linens used to provide care and treatment to the consumer;
(G) How the licensee will educate staff, volunteers, and the consumer regarding infections, modes of transmission, hygienic practices, and methods of infection prevention; and
(H) Identification of the person, by job title, who is responsible for the effectiveness of the overall program.

005.07 DISASTER PREPAREDNESS AND MANAGEMENT. The licensee must have a disaster preparedness program to ensure the safety, well-being and continuity of care and treatment for the consumer, visitors and staff during natural or other disasters, disease outbreaks, or other similar situations. The program must address:

(A) How consumer identification will be maintained;
(B) How communication will be maintained;
(C) How consumers, staff and visitors will be moved or relocated to points of safety;
(D) How consumers, staff and visitors will be protected from the threat of exposure, ingestion, absorption, or inhalation of hazardous substances or materials;
(E) How food, water, medicine, medical supplies and other necessary items will continue to be provided to the consumer, staff and visitors;
(F) How the consumer will be provided with necessary care and treatment; and
(G) How the facility will educate staff, visitors and consumers on the disaster preparedness plans.

MAR 7 2023

005.08 COMMUNICATION. Each licensee must implement interventions to ensure communication with consumers or their designee occurs in a manner and format the consumer or designee can understand.

006. CONSTRUCTION. The applicant or licensee is responsible to ensure that the facility or service is designed, constructed and maintained in a manner that is safe and functional for the care and treatment provided. The applicant or licensee must comply with all current applicable Building, Plumbing, Electrical, Elevator, Boiler, Energy, Food, and Accessibility statutory codes and standards, and all new construction must be designed in accordance with the requirements in Neb. Rev. Stat. § 71-439 for the type of facility or service being designed. The applicant or licensee must:

(A) Ensure the facility or service is designed and completed in accordance with the Nebraska Architect and Engineers Act;
(B) Submit the following to the Department, prior to the start of construction:
  (i) Project description documentation including the purpose and use of the area, street address, contact persons and anticipated completion date;
  (ii) Construction risk assessment (if the construction will take place in an area currently occupied or used by the consumer) outlining and identifying the plan to ensure the area is safe for the consumer during the construction process;
  (iii) Certification from a Nebraska licensed architect or engineer that the schematic plans, construction plans and any revisions thereof meet the regulatory requirements for that specific facility or service type; and
  (iv) Completion certificate containing the following:
    (1) Name, signature and license number of a Nebraska licensed architect or engineer;
    (2) Name and address of the facility or service;
    (3) Documentation of an inspection completed by qualified inspectors having jurisdiction;
    (4) Occupancy approval by the State Fire Marshal's office or delegated authority; and
    (5) Bed Capacity Worksheet, if applicable to the type of facility or service.

006.01 CONSTRUCTION WAIVER. A waiver of any physical plant requirement, other than those set by statute, may be requested, in writing, by the applicant or licensee pursuant to Neb. Rev. Stat. § 71-439.

006.02 WAIVER TERMS AND CONDITIONS. A construction waiver may be granted under the terms and conditions and for such period of time as are applicable and appropriate to the waiver. The terms, conditions and period of waiver may include but are not limited to:

(A) Waivers that are granted to meet the special needs of a patient remain in effect as long as required by the patient; or
(B) A limited period of time as determined by the Department.

006.03 APPLICATION. An applicant or licensee must submit a request for waiver of any construction or physical plant requirements set forth in 175 NAC on a form provided by the Department.

MAR 7 2023

007. PHYSICAL PLANT. A licensee must maintain the facility or service it operates in a manner that is safe, clean and functional for the type of care and treatment provided to the consumer.

007.01 SHARING SPACE. A licensee may share physical space with another licensed or unlicensed entity when:

(A) Spaces are clearly identified so the consumer or his or her designee is aware of the specific licensed facility or service where they are receiving care and treatment;
(B) Current medical records are clearly separated and not shared by the other entities;
(C) Staffind and administration is clearly separated and not shared by the other entities. An individual cannot be on duty in both entities at the same time; and
(D) The facilities or services are not sharing the same space for care and treatment for the consumer at the same time.

008. RECORDKEEPING. The licensee must maintain complete and accurate records which document the operation of the facility or service and the care and treatment provided to the consumer. Records may be created and maintained in written or electronic format, or a combination of both. Records must:

(A) Contain dated, legible and indelible entries;
(B) Ensure entries are dated, timed, and signed by the author;
(C) Be readily accessible, easily retrievable, and systematically organized;
(D) Be transferred to another facility or service, if the consumer is transferred, to assure continuity of care;
(E) Contain the following:
    (i) Identification data, including name, date of birth, gender;
    (ii) Physical description of the consumer and or a photograph;
    (iii) A signed Service Agreement or Consent to Treatment;
    (iv) Allergies;
    (v) Plan of care and treatment;
    (vi) Advanced directives, if available;
    (vii) Dates of admission and discharge, including transfer information and a discharge summary, as applicable;
    (viii) Medical practitioner's orders, when applicable;
    (ix) Name and contact information of the medical practitioner;
    (x) Emergency contact information;
    (xi) An assessment to determine the mental, physical and psychological ability of the consumer to protect themselves from injury;
    (xii) Documentation of all diagnoses, care and treatment provided, and the results or response; and
    (xiii) Documentation of education of rights for the consumer.

008.01 CONFIDENTIALITY. Records must be kept confidential and available only for use by authorized persons or as otherwise permitted by law. Records must be available for copying and examination by an authorized representative of the Department.

008.02 ACCESS TO RECORDS. Records will be released only with the consent of the consumer or their designee or as required by law.

MAR 7 2023

008.03 RETENTION AND PRESERVATION. All records for the consumer must be preserved in original, microfilm, electronic, or other similar form. The licensee must retain these records for a minimum of 7 years beginning with each service date, protect the confidentiality of all information contained, regardless of the form or storage method of the records; and safeguard the records against loss, destruction, or unauthorized use.

008.04 DESTRUCTION. When a consumer record is destroyed, such destruction must be by shredding, incineration, electronic deletion, or by other similar protective measures in order to preserve the confidentiality of the information in the record. Documentation of record destruction must be maintained permanently.

008.05 DISCONTINUATION OF OPERATIONS. When a licensee discontinues operation of a facility or service the licensee must transfer consumer records to the facility or service chosen by the consumer or designee. All records that are not transferred per the consumer or designee, which have not reached the time permitted for destruction of the record, must be stored to assure confidentiality, and the Department must be notified in writing, via email or facsimile, of the address where these records are stored prior to the close of business.

009. ENVIRONMENTAL SERVICES. Every building or space utilized for the care and treatment of the consumer must comply with the following:

009.01 HOUSEKEEPING. Housekeeping services to protect the health and safety of the consumer in accordance with acceptable standards of practice and manufacturer's instructions must be provided, including the following:

(A) Spaces must be constructed utilizing smooth, washable materials and maintained in a clean condition. Abrasive surfaces may be used to reduce or prevent accidents where wet or slippery surfaces present a hazard;
(B) Equipment, fixtures, furniture and furnishings, including windows, draperies, curtains, flooring, and carpeting must be kept clean and free of contaminants;
(C) All garbage must be disposed of to prevent the attraction of vermin, to minimize odors and the potential transmission of diseases;
(D) Cleaning equipment and supplies must be available; and
(E) Hazardous materials must be secured to prevent accidental or intentional ingestion, inhalation, or consumption by the consumer.

009.02 MAINTENANCE. All parts of a facility or service, and all equipment, fixtures and furnishings are to be maintained in good working order and meet the following standards:

(A) Surfaces must be smooth, free of sharp edges, splinters, or potential safety risks;
(B) Doors, stairways, passageways, aisles and other means of exit must be maintained to prevent hazards which might pose a potential safety risk;
(C) Routine and preventative maintenance must be performed in accordance with manufacturer's instructions and documentation of maintenance must be maintained;
(D) Sound and lighting levels must be conducive to the care and treatment provided;
(E) Maintenance equipment and supplies must be available; and
(F) Hazardous materials must be secured to prevent accidental or intentional ingestion, inhalation, or consumption by the consumer.

MAR 7 2023

009.03 ANIMALS. Any animal at a facility or service, whether owned by the facility, a consumer or a visitor, must not jeopardize consumer health and safety. A licensee that allows animals to be on the premises must implement written policies and procedures to ensure:

(A) Animals are examined annually and have received all vaccinations, as recommended by a licensed veterinarian annually;
(B) Provisions have been implemented to prevent the presence and spread of fleas, ticks and other parasites;
(C) Animals are prohibited from being in food preparation, storage, or serving areas during food preparation and serving times, with the exception of service animals;
(D) Identification of a staff person, identified by job title, who is designated to be responsible for care and supervision of a facility owned animal while the animal is at the facility or service and designated to oversee a non-facility owned animal while the animal is at the facility or service;
(E) Compliance with state, local, or other ordinances regarding animals or specific breeds identified by those laws or ordinances; and
(F) Any animal that has bitten or attacked any person without provocation or has been determined by the local health authority to be dangerous is not allowed in the facility or used by the service.

009.04 OTHER SAFETY MEASURES. The licensee must ensure a facility or service maintains the environment in a manner to minimize accidents and to promote safety. This includes:

(A) Prohibiting firearms, weapons, weapon accessories and ammunitions;
(B) Restricting access to mechanical equipment which may pose a danger to the consumer;
(C) Safety outlets must be installed and used for a facility or service that provides care or treatment to consumers under the age of 6; and
(D) Providing water for bathing and hand hygiene at safe temperatures to accommodate the comfort and preferences of the consumer and to prevent the potential of thermal injury.
    (i) Water temperatures must not exceed:
        (1) 110 degrees Fahrenheit at bathing and therapy fixtures; and
        (2) 120 degrees Fahrenheit at hand washing fixtures.

009.05 SWIMMING POOLS, THERAPY POOLS AND HOT TUBS. When provided, a licensee must ensure safe operation in accordance with current standards of practice, state and federal law, including:

(A) Designation of a staff member pool operator responsible to oversee operation and maintenance;
(B) Supervision requirements;
(C) Determination of types and numbers of rescue equipment needed in the immediate area;
(D) Method of summoning assistance in the event of an emergency;
(E) Methods to reduce the potential transmission of disease; and
(F) Maintaining documentation of daily and weekly water quality and water temperature checks.

APPROVED

MAR 0 7 2023

JIM PILLEN
GOVERNOR

FILED
MAR 07 2023 11
SECRETARY OF STATE
By

APPROVED
DOUGLAS J. PETERSON
ATTORNEY GENERAL

MAR 17 2022

BY
ASSISTANT ATTORNEY GENERAL