

## **Title 20. Public Health and Welfare**

### **Chapter X. Office of Long-Term Care, Division of Provider Services and Quality Assurance, Department of Human Services**

#### **Subchapter A. Generally**

#### **Part 407. Rules Pertaining to Post-Acute Head Injury Retraining and Residential Adult Care Facilities**

**Codification Notes.** This part as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

##### "AUTHORITY

The following rules for Post-Acute Retraining and Residential Adult Care Facilities in Arkansas are duly adopted and promulgated by the Department of Human Services, Division of Economic and Medical Services, Office of Long Term Care, pursuant to the authority expressly conferred by the laws of the State of Arkansas in Act 602 of 1987."

"601. Severability: If any provision of these rules, or their application to any person or circumstance is held invalid, such invalidity shall not affect other provisions and application of these rules which can be given effect without the invalid provisions or applications, and to this end the provisions of the rules are declared to be severable."

#### **Subpart 1. Definitions — Responsibilities**

##### **20 CAR § 407-101. Definitions.**

The following terms are defined for the purpose of this part:

- (1) "Behavior modification" means things or events that are used in a timely manner to discourage undesired behavior;
- (2) "Board" means the Long-Term Care Facility Advisory Board [abolished];
- (3) "Department" means the Department of Human Services;
- (4) "Division" means the Division of Medical Services;

(5) "Facility" means a post-acute head injury retraining and residential care facility;

(6) "Facility services" means the residential, retraining, and rehabilitation services provided within each licensed facility in accordance with its license;

(7) "Head injury" means an injury or neurological impairment to the brain caused by illness or accident;

(8) "Head injury retraining and rehabilitation" means the individualized program of instruction offered in a residential or day program designed to assist an individual suffering from disability as a result of head injury to reduce the adverse effects of the disability and improve functioning in daily living, education, and vocational activities;

(9) "Immediate family" means father, mother, children, spouse, brother, and sister;

(10)(A) "Independently mobile" means physically and mentally capable of vacating a structure in case of emergency, including the capability to ascend or descend stairs that are in the exit path.

(B) Residents who can use canes, wheelchairs, or walkers are considered independently mobile as long as they do not require more than verbal or minimum assistance from other persons to vacate and can do as required by local fire code;

(11) "License" means a nontransferable permit issued by the Office of Long-Term Care to a licensee authorizing the licensee to operate a facility for a specific time period;

(12)(A) "Licensee" means any person, firm, corporation, governmental agency, or other legal entity to whom the license is issued and who is responsible for maintaining approved standards.

(B) Facilities owned or regulated by the Department of Veterans Affairs or by the Division Development Disabilities Services, the Office on Alcohol and Drug Abuse, and Christian Science homes shall be excluded from licensure under this part;

(13) "Office of Long-Term Care" means the survey and licensure agency of the Division of Medical Services;

(14) "Post-acute head injury retraining and residential care facility" means a building, or group of buildings, if located contiguously and operated jointly, used or maintained to provide, for pay, retraining and rehabilitation for three (3) or more individuals who are:

(A) Disabled on account of head injury; and

(B) Not in present need of inpatient diagnostic care in a hospital or related;

(15) "Provisional licensure" means a temporary grant of authority to the purchaser to operate an existing long-term care facility upon application for licensure to the Office of Long-Term Care;

(16) "Rules" means the rules pertaining to post-acute head injury retraining and residential care facilities promulgated by the Office of Long-Term Care pursuant to Acts 1987, No. 602;

(17) "Residents" means any individual who receives services from a facility;

(18) "Resident's sponsor" means the person or agency legally responsible for the welfare and support of the resident;

(19)(A) "Residential area" means an area used by residents for sleeping and for daily living activities.

(B) A "residential area" may be less than the entire area of a building and there may be more than one (1) residential area within a single building;

(20) "Sponsor". See "resident sponsor";

(21) "Staff" means any officer, employee, or agent of a facility; and

(22) "Time-out techniques" means devices or procedures designed to improve a resident's behavior by removing positive reinforcements when the resident's behavior is undesirable.

**Authority.** Arkansas Code §§ 20-10-203, 20-76-201.

**Codification Notes.** Long-Term Care Facility Advisory Board was abolished by Acts 2017, No. 540, § 39.

**20 CAR § 407-102. Responsibilities of the Office of Long-Term Care.**

The Office of Long-Term Care shall have the following responsibilities:

- (1) To review and grant or deny all applications for licenses to operate as a facility;
- (2) To investigate and take appropriate action against any person providing head injury retraining and rehabilitation in contravention of this part;
- (3) To inspect facilities and their operations to determine compliance with this part and to take appropriate action;
- (4) To investigate complaints made against facilities and to take appropriate action;
- (5) To provide technical assistance to facilities to improve services provided to residents;
- (6) To refer violations of other state or federal laws or regulations to the appropriate administrative agency or law enforcement office;
- (7) To provide directories of facilities to all interested persons; and
- (8) To notify all agencies which place residents in facilities whenever a facility:
  - (A) Becomes unlicensed; or
  - (B) Is in substantial violations of this part.

**Authority.** Arkansas Code §§ 20-10-203, 20-76-201.

**20 CAR § 407-103. Responsibilities of the facility.**

Each facility shall have the following responsibilities:

- (1) To provide to its residents a comprehensive program of care which:
  - (A) Conforms fully with this part;
  - (B) Meets the needs of the resident;
  - (C) Provides M1 protection of residents' rights; and
  - (D) Promotes the social, physical, and mental well-being of residents;

(2) Subject to the residents' right to privacy, to allow the Office of Long-Term Care full access to residents and the facility's grounds and buildings at any time;

(3) To allow personnel from the office full access to the facility, books, and records at all times; and

(4) To notify the office immediately of any extraordinary event or set of circumstances which:

(A) Has resulted in serious injury to a resident; or

(B) Constitutes a continuing threat of injury to a resident.

**Authority.** Arkansas Code §§ 20-10-203, 20-76-201.

## **Subpart 2. Licensure**

### **20 CAR § 407-201. Operation without a license.**

No facility shall be established, operated, or maintained in the State of Arkansas without first obtaining a license.

**Authority.** Arkansas Code §§ 20-10-203, 20-76-201.

### **20 CAR § 407-202. Application for license.**

(a)(1) Applicants for licenses shall:

(A) File applications under oath with the Office of Long-Term Care upon forms prescribed by the Division of Medical Services; and

(B)(i) Pay an annual fee of ten dollars (\$10.00) to the division.

(ii) Such fee shall be refunded if the license is denied.

(2) Applications shall be filed by the prospective licensee.

(b) Applications shall set forth the following information:

(1) The full name and address of the facility for which the license is requested;

(2) The name of each person owning, directly or indirectly, five percent (5%) or more of equity interest of the facility;

(3) The name and address of each officer and director, if the applicant is a corporation;

(4) The name of each partner, whether general or limited, if the applicant is a partnership;

(5) Such additional information as the division may require on the application form; and

(6) The agent name and address of the agent for service of process if the applicant is other than an individual.

**Authority.** Arkansas Code §§ 20-10-203, 20-10-224, 20-76-201.

**20 CAR § 407-203. Qualification for license.**

A licensee must satisfy the following minimum qualifications:

(1) Sufficient financial resources to meet the needs of its residents;

(2) Have no prior convictions under Acts 1979, No. 28; and

(3) Have sufficient qualified staff to meet the needs of the residents in the following areas:

(A) Vocational rehabilitation;

(B) Occupational therapy;

(C) Speech therapy;

(D) Physical therapy;

(E) Psychology;

(F) Cognitive training; and

(G) Recreational and educational services.

**Authority.** Arkansas Code §§ 20-10-203, 20-76-201.

**20 CAR § 407-204. Term.**

A license is effective from the date of issue through December 31 of the then-current calendar year.

**Authority.** Arkansas Code §§ 20-10-203, 20-76-201.

**20 CAR § 407-205. Renewal.**

(a) Applications for renewal shall be made annually and on forms provided by the Office of Long-Term Care.

(b) Applications shall contain:

- (1) The name and address of the applicant; and
- (2) Such information that has changed since the filing of the previous application.

(c) Applications for renewal shall be postmarked no later than January 2 following expiration.

(d)(1) The annual fee of ten dollars (\$10.00) shall be submitted with the renewal.

(2) A penalty of one dollar (\$1.00) per day will be assessed for each day past January 2.

**Authority.** Arkansas Code §§ 20-10-203, 20-10-224, 20-76-201.

**20 CAR § 407-206. Transfer.**

(a) Licenses are not transferable.

(b) The transfer of thirty percent (30%) or more equity interest in the licensee shall:

- (1) Be considered a change of ownership; and
- (2) Require a new application for licensure.

**Authority.** Arkansas Code §§ 20-10-203, 20-76-201.

**20 CAR § 407-207. Closure.**

Any facility that closes or that loses or surrenders its license for whatever reason must meet the rules for new construction to be eligible for relicensure.

**Authority.** Arkansas Code §§ 20-10-203, 20-76-201.

**20 CAR § 407-208. Separate premises.**

Separate licenses are required for operations maintained at separate, noncontiguous premises, even if they are operated under the same management.

**Authority.** Arkansas Code §§ 20-10-203, 20-76-201.

**20 CAR § 407-209. Provisional licensure.**

(a)(1) Subject to the requirements below, a provisional license shall be issued to the applicant and new operator of the long-term care facility when the Office of Long-Term Care has received the Application for Licensure to Conduct a Long-Term Care Facility.

(2) A provisional license shall be effective from the date the office provides notice to the applicant and new operator, until the date the long-term care license is issued.

(3) With the exception of Medicaid or Medicare provider status, a provisional license confers upon the holder all the rights and duties of licensure.

(b) Prior to the issuance of a provisional license:

(1) The purchaser and the seller of the long-term care facility shall provide the office with written notice of the change of ownership at least thirty (30) days prior to the effective date of the sale;

(2) The applicant and new operator of the long-term care facility shall provide the office with the application for licensure, including all applicable fees; and

(3) The applicant and new operator of the long-term care facility shall provide the office with evidence of transfer of operational control signed by all applicable parties.

(c)(1) A provisional license holder may operate the facility under a new name, whether fictitious or otherwise.

(2)(A) For purposes of this section, the term "new name" means a name that is different than the name under which the facility was operated by the prior owner, and the term "operate" means that the provisional license holder may hold the facility out to the public using the new name.

(B) Examples include, but are not limited to, signage, letterhead, brochures, or advertising (regardless of media) that bears the new name.

(d)(1) In the event that the provisional license holder operates the facility under a new name, the facility shall utilize the prior name in all communications with the office until such time as the license is issued.

(2) Such communications include, but are not limited to:

- (A) Incident reports;
- (B) Notices;
- (C) Plans of correction; and
- (D) MDS submissions.

(3) Upon the issuance of the license, the facility shall utilize the new name in all communications with the office.

**Authority.** Arkansas Code §§ 20-10-203, 20-10-224, 20-76-201.

**Codification Notes.** "MDS" means minimum data sets.

### **20 CAR § 407-210. Compliance.**

(a) When noncompliance with licensure standards is detected during surveys, the licensee will be notified of the violations and will be requested to provide a plan of correction which must include a timetable for completion of the corrections.

(b) If an item of noncompliance that affects the health and safety of residents is not promptly corrected, the Office of Long-Term Care shall have the option to sanction pursuant to 20 CAR § 407-214 or initiate action to suspend or revoke the facility's license.

**Authority.** Arkansas Code §§ 20-10-203, 20-76-201.

**20 CAR § 407-211. Revocation of license.**

The Division of Medical Services may deny, suspend, or revoke a license on any of the following grounds:

(1) Violation of any of the provisions of Acts 1979, No. 28, as amended by Acts 1987, No. 602, resulting in a notice of violation being issued pursuant to Section 4 of the Act, or this part;

(2) Permitting, aiding, or abetting the commission of any unlawful act in connection with the operation of a facility;

(3) Noncompliance with inspections conducted by state or local inspectors (i.e., fire marshal, city building inspector, county sanitarian);

(4) Failure to allow admission to Department of Human Services or Office of Long-Term Care personnel; and

(5) Accepting and retaining residents for whom the facility cannot provide services as required in 20 CAR § 407-401 et seq.

**Authority.** Arkansas Code §§ 20-10-203, 20-76-201.

**20 CAR § 407-212. Notice and procedure on hearing prior to denial, suspension, or revocation of a license.**

(a)(1) Whenever the Office of Long-Term Care denies, suspends, or revokes a license, it shall send to the applicant or licensee, by certified mail, a notice stating the reasons for the action.

(2) The notice shall:

(A) State the:

(i) Nature of intended action;

(ii) Rule allegedly violated; and

(iii) Nature of the evidence supporting the allegation; and

(B) Set forth with particularity the asserted:

- (i) Violations;
- (ii) Discrepancies; and
- (iii) Dollar amounts.

(3) The applicant or licensee may appeal such notice to the Long-Term Care Facility Advisory Board [abolished] as permitted by Arkansas Code § 20-10-303 [repealed].

(b)(1) All appeals shall be made in writing, directed to the Chair of the Long-Term Care Facility Advisory Board, within thirty (30) days of receipt of notice of intended action.

(2) The appeal shall:

(A) State the basis for the appeal with supporting documentation attached; and

(B) Set forth with particularity those asserted violations, discrepancies, and dollar amounts which the appellant contends are in compliance with this part.

(c)(1) Appeals must be heard by the board within sixty (60) days following date of the chair's receipt of written appeal unless otherwise agreed by both parties.

(2) The chair shall notify the party or parties of the date, time, and place of hearings at least seven (7) working days prior to the hearing date.

(d) Preliminary motions must be made in writing and submitted to the chair or hearing officer, with service to the opposing party, at least three (3) days prior to hearing date, unless otherwise directed by the chair or hearing officer.

(e)(1) All pleadings filed in any proceeding shall be typewritten on white paper, size eight and one-half by eleven inches (8 ½" x 11"), using one (1) side of the paper only and double-spaced.

(2) They shall bear a caption clearly showing the title of the proceeding in connection with which they are filed.

(3) All pleadings shall:

(A) Be signed by the party or his or her authorized representative or attorney; and

(B) Contain signer's address and telephone number.

(4)(A) All pleadings shall be served upon each of the parties, unless the board orders otherwise because of numerous parties.

(B) Each pleading required to be served upon a party shall contain a statement by the party or his or her attorney stating:

(i) That a copy of the pleading has been served;

(ii) The date and method of service; and

(iii) If by mail, the name and address of the persons served.

(C) Service on the Office of Long-Term Care shall be made to the Office of Chief Counsel of the Department of Human Services.

(D) Service on a party represented by an attorney shall be on the attorney.

(f)(1) The chair shall act as chair in all appeal hearings.

(2) In the absence of the chair, the board may elect one (1) of their members to serve as chair.

(3) The chair shall vote only in case of a tie.

(4) The chair may request legal counsel and staff assistance in the conduct of the hearing and in the formal preparation of their decision.

(g) A majority of the members of the board shall constitute a quorum of all appeals.

(h) If the appellant fails to appear at a hearing, the board may:

(1) Dismiss the appeal; or

(2) Render a decision based on the evidence available.

(i)(1) A dismissal for nonappearance may be set aside by the board if the appellant makes application to the chair in writing within ten (10) calendar days after the mailing of the decision, showing good cause for his or her failure to appear at the hearing.

(2) All parties shall be notified in writing of an order granting or denying any application to vacate the decision.

(j)(1) Any party may appear at the hearing and be heard through:

(A) An attorney at law; or

(B) A designated representative.

- (2) All persons practiced by attorneys before the courts of the state.
- (k) Each party shall have the right to:
  - (1) Call and examine parties and witnesses;
  - (2) Introduces exhibits;
  - (3) Question opposing witnesses and parties on any matter relevant to the issue;
  - (4) Impeach any witness regardless of which party first called him or her to testify; and
  - (5) Rebut the evidence against him or her.
- (l) Testimony shall be taken only on oath or affirmation under penalty or perjury.
- (m)(1) Irrelevant, immaterial, and unduly repetitious evidence shall be excluded.
  - (2) Any other oral or documentary evidence, not privileged, may be received if it is of a type commonly relied upon by reasonable prudent persons in the conduct of their affairs.
  - (3) Objections to evidentiary offers may be made and shall be noted of record.
  - (4) When a hearing will be expedited, any part of the parties will not be substantially prejudiced.
  - (5) Any part of the evidence may be received in written form.
- (n)(1) The chair or hearing officer shall control the taking of evidence in a manner best suited to:
  - (A) Ascertain the facts; and
  - (B) Safeguard the rights of the parties.
- (2) The Office of Long-Term Care shall present its case first.
- (o) A party shall arrange for the presence of his or her witnesses at the hearing.
- (p) Any member of the board may question any party or witness.
- (q)(1) A complete record of the proceedings shall be made.
  - (2) A copy of the record may be transcribed and reproduced at the request of a party to the hearing, provided he or she bears the cost thereof.
- (r) Written notice of the time and place of continued or further hearing shall be given, except that when a continuance or further hearing is ordered during a hearing,

oral notice of the time and place of the hearing may be given to each party present at the hearing.

(s) In addition to this part, the hearing provisions of the Arkansas Administrative Procedure Act, Arkansas Code § 25-15-201 et seq., shall apply.

(t)(1) At the conclusion of testimony and deliberations by the board, the board shall vote on motions for disposition of the appeal.

(2) After reaching a decision by majority vote of those members, the board may direct that findings of fact and conclusions of law be prepared to reflect the board's recommendations to the chair.

(3) At his or her discretion, the chair shall have the right to:

(A) Accept, reject, or modify a recommendation; or

(B) Return the recommendation to the board for further consideration for a more conclusive recommendation.

(4) All decisions shall be based on findings of fact and law and are subject to and must be in accordance with applicable state and federal laws and regulations.

(5) The final decision by the chair shall be rendered in writing to the appellant.

**Authority.** Arkansas Code §§ 20-10-203, 20-76-201.

**Codification Notes.** Long-Term Care Facility Advisory Board was abolished by Acts 2017, No. 540, § 39.

Arkansas Code § 20-10-303 was repealed by Acts 2005, No. 898, § 4.

### **20 CAR § 407-213. Appeals to court.**

(a) Any applicant or licensee who considers himself or herself injured in his or her person, business, or property by the final decision of the Chair of the Long-Term Care Facility Advisory Board [abolished] shall be entitled to judicial review thereof.

(b) Proceedings for review shall be initiated by filing a petition in the circuit court of any county in which the petitioner does business or in the circuit court of Pulaski County within thirty (30) days after service upon the petitioner of the chair's final decision.

(c) All petitions for judicial review shall be in accordance with the Arkansas Administrative Procedure Act, Arkansas Code § 25-15-201 et seq.

**Authority.** Arkansas Code §§ 20-10-203, 20-76-201.

**Codification Notes.** Long-Term Care Facility Advisory Board was abolished by Acts 2017, No. 540, § 39.

**20 CAR § 407-214. Penalties.**

Any person establishing, conducting, managing, or operating any facility without first obtaining a license, or who violates any provisions of the act or rules shall be guilty of a misdemeanor, and upon conviction shall be liable to a fine of not less than twenty-five dollars (\$25.00), nor more than one hundred dollars (\$100), nor more than five hundred dollars (\$500) for each subsequent offense, and each day such facility shall operate after a first conviction shall be considered a subsequent offense.

**Authority.** Arkansas Code §§ 20-10-203, 20-76-201.

**20 CAR § 407-215. Receivership.**

(a) Arkansas Code § 20-10-902 describes the purpose for development of a mechanism for the concept of receivership to protect residents in long-term care facilities.

(b) Utilization of the receivership mechanism shall be:

- (1) A remedy of last resort; and
- (2) Implemented consistent with the criteria set forth in Arkansas Code § 20-10-904.

**Authority.** Arkansas Code §§ 20-10-203, 20-76-201.

**20 CAR § 407-216. Fines and sanctions.**

Arkansas Code § 20-10-205 provides for fines and sanctions of Long-Term Care Facilities for violations of rules duly adopted and promulgated by the Department of Human Services, Division of Medical Services, Office of Long-Term Care.

**Authority.** Arkansas Code §§ 20-10-203, 20-10-205, 20-10-206, 20-76-201.

**Subpart 3. Admissions and Discharge of Clients**

**20 CAR § 407-301. Admissions criteria.**

(a) A facility shall admit, retain, and care for only those residents for whose needs the facility is capable of providing and is licensed to provide.

(b) Each resident admitted must meet the following criteria:

(1)(A) Be at least eighteen (18) years of age.

(B) Residents sixteen (16) or seventeen (17) years of age may be admitted if sufficiently mature to adapt to the facility and its program of services;

(2) Suffer from head injury or other neurological impairment;

(3) Be able to self-administer any required medication, or needing only medicine which can be administered by licensed home health agency personnel; and

(4) Be independently mobile, except that residents needing assistance with transfer or with vacating a building may be admitted if the facility has sufficient staff continually available to allow the building or buildings in which such resident is living or receiving treatment to be evacuated within the time provided by the applicable fire code.

**Authority.** Arkansas Code §§ 20-10-203, 20-76-201.

**20 CAR § 407-302. Policies.**

Each facility shall develop, subject to review and approval by the Office of Long-Term Care, written policies and practices concerning the admission, transfer, and discharge of residents.

**Authority.** Arkansas Code §§ 20-10-203, 20-76-201.

**20 CAR § 407-303. Program development.**

(a) The facility, prior to admitting any resident, shall interview the resident and the resident's sponsor to:

- (1) Identify the resident's needs; and
- (2) Determine whether the facility may meet those needs adequately.

(b) Upon admission, the facility shall execute with, and provide a copy to, the resident and the resident's sponsor an admission agreement specifying the following information:

- (1) The services to be rendered to the resident;
- (2) The method of calculating the charges for the services (whether on a per diem rate, a per service charge, or other basis);
- (3) The schedule of rates necessary to calculate the charges for services;
- (4) A statement that the method of calculating charges and the schedule of rates will be changed only after thirty (30) days' written notice of changes is given to the resident and the resident's sponsor;
- (5) A statement that no charges will be imposed for services or major items of equipment other than those specified in the admission agreement or subsequently agreed to by the resident or the resident's sponsor, unless the supplemental services and supplies are necessitated by a change in the resident's condition;
- (6) A provision that advance payments will be refunded on a pro rata basis in the event of transfer, death, or discharge and an explanation of the calculation of the proration;

(7) A statement that at least ten (10) days' written notice prior to discharge or transfer will be given to the resident and the resident's sponsor, unless the discharge or transfer is:

(A) At the request of the resident or resident's sponsor;

(B) Ordered by a physician; or

(C) Caused by a change in the resident's condition which renders the resident unsuited for retention and which prevents the giving of prior notice;

(8)(A) A provision that upon discharge or transfer, the resident or the resident's sponsor shall receive within thirty (30) days a final written statement of the resident's account.

(B) All monies, property, or things of value held in the custody of the facility will be returned to the resident or the resident's sponsor on or before this date;

(9) A listing of all moneys, property, or things of value given or to be given to the facility on admission;

(10) A provision that the resident and the resident's sponsor shall not be required to provide to the licensee, the facility, or the facility's personnel any remuneration for any service or supplies provided or arranged in accordance with statute, rule, or agreement; and

(11) A provision that the facility will oversee resident's personal funds.

**Authority.** Arkansas Code §§ 20-10-203, 20-76-201.

**20 CAR § 407-304. Discharge and transfer.**

(a) Occupancy of a facility by any resident shall not be terminated unless such termination is permitted under the terms of the admission agreement or this section.

(b) Every resident, if competent, or the resident's sponsor if the resident is not competent, shall have the right to discharge the resident from the facility.

(c) If a resident develops a communicable disease or condition that requires inpatient medical or nursing care or which cannot be adequately or safely treated at the

facility, immediate arrangements shall be made by the facility to transfer such resident to an appropriate acute medical, nursing, or psychiatric facility.

(d) In the event that a resident exhibits symptoms of behavioral or judgmental defects to a degree that constitutes a danger to the resident or other residents, the facility shall:

(1) Arrange for appropriate professional evaluation of the resident's condition; and

(2) If necessary, transfer the resident to a facility providing the proper level of care.

(e) In the event of any planned resident discharge or transfer, other than self-discharge, the facility shall provide at least ten (10) days prior notification to the resident and the resident's sponsor.

(f)(1) Upon transfer of a resident to a nursing home, or other care facility, a copy of all pertinent resident records shall accompany the resident, except when emergency situations do not permit such transmittal.

(2) In such emergency cases, pertinent information shall be telephoned to the receiving facility and written transfer documents shall be sent within twenty-four (24) hours.

(g) Each facility shall assist all residents proposed to be discharged or transferred to the extent necessary to ensure that the resident is placed in a care setting that is adequate and appropriate to the conditions for which the resident is discharged or transferred, and where possible, consistent with the wishes of the resident.

**Authority.** Arkansas Code §§ 20-10-203, 20-76-201.

#### **Subpart 4. Resident Rights**

##### **20 CAR § 407-401. Specific residents rights.**

Each resident shall have the following specific rights, and each facility shall safeguard and not abridge these rights:

(1)(A) The facility shall have written policies and procedures defining the rights and responsibilities of residents.

(B) The policies shall present a clear statement defining how residents are to be treated by the facility, its personnel, volunteers, and others involved in providing care;

(2) A copy of the synopsis of the resident's bill of rights must be prominently displayed within the facility;

(3)(A) Each resident admitted to the facility is to be fully informed of these rights and of all rules governing resident conduct and responsibilities.

(B) The facility is to communicate these expectations/rights during the period of not more than two (2) weeks before or five (5) work days after admission, unless medically contraindicated in writing.

(C) The facility shall obtain a signed acknowledgement from the resident, his or her guardian, or other maintained in the resident's medical records;

(4) Appropriate means shall be utilized to inform non-English speaking, deaf, or blind residents of the resident's rights;

(5) Resident rights shall be deemed appropriately signed by:

(A) **Residents capable of understanding.** Signed by resident before one (1) witness;

(B) **Residents incapable because of illness.**

(i) The attending physician documents the specific impairment that prevents the residents from understanding or signing their rights.

(ii) Responsible party and two (2) witnesses sign;

(C) **Resident with an intellectual disability.**

(i) Rights read and if he or she understands resident signs before staff member and outside disinterested party.

(ii) If he or she cannot understand, rights are explained to, and signed by guardian before witness; and

(D) **Resident capable of understanding but acknowledges with other mark (X).** Mark acknowledged by two (2) witnesses;

(6) Staff members must fully understand all resident rights;

(7)(A) Facility staff will be provided a copy of resident rights.

(B)(i) Staff shall complete written acknowledgment stating they have received and read the resident rights.

(ii) A copy of the acknowledgment shall be placed in the employee's personnel file; and

(8) The facility's policies and procedures regarding resident's rights and responsibilities will be formally included in ongoing staff development program for all personnel, including new employees.

**Authority.** Arkansas Code §§ 20-10-203, 20-76-201.

**20 CAR § 407-402. Services.**

(a)(1) Each resident admitted to the facility will be fully informed, prior to or at the time of admission and as need arises during residency, of services available in the facility including any charges for services.

(2) Residents have the right to choose, at their own expense, a personal physician and pharmacist.

(b)(1) The facility shall make available to all residents a schedule of the kinds of services and articles provided by the facility.

(2) A schedule of charges for services and supplies not included in the facility's basic per diem rate shall be provided at the time of admission.

(3) The schedule shall be updated should any change be made.

**Authority.** Arkansas Code §§ 20-10-203, 20-76-201.

**20 CAR § 407-403. Medical care.**

(a)(1) Each resident admitted to the facility shall be fully informed by a physician of his or her medical condition.

(2) The resident:

(A) Shall be afforded the opportunity to participate in the planning of his or her total medical care; and

(B) May refuse experimental treatment.

(b)(1) Total resident care includes medical care, nursing care, rehabilitation, restorative therapies, and personal cleanliness in a safe and clean environment.

(2) Residents shall be advised by appropriate professional providers of alternative courses of care and treatments and the consequences of such alternatives when such alternatives are available.

**Authority.** Arkansas Code §§ 20-10-203, 20-76-201.

**20 CAR § 407-404. Transfer and discharge.**

(a)(1)(A) A resident may be transferred or discharged only for:

(i) Medical reasons;

(ii) His or her welfare or the welfare of other residents;

(iii) The resident presents a danger to safety or health of other residents;

(iv) Because the resident no longer needs the services provided by the facility;

(v) Nonpayment for his or her stay; or

(vi) The facility ceases operation.

(B) The resident shall be given reasonable written notice to ensure orderly transfer or discharge.

(2)(A) The term "transfer" applies to the movement of a resident from facility to another facility.

(B)(i) "Medical reasons" for transfer or discharge shall be based on the resident's needs and are to be determined and documented by a physician.

(ii) That documentation shall become a part of the resident's permanent medical record.

(C)(i) "Reasonable notice of transfer or discharge" means the decision to transfer or discharge a resident shall be discussed with the resident and the resident will be told the reason or reasons and alternatives available.

(ii) A minimum of thirty (30) days' written notice must be given.

(iii) Transfer for the welfare of the resident or other residents may be affected immediately if such action is documented in the medical record.

(b)(1) An appeals process for residents objecting to transfer or discharge shall be developed by the facility in accordance with Arkansas Code § 20-10-1005, as amended.

(2) That process shall include:

(A)(i) The written notice of transfer or discharge shall state the reason for the proposed transfer or discharge.

(ii) The notice shall inform the resident that they have the right to appeal the decision to the director within seven (7) calendar days.

(iii) The resident must be assisted by the facility in filing the written objection to transfer or discharge;

(B) Within fourteen (14) days of the filing of the written objections a hearing will be scheduled; and

(C) A final determination in the matter will be rendered within seven (7) days of the hearing.

(c) The facility shall provide preparation and orientation to residents designed to ensure a safe and orderly transfer or discharge.

(d) The facility must provide reasonable written notice of change in room or roommate.

**Authority.** Arkansas Code §§ 20-10-203, 20-76-201.

### **20 CAR § 407-405. Exercising rights.**

(a)(1) Each resident admitted to the facility will be encouraged and assisted to exercise constitutional and legal rights as a resident and a citizen including the right to

vote, and the facility shall make accommodations to ensure free exercise of these rights.

(2) Residents may voice grievances or recommend changes in policies or services to facility staff or to outside representatives of their choice, free from:

- (A) Restraint;
- (B) Coercion;
- (C) Discrimination; or
- (D) Reprisal.

(b) Residents shall have the right to free exercise of religion including the right to rely on spiritual means for treatment.

(c)(1) Complaints or suggestions made to the facility's staff shall be responded to within ten (10) days.

(2) Documentations of such response will be maintained by the facility administrator or his or her designee.

(d) Each resident may retain and use personal clothing and possessions as space and rules permit.

(e)(1) A representative resident council shall be established in each facility.

(2) The resident council's duties shall include:

(A) Review of policies and procedures required for implementation of resident rights;

(B) Recommendation of changes or additions in the facility's policies and procedures, including programming;

(C) Representation of residents in their complaints to the Office of Long-Term Care or any other person or agency; and

(D) Assist in identification of problems and orderly resolution of same.

(f)(1) The facility administrator shall designate a staff coordinator and provide suitable accommodations within the facility for the resident's council.

(2) The staff coordinator shall assist the council in scheduling regular meetings and preparing written reports of meetings for dissemination to residents of the facility.

(3) The staff coordinator may be excluded from any meeting of the council.

(g)(1) The facility shall inform residents' families of the right to establish a family council within the facility.

(2) The establishment of such council shall be encouraged by the facility.

(3) This family council shall:

(A) Have the same duties and responsibilities as the resident council; and

(B) Be assisted by the staff coordinator designed to assist the resident council.

**Authority.** Arkansas Code §§ 20-10-203, 20-76-201.

### **20 CAR § 407-406. Financial management.**

Each resident admitted to the facility may manage his or her personal financial affairs, or if the resident requests such affairs be managed by the facility, an accounting shall be maintained in accordance with applicable rules.

**Authority.** Arkansas Code §§ 20-10-203, 20-76-201.

### **20 CAR § 407-407. Resident abuse.**

(a)(1) Residents shall be free from mental and physical abuse, chemical and physical restraints (except in emergencies) unless authorized, in writing, by a physician, and only for such specified purposes and limited time as is reasonably necessary to protect the resident from injury to himself, herself, or others.

(2) Mental abuse includes humiliation, harassment, and threats of punishment or deprivation.

(3) Physical abuse refers to corporal punishment or the use of restraints as a punishment.

(b) Drugs shall not be used to limit, control, or alter resident behavior for convenience of staff.

(c) All physical restraints designed to limit residents' mobility and the practice of locking residents behind doors or other barriers is strictly prohibited.

**Authority.** Arkansas Code §§ 20-10-203, 20-76-201.

**20 CAR § 407-408. Mechanical supports.**

(a) Mechanical supports used to achieve body position and balance must be designed and applied under the supervision of a qualified professional and in accordance with principles of:

- (1) Good body alignment;
- (2) Concern for circulation; and
- (3) Allowance for change of position.

(b) The facilities' written policy and procedures governing the use of mechanical supports shall specify which staff members may authorize the use of supports and must clearly specify the following:

- (1) Orders shall indicate the specific reasons for the use of the supports;
- (2) Use of supports must be temporary and the resident will not be supported for an indefinite or unspecified amount of time;
- (3) Application of supports shall not be allowed for longer than twelve (12) hours unless:

- (A) The resident's condition warrants; and
- (B) Specified medical authorization is maintained in the resident's medical record;

(4)(A) A resident placed in supports shall be checked at least every thirty (30) minutes by appropriately trained staff.

(B) A written record of this activity shall be maintained in the resident's medical record.

(C) The opportunity for motion and exercise shall be provided for a period of not less than ten (10) minutes during each two (2) hours in which supports are employed, except at night;

(5) Recorder, extensions, or reimposition of supports shall occur only upon review of the resident's condition by the physician, and is documented in the physician's progress notes;

(6) The use of supports shall not be employed:

(A) As punishment;

(B) For the convenience of the staff; or

(C) As a substitute for supervision; and

(7) Mechanical supports must be employed in such manner as to:

(A) Avoid physical injury to the resident; and

(B) Provide a minimum of discomfort.

**Authority.** Arkansas Code §§ 20-10-203, 20-76-201.

**20 CAR § 407-409. Confidentiality of medical records.**

(a) Each resident is ensured confidential treatment of his or her personal and medical records.

(b) Residents may approve or refuse the release of such records to any individual except:

(1) In case of a transfer to another health care institution; or

(2) As required by law or third party payment contract.

**Authority.** Arkansas Code §§ 20-10-203, 20-76-201.

**20 CAR § 407-410. Respectful treatment of residents.**

(a) Each resident will be treated with consideration, respect, and full recognition of dignity and individuality, including privacy in treatment and care for personal needs.

(b) Staff shall:

(1) Display respect for residents when speaking with, caring for, or talking about residents; and

(2) Seek to engage in the constant affirmation of resident individuality and dignity as a human being.

(c)(1) Schedules of daily activities shall:

(A) Provide maximum flexibility; and

(B) Allow residents to exercise choice in participation.

(2) Residents' individual preferences regarding such things as menus, clothing, religious activities, friendships, activity programs, and entertainment will be elicited and respected by the facility.

(d)(1) Residents shall be examined or treated in a manner that maintains and ensures privacy.

(2) A closed door or a drawn curtain shall shield the resident from passersby.

(3) People not involved in the care of the residents are not to be present during examination or treatment without the resident's consent.

(e) Privacy will be afforded residents during:

(1) Toileting;

(2) Bathing; and

(3) Other activities of personal hygiene.

**Authority.** Arkansas Code §§ 20-10-203, 20-76-201.

#### **20 CAR § 407-411. Resident communications.**

Residents may associate or communicate privately with persons of their choice, and may send or receive personal mail unopened, unless medically contraindicated and documented by the physician in the medical record.

**Authority.** Arkansas Code §§ 20-10-203, 20-76-201.

#### **20 CAR § 407-412. Resident visitors.**

(a)(1) Policies and procedures shall permit residents to receive visits from anyone they wish, provided a particular visitor may be restricted for the following reasons:

(A) The resident refuses to see the visitor;

(B) The resident's physician specifically documents that such a visit would be harmful to the resident's health; or

(C) The visitor's behavior is unreasonably disruptive to the facility.

(2) This does not include those individuals who, because they advocate administrative change to protect resident rights, are considered a disruptive influence by the administrator.

(b) Decisions to restrict a visitor shall be reviewed and evaluated each time the resident's plan of care or medical orders are reviewed by the physician or nursing staff, or at the resident's request.

(c) Accommodations will be provided for residents to allow them to receive visitors in reasonable comfort and privacy.

**Authority.** Arkansas Code §§ 20-10-203, 20-76-201.

**20 CAR § 407-413. Resident financial management.**

(a) Residents are allowed to manage their own personal financial affairs.

(b) Should the facility manage the resident's personal financial affairs, this authorization must be in writing and shall be signed appropriately as follows:

(1) If the resident is capable of understanding the authorization shall be signed by the resident and one (1) witness; or

(2)(A) If the resident has intellectual disabilities the authorization shall be read and if he or she understands, the resident will sign along with a staff member and an outside disinterested party.

(B) If he or she cannot understand, the authorization should be explained and signed by the guardian and witness.

(C) If the resident is capable of understanding and acknowledges such with a mark (X), then two (2) witnesses are required.

**Authority.** Arkansas Code §§ 20-10-203, 20-76-201.

**20 CAR § 407-414. Resident trust accounts.**

The facility shall have written policies and procedures for the management of client trust accounts.

**Authority.** Arkansas Code §§ 20-10-203, 20-76-201.

**20 CAR § 407-415. Responsibility for resident accounts.**

An employee shall be designated to be responsible for resident accounts.

**Authority.** Arkansas Code §§ 20-10-203, 20-76-201.

**20 CAR § 407-416. System of accounting.**

The facility shall establish and maintain a system that uses generally accepted accounting principles.

**Authority.** Arkansas Code §§ 20-10-203, 20-76-201.

**20 CAR § 407-417. Prohibition against commingling resident funds.**

The facility shall not commingle resident funds with any other funds other than resident funds.

**Authority.** Arkansas Code §§ 20-10-203, 20-76-201.

**20 CAR § 407-418. Written receipts.**

The facility system of accounting includes written receipts for:

- (1) Funds received by or deposited with the facility; and
- (2) Disbursements made to or for the resident.

**Authority.** Arkansas Code §§ 20-10-203, 20-76-201.

**20 CAR § 407-419. Collective checking account.**

(a) All personal allowance moneys received by the facility are placed in a collective checking account.

(b) The checking account will be reconciled on a monthly basis.

(c) Any cost incurred for this account shall not be charged to the resident.

(d) Any interest earned from this account shall not be charged to the resident.

**Authority.** Arkansas Code §§ 20-10-203, 20-76-201.

**20 CAR § 407-420. Resident savings accounts.**

When appropriate, individual savings accounts shall be opened for residents in accordance with Social Security rules governing savings accounts.

**Authority.** Arkansas Code §§ 20-10-203, 20-76-201.

**20 CAR § 407-421. Petty cash fund.**

A cash fund specifically for petty cash shall be maintained in the facility to accommodate the small cash requirement of the residents.

**Authority.** Arkansas Code §§ 20-10-203, 20-76-201.

**20 CAR § 407-422. Resident personal funds.**

(a)(1) The facility shall, at the resident's request, keep on deposit personal funds over which the resident has control.

(2) Should the resident request these funds, they are given to him or her on request with receipts maintained by the facility and a copy to the resident.

(b) The financial record must be available to the resident and his or her guardian, and responsible party.

**Authority.** Arkansas Code §§ 20-10-203, 20-76-201.

**20 CAR § 407-423. Financial transactions on resident's behalf.**

(a) If the facility makes financial transactions on a resident's behalf, the resident, guardian, or responsible party shall receive an itemized accounting of disbursements and current balances at least quarterly.

(b) A copy of the resident's quarterly statement shall be maintained in the facility.

**Authority.** Arkansas Code §§ 20-10-203, 20-76-201.

**20 CAR § 407-424. Control and discipline of residents.**

(a)(1) Each facility shall develop a written policy for the control and discipline of residents.

(2) A copy of the policy shall be posted in each residential area at the facility.

(3) A copy of the policy shall be provided to each resident and resident's sponsor at the time of the admission of the resident.

(b) No facility may allow the following:

(1) Corporal punishment to a resident;

(2) A resident to discipline another resident; and

(3) A resident to be locked in a room without constant supervision.

**Authority.** Arkansas Code §§ 20-10-203, 20-76-201.

**20 CAR § 407-425. Behavior modification.**

Each facility shall:

(1) Develop a written policy of the use of behavior modification in accordance with applicable state and federal laws and regulations; and

(2) Furnish a copy of such policy to the Office of Long-Term Care.

**Authority.** Arkansas Code §§ 20-10-203, 20-76-201.

**20 CAR § 407-426. Grievances.**

Each resident shall have the right to present to the facility or to the Office of Long-Term Care any grievance without fear of reprisal.

**Authority.** Arkansas Code §§ 20-10-203, 20-76-201.

**20 CAR § 407-427. Individual service plan.**

(a) Within thirty (30) days of the admission of a resident to a facility, the facility shall prepare an individual service plan setting forth the:

- (1) Needs of the resident to be treated by the facility;
- (2) Services to be provided by the facility to meet those needs; and
- (3) Timetable for meeting those needs.

(b) The individual service plan shall be developed as follows:

(1) Upon admission, the facility shall appoint a member of the facility's staff who shall serve as program manager in the development and implementation of the individual service plan;

(2) The facility shall review all information concerning the resident received upon referral of the resident to the facility;

(3) The facility shall evaluate the resident's physical, psychological, social, familial, vocational, and educational status;

(4) The facility, with input from the resident and the resident's sponsor, shall develop the goals to be achieved by the treatment supplied by the facility; and

(5)(A) The facility shall evaluate the services needed to achieve those goals.

(B) Commonly utilized services that should be considered included but are not limited to:

- (i) Advocacy;
- (ii) Alcoholism and drug abuse treatment services;
- (iii) Audiology;
- (iv) Chaplaincy;

- (v) Dentistry;
- (vi) Dietary/nutrition;
- (vii) Driver training;
- (viii) Education;
- (ix) Independent living skills instruction;
- (x) Interpretive services for those who are deaf or hearing impaired;
- (xi) Job placement;
- (xii) Manual communication instruction;
- (xiii) Medication management;
- (xiv) Mobility instruction for those who are blind or visually impaired;
- (xv) Nursing;
- (xvi) Occupational skills training;
- (xvii) Occupational therapy;
- (xviii) Orthotics;
- (xix) Pharmacy;
- (xx) Physical therapy;
- (xxi) Physician;
- (xxii) Prosthetics;
- (xxiii) Psychological evaluation and treatment;
- (xxiv) Recreational;
- (xxv) Rehabilitation counseling;
- (xxvi) Rehabilitation engineering;
- (xxvii) Residential;
- (xxviii) Social casework or group work;
- (xxix) Specialized services for those who are deaf and blind;
- (xxx) Speech-language pathology;
- (xxxi) Transportation;
- (xxxii) Vocational evaluation; and
- (xxxiii) Work adjustment.

(c) Based on the review and assessment required by paragraph.

- (d) The facility shall develop an individual service plan containing statements of:
- (1) The resident's goals;
  - (2) The treatment or services to be provided;
  - (3) The specific goals to be obtained from each service;
  - (4) The time intervals at which treatment or service outcomes will be reviewed;
  - (5) The anticipated time frames for the attainment of each of the resident's specified goals; and
  - (6) The measures to be used to assess the effects of treatment or services.
- (e)(1) The resident's individual service plan shall be in writing.
- (2) A copy of the individual service plan shall be provided and explained to the resident and the resident's sponsor.
  - (3) A copy of the individual service plan shall be maintained in the resident's records at the facility.
- (f) The facility shall review and revise the resident's individual service plan upon a substantial change in the resident's needs and no less often than quarterly to determine:
- (1) The resident's current physical, psychological, social, familial, vocational, and educational status;
  - (2) The resident's attainment of the goals previously established;
  - (3) Any changes in the goals of the individual service plan; and
  - (4) Any changes in the services to be provided to achieve those goals.
- (g) A single program manager shall be designated for each resident and shall:
- (1) Be responsible for the resident during the implementation of the individual service plan;
  - (2) Ensure that the resident is adequately oriented to his or her individual service plan;
  - (3) Ensure that the individual service plan proceeds in an orderly and goal-directed manner;
  - (4) Encourage the resident's participation in the program;

(5) Ensure that the resident and the resident's sponsor are involved on an ongoing basis in evaluation and revision of the individual service plan;

(6) Participate in staff conferences concerning the resident; and

(7) Ensure that the discharge decision and arrangements for follow-up and appropriate support services are made.

(h)(1) Conferences of the facility staff shall be held at least monthly to:

(A) Review the progress of the resident;

(B) Develop further plans; and

(C) Maintain integrated and coordinated services.

(2) The resident and the resident's sponsor shall be allowed to provide input into these conferences.

**Authority.** Arkansas Code §§ 20-10-203, 20-76-201.

**20 CAR § 407-428. Health, mental health, and other professional services.**

(a) The facility shall ensure that each resident has access to health, mental health, and other professional services necessary to maintain the resident's physical and mental health.

(b) The facility shall assist the resident, as necessary, in making arrangements to secure all services, examinations, and reports needed to maintain and document the maintenance of the resident's physical health or mental health.

(c) The facility shall document that each resident has a physician of the resident's choice who is responsible for the overall management of the resident's health and mental needs.

(d) In the event of a resident's illness or accident, the facility shall:

(1) Notify the resident's personal physician, or in the event such physician is not available, a qualified alternate;

(2) Take immediate and appropriate steps to see that the resident receives necessary medical attention including, if necessary, transfer to an appropriate medical facility;

(3) Make a notation of the illness or accident in the resident's personal record;  
and

(4)(A) Upon transfer of a resident to a health, mental health, or other residential care facility, send a copy of pertinent resident records, except when an emergency situation prohibits such transmittal.

(B) In such cases pertinent information shall be telephoned into the receiving facility, and written transfer documents shall be sent within seventy-two (72) hours.

(e) For residents who require mental health services which are not to be provided by the facility, the facility shall:

(1) Allow, with the written permission of the resident, appropriate mental health professionals access to the resident's records having direct bearing on the mental health care of the resident;

(2) Provide appropriate space to carry out the services provided or prescribed;  
and

(3) Participate in the development and implementation of programs designed to enhance treatment plans prescribed for the resident.

(f) The facility shall assist each resident to obtain regular and emergency dental services.

(g) The facility shall assist each resident in obtaining proper foot care.

(h) The facility shall assist each resident in obtaining other routine or special services as his or her needs may require, including but not limited to:

(1) Eye examinations and eye glasses; or

(2) Auditory testing and hearing aid.

**Authority.** Arkansas Code §§ 20-10-203, 20-76-201.

**20 CAR § 407-429. Medications.**

(a)(1) Any medication required by a resident must be:

- (A) Self-administered by the resident; or
- (B) Administered by a licensed home health agency.

(2)(A) A facility and its staff shall not administer any medication, other than emergency or first aid measures.

(B) "Emergency measures" means those necessary to prevent death or trauma until the resident can be transported to an appropriate medical facility.

(C) "First aid measures" means those necessary immediately to relieve trauma or injury.

(b) A facility may provide training and minimal assistance or guidance to residents who self-administer medication, including, but not limited to:

- (1) Reminding the resident of the time to take the medication; and
- (2) Reading to the resident the medication regimen on the medication

container.

(c) If a facility makes provision for administration of medication by a home health agency, the home health agency shall be responsible for:

(1) Planning, directing, and supervising the administration of medication to residents and assisting the resident in ordering medications;

(2) Reviewing each resident's condition and medication regimen at regular intervals and documenting those reviews; and

(3) Providing appropriate instruction to residents in self-administration of medication and documenting those instructions.

(d) Written orders, signed by a licensed medical practitioner, for all medications administered to a resident shall be retained in the resident's records.

(e) All medications shall be stored and safeguarded as follows:

(1) Medication shall be stored in a secure area, provided, however, that medications may be kept in the resident's room in the sole discretion of the facility depending on the capabilities of the resident;

(2) Prescription medications shall be properly labeled in accordance with current applicable laws and rules;

(3) Nonprescription or over-the-counter medications must be individually labeled and kept in the original container if stored by the facility;

(4) Stock supplies of any medication are prohibited;

(5) Any medication that has been prescribed for but is no longer in use by a resident shall be destroyed or disposed of in accordance with state law if stored by the facility; and

(6) Under no circumstances will one (1) resident's medication be shared with another resident.

(f)(1) If the facility stores and supervises a resident's medication, a notation shall be made on the individual record for each resident who refuses or is unable to self-administer his or her medications.

(2) The notation shall include the date, time, and dosage of medication that was not taken, and a notation that the resident's attending physician was notified within a reasonable amount of time.

**Authority.** Arkansas Code §§ 20-10-203, 20-76-201.

### **20 CAR § 407-430. Home health service.**

(a) Home health services, including skilled nursing visits and procedures, physical or speech therapy, and home health aide services, may be provided in a facility by a licensed home health agency.

(b) Any home health services must be ordered by the resident's attending physician.

(c) The home health agency must provide the facility with a complete home health service plan for a resident, signed by the resident's attending physician, within seventy-two (72) hours of employment.

**Authority.** Arkansas Code §§ 20-10-203, 20-76-201.

**20 CAR § 407-431. Supervision.**

(a)(1) A facility shall provide, as part of services included in the basic program, supervision as is appropriate to maintain and promote the well-being of each resident.

(2) "Supervision" means guidance of a resident in carrying out activities of daily living and social activities including, but not limited to:

(A) Reminding a resident to maintain the medication schedule directed by the attending physician;

(B) Encouraging the resident to attend meals;

(C) Reminding the resident of important activities to be carried out;

(D) Assisting the resident in keeping appointments; and

(E) Being aware of a resident's general location even though the resident's may travel independently about the community.

(b) In the event a resident is absent from the facility and the resident's location is unknown the facility shall immediately notify the:

(1) Resident's sponsor;

(2) Appropriate law enforcement agency; and

(3) Office of Long-Term Care.

(c) The facility shall through supervision ensure that residents are:

(1) Treated with kindness and consideration at all times and are not abused, neglected, or exploited in any manner;

(2) Dressed appropriately for the activities in which the resident is engaged and for the weather;

(3) Encouraged to participate, with staff assistance and support as needed, in social, recreational, vocational, and religious activities within the community and facility;

(4) Encouraged to perform personal hygiene activities including, as a minimum:

(A) A tub bath or shower as desired or required;

(B) Daily oral hygiene and, if necessary and requested by the resident, shaving; and

(C) Trimming and shaping of fingernails and toenails, unless prohibited by the resident's attending physician;

(5) Not routinely confined to room or bed except as necessary for the treatment of a routine short-term illness or in conformity with behavior modification protocols in the resident's individual service plan; and

(6) Not locked in the resident's room or restrained except in accordance with the provisions of 20 CAR § 407-404.

**Authority.** Arkansas Code §§ 20-10-203, 20-76-201.

### **20 CAR § 407-432. Activities and socialization.**

Each facility shall provide, as part of the services and accommodations included in the individual service plan, an organized program of individual and group activities appropriate to the resident's needs, interests, and wishes:

(1) Accommodation and space shall be provided for recreation and socialization services;

(2) Group recreation and socialization services shall be planned and available to each resident;

(3) The facility shall provide appropriate equipment and supplies; and

(4) A schedule of group activities shall be prepared and posted in advance of its proposed implementation.

**Authority.** Arkansas Code §§ 20-10-203, 20-76-201.

### **20 CAR § 407-433. Unauthorized services.**

(a) No facility shall provide medical or nursing services.

(b) No facility shall accept or retain any resident who requires a skilled nursing or intermediate level of care or who exhibits the conditions listed below:

(1) Suffering from such a degree of behavioral or judgmental deficiency or recurrent habituation or addiction to alcohol or other drugs that the resident is a cause of danger to the resident or others;

(2) Is in need of a higher level of medical, mental health, or nursing care that can be rendered safely and effectively at the facility by approved community resources, such as a licensed home health agency or other community service agency;

(3) In need of a religious, cultural, or dietary regimen that cannot be met by the facility;

(4) Suffering from a communicable or other disease of sufficient seriousness requiring inpatient medical treatment or which cannot be treated by use of reasonable means and therefore constitutes a potential danger to other residents and staff;

(5) Is not independently mobile, as defined in 20 CAR § 407-101(10), provided that the facility may accept and retain residents needing assistance with transfers or with vacating a building including if the facility has sufficient staff available twenty-four (24) hours a day, seven (7) days a week, to provide assistance to all residents requiring assistance within the time provided by the applicable fire code;

(6) Is incapable of self-administration of required medications or treatments, unless administration of medications is provided by a licensed home health agency;

(7) Persons with Levines tubes, gastrostomy tubes, intravenous tubes, tracheotomies, unless management of such devices is provided by either the resident or by a licensed home health agency; and

(8) Persons with indwelling catheters, unless self-managed or managed by a licensed home health agency.

**Authority.** Arkansas Code §§ 20-10-203, 20-76-201.

**20 CAR § 407-434. Transfer.**

(a) Facilities shall make arrangements with a licensed physician, hospital, or nursing home to transfer residents who require skilled or intermediate nursing care or more technical nursing or medical services than those permissible within the facility.

(b)(1) When notified by the Office of Long-Term Care, the facility shall provide for transfer within ten (10) days of such notification.

(2) Less time may be given by the office if a resident's life or health requires immediate medical attention.

(c) The responsibility for ensuring the resident's care shall rest with the facility.

**Authority.** Arkansas Code §§ 20-10-203, 20-76-201.

**20 CAR § 407-435. Personal funds accounts.**

(a) Each resident shall have the opportunity to place personal funds in a facility-maintained account.

(b) The facility shall administer the resident's personal funds account as follows:

(1) All personal funds deposited by residents in personal funds account shall be held in trust for the benefit of the residents;

(2) A resident's personal funds shall not be commingled with the funds of the facility or licensee or used by the facility other than for the benefit of the resident;

(3) The facility may commingle personal funds deposited by residents, but shall maintain individual records for each resident showing all deposits, withdrawals, and the current balance;

(4) The facility shall provide residents access to their personal funds account during regular posted hours Monday through Friday;

(5) The facility shall document all personal funds transactions and maintain copies of all paid bills, vouchers, and other payment and receipt documentation;

(6)(A) The facility may deposit resident's personal funds into individual or collective federally insured accounts, which do not need to be interest bearing.

(B) If the funds are deposited into interest-bearing accounts, the facility shall develop a procedure to prorate equitably interest to each resident;

(7) Upon request, the facility shall supply any resident who has a personal funds account with a statement showing:

(A) All deposits and withdrawals; and

(B) The current balance of the resident's personal funds;

(8) Within seventy-two (72) hours of receiving a request from a resident or the resident's sponsor, the facility shall pay to the resident the balance of the resident's personal funds account; and

(9) The facility shall provide the Office of Long-Term Care with access during normal business hours to all records of resident's personal funds account.

(c) The resident's personal funds account shall be used as follows:

(1) The personal funds shall, at the discretion of the resident, be used in obtaining clothing, personal hygiene items, and any other supplies, services, entertainment, or transportation for personal use not otherwise provided by the facility pursuant to the admission agreement or required by this part;

(2) The facility shall not demand, require, or contract for payment of all or any part of the personal funds in satisfaction of the facility rate for supplies or services;

(3)(A) The facility shall not charge the resident for supplies or services that the facility is by law, rule, or the admission agreement required to provide.

(B) This also applies to medical supplies or services for which payment is known to be available for the resident under:

(i) Medicare;

(ii) Medicaid; or

(iii) Other third party coverage; and

(4)(A) Services or major items of equipment provided by the facility beyond those required by law, rule, or the admission agreement may be charged to the resident only with the specific written consent of the resident or the resident's sponsor unless the supplemental services or supplies are necessitated by changes in the resident's condition.

(B)(i) The resident shall be furnished with an itemized statement setting forth the charges for such services or supplies provided by the facility.

(ii) Such statement shall be provided to the resident in advance except in an emergency.

(d)(1) At the time of discharge of a resident from the facility, the resident or the resident's sponsor shall be:

(A) Provided a final accounting of the resident's personal funds account;  
and

(B) Issued a check for the balance.

(2) Upon the death of a resident, a final accounting of the resident's personal funds account and a check for the balance shall be given to the resident's estate, subject to state law.

(e)(1) Upon change of ownership, the existing licensee shall provide the new owner with a written statement of all residents' personal funds.

(2) This statement shall verify that the balance being transferred in each resident's personal fund account is true and accurate as of the date of transfer.

(3) At change of ownership, the new owner shall assume responsibility for residents' personal funds account balances turned over at the change of ownership, together with responsibility for all requirements of this section, including holding of a resident's personal funds in trust.

(f) The facility shall provide for inventory records and security of all moneys, property, or things of value which the resident has, in writing, voluntarily authorized the facility to hold in custody or exercise control over at the time of admission or any subsequent time.

**Authority.** Arkansas Code §§ 20-10-203, 20-76-201.

## **Subpart 5. Administration, Plant, and Maintenance Requirements**

### **20 CAR § 407-501. Administration.**

(a) Each facility shall have on the premises a manager or other individual delegated with supervisory authority.

(b) All communications between the Office of Long-Term Care and the facility will be through the manager.

(c) The manager or any supervisory employee must:

- (1) Be at least twenty-one (21) years of age;
- (2) Be able to read or write;
- (3) Be able to understand and comply with this part;
- (4) Be a full-time employee;
- (5) Have no prior criminal convictions under Acts 1979, No. 28, as amended;

and

- (6) Have no prior history of abuse or neglect of others.

**Authority.** Arkansas Code §§ 20-10-203, 20-76-201.

**20 CAR § 407-502. Staff.**

Sufficient staff shall be present at all times to meet the ordinary needs of the residents.

**Authority.** Arkansas Code §§ 20-10-203, 20-76-201.

**20 CAR § 407-503. Resident records.**

(a) Each facility shall maintain individual records for each resident.

(b) The following information shall be contained in each resident's record:

- (1) Resident's name and residential address prior to admission;
- (2) Resident's sponsor's name, residential address, home telephone number, and business telephone;
- (3) Name and regular emergency telephone numbers of the resident's attending physicians;
- (4) Reports of referring source;
- (5) Reports of outside service referrals;
- (6) Resident's individual service plan;
- (7) Name and home telephone of the program manager for the resident;
- (8) Evaluation reports from each service;

- (9) Reports of staff conferences concerning the resident;
- (10) The resident's home health care service plan;
- (11) A copy of the resident's rights statement signed by the resident or the resident's sponsor;
- (12) Written authorization from the resident's attending physician for any medications being received by the resident;
- (13) Any correspondence pertinent to the resident;
- (14) A list of all insurance policies insuring the life of a resident of which the facility is a beneficiary; and
- (15) A signed copy of the facility's admission/discharge and transfer agreement with the resident.

(c) The facility shall maintain all resident records as follows:

- (1) All information and documents shall be organized in a systematic fashion and affixed to the record binder;
- (2) All resident records shall be maintained at a central location;
- (3) A designated staff member shall be responsible for the control of all resident records;
- (4) An indexing and filing system shall be maintained for all resident's records; and
- (5) Resident records shall be stored under lock with reasonable protection against fire, water, and other hazards.

(d) The facility shall protect the confidentiality of resident records as follows:

- (1) Each resident or the resident's sponsor shall have the right to inspect the resident's records during normal business hours;
- (2) Provide access to the agents, representatives, and employees of Office of Long-Term Care in furtherance of the performance of official duties;
- (3) The facility shall not disclose any resident's records to any person or agency other than the resident, the resident's sponsor, the personnel of the facility, or personnel of the Office of Long-Term Care, except upon express written consent of the resident, unless the disclosure is required by state or federal law; and

(4) Any inspection, investigative reports, or written complaints which are accessible to the public shall not disclose the identity of any resident.

(e)(1) Upon discharge or death, a copy of the resident's discharge report or death certificate shall be placed in the resident's record.

(2) The records of discharged or deceased residents must be retained for three (3) years but may be stored separate from the records of present residents.

**Authority.** Arkansas Code §§ 20-10-203, 20-76-201.

**20 CAR § 407-504. Dietary services.**

(a) Each facility shall provide to its residents food and drink which furnishes sufficient nutrients and calories based on current recommendations of the Food and Nutrition Board of the National Academy of Sciences, National Research Council.

(b)(1) Each facility shall provide three (3) balanced meals per day and have available between meal snacks.

(2) The three (3) meals, together, shall provide the following minimum dietary requirements:

(A)(i) Milk — Two (2) or more cups served as a beverage or used in cooking.

(ii) Fortified whole, skim, low fat milk, flavored whole or fortified milk, buttermilk, or cheese may be used.

(iii) Cheese may be used as a milk substitute or as a meat substitute, but not both;

(B) Meat group — Two (2) or more servings of meat, fish, poultry, eggs, cheese, or equivalent, at least four or five ounces (4 or 5 ozs.) edible portions per day;

(C) Vegetable and fruit group — Four (4) or more servings (two cups (2 c)) which shall include citrus or other fruit, a vegetable for Vitamin C, and a dark green or yellow vegetable for Vitamin A at least every other day;

(D) Other vegetables and fruits, including potatoes; and

(E) Bread and cereal group — Four (4) or more servings of whole grain or enriched bread.

(c) The facility in serving the three (3) meals daily shall:

(1) Serve the meals at approximately the same time each day;

(2) Assist and supervise the residents in consumption of the meals; and

(3) Serve food which is chopped, ground, or pureed if necessary to meet the individual needs of a resident.

(d) If a resident refuses to consume meals for more than two (2) days or shorter period, as the resident's physician specifies, the facility shall:

(1) Notify the resident's attending physician; and

(2) Act on the physician's instructions.

(e)(1) Dining room space and furnishings shall be maintained in good repair.

(2) Dining room space and furnishings must be sufficient to serve the residents in no more than two (2) seatings.

(f)(1) A supply of food must be maintained on the premises at all times.

(2) This shall include at least a:

(A) Twenty-four-hour supply of perishable food; and

(B) Three-day supply of nonperishable.

(3) The food supply must come from sources approved by the Department of Health.

(g)(1) Each facility shall have adequate refrigeration and storage space.

(2) Refrigerator temperatures shall not exceed forty-five degrees Fahrenheit (F° 54) and freezer temperatures shall not exceed zero degrees Fahrenheit (F° 0)

(3) Thermometers shall be placed in each refrigerator and freezer.

(4) Left-over food placed in the refrigerator shall be sealed and dated and must be used within forty-eight (48) hours.

(h) All food shall be prepared, cooked, served, and stored in such manner that protects against contamination and spoilage.

(i) The kitchen and dining area shall be cleaned after each meal.

(j) An all-purpose #5 ABC fire extinguisher shall be provided in the kitchen.

(k)(1) Food scraps shall be placed in garbage cans with tight fitting lids and bag liners.

(2) The liners must be sealed and the cans emptied after each meal.

(l) All food service personnel shall:

(1) Have health cards; and

(2) Wear clean clothes.

**Authority.** Arkansas Code §§ 20-10-203, 20-76-201.

**20 CAR § 407-505. Laundry and linen service.**

(a)(1) Each facility shall provide laundry services to its residents.

(2) Laundry services may be provided by:

(A) The facility;

(B) Contract with an outside linen service; or

(C) Permitting residents with supervision to do their own personal laundry.

(b) In-house laundries shall be located in areas separate from kitchen, bathroom, and bedroom areas.

(c) Facilities with in-house laundries shall have washers and dryers of adequate size to serve the needs of the facilities.

(d) Laundry dryers shall be properly vented to the outside.

(e) The laundry room shall be cleaned on a daily basis to prevent lint accumulation and to remove clutter.

(f) Portable electric heaters or stoves shall not be used in the laundry area.

(g) The laundry room shall be well lighted and vented to the outside by either:

(1) Power vents;

(2) Gravity vents; or

(3) Outside windows.

(h)(1) Resident's clothing and kitchen linens shall be washed separately from bed linens.

(2) Bed linens, including washable blankets, shall be washed:

(A) At a minimum temperature of one hundred fifty degrees Fahrenheit ;(F°051) or

(B) With a disinfecting agent.

(i) The following minimum amounts of linen shall be available in the facility at all times:

- (1) Sheets — Two (2) times the facility's census;
- (2) Pillow cases — Two (2) times the facility's census;
- (3) Bath towels — Two (2) times the facility's census;
- (4) Hand towels — Two (2) times the facility's census;
- (5) Washcloths — Two (2) times the facility's census; and
- (6) One (1) blanket and one (1) pillow for each resident.

(j)(1) Bed linens shall be changed at least once a week and more often as needed.

(2) Beds shall be straightened as necessary by the resident or staff.

**Authority.** Arkansas Code §§ 20-10-203, 20-76-201.

**20 CAR § 407-506. Housekeeping.**

(a)(1) Each facility shall keep all areas clean and free of insects, rodents, and trash.

(2) All equipment and furnishings shall be maintained in good operating condition.

(b)(1) Each residential area shall be cleaned before each use by another resident.

(2) Residents should be encouraged to keep their own rooms clean and supervision from facility staff.

(c) Corridors shall not be used for storage.

(d) Attics, cellars, basements, below stairways, and similar areas shall be kept clean of accumulation of:

- (1) Refuse;
- (2) Old newspapers;
- (3) Discarded furniture; and
- (4) Other flammable or combustible materials.

- (e) Throw or scatter rugs must have nonskid backing.
- (f) Polish used on floors shall provide nonslip finish.
- (g) Flammable material, such as gasoline, kerosene, paint, and paint thinners, shall not be stored:
  - (1) Inside any building containing a residential area; or
  - (2) In the attic of any building.
- (h) Metal or UL-approved plastic wastepaper baskets shall be provided in residential areas and other areas in which residents smoke.
- (i) Outside trash containers shall be equipped with covers.
- (j) There shall be an adequate and available supply of soap and toilet tissues for each resident.

**Authority.** Arkansas Code §§ 20-10-203, 20-76-201.

**Codification Notes.** "UL" means Underwriters Laboratories.

**20 CAR § 407-507. Space, furnishings, and equipment.**

- (a) All rooms, including bedrooms, shall have light switches at the entrance to the room.
- (b)(1) Windows shall be kept clean and in good repair and supplied with curtains, shades, or drapes.
  - (2) Each window shall have a screen which is clean and in good condition.
- (c) Light fixtures shall be equipped with covers to prevent glare and hazards to the residents.
- (d) All fans located within seven feet (7') of the floor shall be protected by screen guards of not more than one-fourth inch (1/4") mesh.
- (e) All resident bedrooms shall have a hinged door in working order.
- (f) All facilities shall have at least one (1) telephone available for outside calls for every forty (40) residents.
- (g) All residential areas shall be decorated, painted, and appropriately furnished.

(h) All furnishings and equipment shall be durable, clean, and appropriate to their functions.

(i) All areas shall be well lighted to ensure resident's safety.

**Authority.** Arkansas Code §§ 20-10-203, 20-76-201.

**20 CAR § 407-508. Residential areas.**

(a) Each residential area shall have living room space meeting the following requirements:

(1) At least twenty square feet (20 sq. ft.) of living room space must be provided for each licensed bed in the residential area;

(2) The living room space shall be easily accessible to all residents residing in the residential area;

(3) Living rooms shall not be used as bedrooms; and

(4) Living rooms shall be available for use by residents at appropriate times to provide periods of social diversion and individual or group activities.

(b) Each residential area shall have dining room space meeting the following requirements:

(1) Sufficient dining room space shall be provided to allow the serving of all residents regularly utilizing it in not more than two (2) seatings;

(2) Each dining room shall be readily accessible to the residents utilizing it;

(3) Each dining room shall be furnished with sufficient dining tables and chairs to serve all residents regularly utilizing it in not more than two (2) seatings; and

(4) Dining room areas may serve more than one (1) residential area may serve the entire facility.

(c)(1) Dogs and cats may be permitted in residential areas if:

(A) A pet therapy plan for the facility has been approved by the Office of Long-Term Care; and

(B) The pets are maintained as part of a resident's individual service plan.

(2) Guide dogs for the visually impaired are permitted without approval of the office.

(3) Proper sanitary conditions must be maintained by the facility.

**Authority.** Arkansas Code §§ 20-10-203, 20-76-201.

**20 CAR § 407-509. Baths and toilets.**

(a)(1) In residential areas, there shall be a minimum of one (1) toilet and one (1) lavatory for each six (6) residents.

(2) A minimum of one (1) tub or shower shall be provided for each ten (10) residents.

(3) In educational and administrative areas, the requirements of the Arkansas Plumbing Code, 17 CAR pt. 65, shall be satisfied.

(b) Each bathroom shall have a door in working order.

(c) If the facility accepts residents who must use wheelchairs or other assistive devices, the facility shall ensure that adequate accessible bath and toilet facilities are available to such residents.

(d)(1) Hot water tanks serving bathroom fixtures shall be maintained on the lowest possible setting to avoid possible burns to residents.

(2) No tank shall be located in a residential area.

(3) Each tank shall have a pressure release valve.

(4) In all facilities that commence operation after adoption of this part and in all future construction at all facilities, an adjustable thermostatically controlled mixing valve shall be installed at the hot water tank on all hot water heaters.

(e) Bathrooms shall provide privacy for each resident.

(f) Toilet and bathing facilities shall be vented to the outside.

**Authority.** Arkansas Code §§ 20-10-203, 20-76-201.

**20 CAR § 407-510. Bedrooms.**

(a)(1) No bedrooms shall be below ground level.

(2) If the floor level of a bedroom is above grade on one (1) exterior wall, the bedroom shall not be considered to be below ground level.

(3)(A) For natural ventilation, each bedroom shall have an outside window with openings equal to one-eighth (1/8) of the floor space.

(B) The opening of windows may be restricted if necessitated by a resident's condition or behavior.

(b) A bedroom occupied by a single resident shall contain at least eighty square feet (80 sq. ft.), exclusive of entrance way and closet space.

(c)(1) A bedroom occupied by more than one (1) resident shall provide at least eighty square feet (80 sq. ft.) for the first resident and at least sixty square feet (60 sq. ft.) for each additional resident.

(2) The beds shall be at least three feet (3') apart.

(d) No more than three (3) residents shall share a bedroom.

(e) Each facility shall furnish every bedroom with the following equipment:

(1)(A) A standard or single bed in good repair for each resident.

(B) Rollaway beds, cots, and folding beds shall not be used;

(2) Each bed shall be equipped with well-constructed springs and mattresses in good repair, and a clean, comfortable pillow;

(3) Suitable furniture and storage facilities for personal articles for each resident; and

(4) At least three linear feet (3 LF) of closet or locker space shall be provided for each resident.

(f)(1) Male and female residents shall not have adjoining bedrooms which do not have full floor-to-ceiling partitions and closable solid core doors.

(2) Male and female residents shall not be permitted to cohabit outside the bounds of matrimony.

**Authority.** Arkansas Code §§ 20-10-203, 20-76-201.

**20 CAR § 407-511. Other plant requirements.**

(a)(1) An adequate supply of potable water, under pressure, shall be provided at all times.

(2)(A) When a public water system is available, a connection to it shall be made.

(B) If water from a source other than public water supply is used, the supply shall meet the requirements set forth under the rules of the State Board of Health.

(b) All sewage shall be disposed of by means of either:

(1) A public system, if one is accessible within three hundred feet (300'); or

(2) An approved sewage disposal system which is constructed and operated in conformance with the standards established for such systems by the board.

(c) All plumbing shall be installed and maintained in accordance with the Arkansas Plumbing Code, 17 CAR pt. 65, and the Arkansas Fuel Gas Code, 17 CAR pt. 67.

(d)(1) Electrical wiring, fixtures, appliances, motors, and other electrical equipment shall:

(A) Be installed in accordance with the NFPA 70: National Electrical Code;

and

(B) Comply with the local regulations and codes where they exist.

(2) The use of extension cords is strictly prohibited.

(e) All heating units or systems shall comply with the following requirements:

(1) All liquefied petroleum gas systems must be installed and maintained in accordance with the State Liquefied Petroleum Gas Board Code, 15 CAR pt. 270;

(2) All gas heating units shall bear the stamp of approval of the American Gas Association Testing Laboratories, Inc., or other nationally recognized testing agency for enclosed, vented heaters for the type of fuel used;

(3)(A) All gas heating units and water heaters shall be vented adequately to carry the byproducts of combustion to the outside atmosphere.

(B) Vents shall be constructed and maintained to provide a continuous draft to the outside atmosphere in accordance with the American Gas Association Recommended Procedures;

(4) All heating units shall be provided with a sufficient supply of outside air so as to support combustion without depletion of the air in the occupied room;

(5) All heating and cooling units must be installed and maintained in a manner which will provide for the safety and comfort of the occupants; and

(6) Wood heaters may be used if UL-approved and installed per UL instructions.

(f)(1) Facilities must be operated in areas permitted by local zoning codes.

(2) Each facility shall provide the Office of Long-Term Care with documentation that the facility is in compliance with zoning requirements.

(g)(1) Conditions of soil, groundwater level, drainage, and topography shall not create hazards to the property or to the health and safety of the occupants.

(2) The site:

(A) Shall not be subject to unpredictable flooding; and

(B) Shall be large enough to provide an exercise area for residents.

**Authority.** Arkansas Code §§ 20-10-203, 20-76-201.

**Codification Notes.** "NFPA" means National Fire Protection Association.

"UL" means Underwriters Laboratories.

**20 CAR § 407-512. Safety standards.**

(a)(1) Life Safety Code 1985, Chapters 1 – 7 shall apply to all buildings containing residential areas.

(2) Chapters 16, 18, 20, and 21, as appropriate, shall apply to buildings containing residential areas, depending on the living and structural arrangement of each building.

(b)(1) Tornado drills shall be conducted annually and documented.

(2) Fire drills shall be conducted quarterly and documented.

(3) Smoke detectors shall be checked monthly and documented.

(4) Fire extinguishers 5 #ABC shall be located in bedroom areas.

(c) Steam pipes and heating pipes with which residents may come in contact shall be covered to prevent injury or burns.

(d)(1) Grab bars shall be provided in resident bathrooms for toilets tubs, and showers.

(2) Bathtubs shall be equipped with nonslip surfaces.

(e)(1) Bedrooms must access directly to an exit corridor.

(2) Access to toilet and bathing areas shall not be through another resident's bedroom.

(3) Access to bedroom areas shall not be through toilet or bathing areas.

(f) Any practices that create a fire hazard are prohibited, including but not limited to:

(1) Portable electric space heaters or self-contained, fuel-burning space heaters, unless specifically authorized by the Office of Long-Term Care in writing;

(2) Use of electrical cooking appliances or minikitchens in resident's bedrooms;

(3) Combustible containers for smoking material or ashes;

(4) The accumulation of combustible material, such as:

(A) Rags;

(B) Paper items; and

(C) General trash; and

(5) Unsafe storage of:

(A) Oil-based paints;

(B) Varnishes; or

(C) Other flammables.

(g) Doors in resident bedrooms may be secured by the resident provided such doors can be unlocked from the outside and keys are available to staff at all times.

(h) Chain locks, clasps, bars, padlocks, and similar devices on doors shall not be used in any area of the facility intended for use by residents.

(i) A diagram of the building shall be posted in each building showing exits and fire extinguishers.

(j)(1) Emergency telephone numbers shall be posted in large print in each building.

(2) The list shall include:

- (A) Fire department;
- (B) Police department;
- (C) Physician;
- (D) Ambulance service;
- (E) Poison control center;
- (F) Emergency services; and
- (G) The office.

**Authority.** Arkansas Code §§ 20-10-203, 20-76-201.

**20 CAR § 407-513. Maintenance.**

(a) Each facility shall establish and conduct a maintenance program to:

- (1) Ensure the continued maintenance of the facility's plant;
- (2) Promote good housekeeping procedures; and
- (3) Ensure sanitary practices.

(b) Each facility shall:

(1) Maintain the building and grounds in a clean, orderly condition in good repair;

(2) Maintain draperies and furniture in good and safe repair;

(3) Promptly replace or repair:

- (A) Cracks in plaster;
- (B) Peeling wallpaper or paint;
- (C) Missing or damaged tiles; and
- (D) Tears or splits in floor coverings;

(4) Maintain the electrical systems, including appliances, cords, and switches, in compliance with the state and local codes;

(5) Maintain plumbing and plumbing fixtures in compliance with the Arkansas Plumbing Code, 17 CAR pt. 65, and the Arkansas Fuel Gas Code, 17 CAR pt. 67;

(6)(A) Maintain ventilation, heating, air conditioning, and air changing systems.

(B)(i) Gas systems shall be inspected at least every twelve (12) months to ensure safe operation.

(ii) Inspection certificates, where applicable, shall be maintained for review;

(7) Maintain the building, grounds, and other buildings free of breeding areas for flies other insects, and rodents;

(8) Maintain entrances, exits, steps, and outside walkways free from ice, snow, and other hazards; and

(9) Repairs or additions must meet then-existing building codes.

**Authority.** Arkansas Code §§ 20-10-203, 20-76-201.

## **Subpart 6. Miscellaneous Provisions**

### **20 CAR § 407-601. Interpretation.**

Whenever in this part any word importing the singular or plural number is used in describing any matter, person, or thing, the word shall be deemed to include the plural or singular.

**Authority.** Arkansas Code §§ 20-10-203, 20-76-201.

### **20 CAR § 407-602. Judicial power of enforcement.**

(a) The Office of Long-Term Care may bring an action for a temporary restraining order, preliminary injunction, or permanent injunction against the licensee of a facility to enjoin one (1) or more of the following:

(1) Operation of:

(A) An unlicensed facility;

(B) A previously licensed facility which has had its license suspended or revoked; or

(C) A licensed facility for which procedures for nonrenewal or revocation of the facility's license has been initiated and an emergency exists;

(2) Acts or omissions that constitute a continuing violation of this part; or

(3) Admission of new residents into a facility:

(A) Which is operating without a license;

(B) Which has had its license suspended or revoked;

(C) Which is presently involved in proceedings for nonrenewal, suspension, or revocation of the license and an emergency exists; or

(D) In which continued admissions into the facility will place the lives, health, safety, and welfare of the present and future residents in imminent danger.

(b) The office may relocate residents from a facility if any of the following conditions exists:

(1) One (1) or more violations remain uncorrected after efforts seeking compliance have failed, and the violation significantly impairs the facility's ability to provide an adequate level of services and assistance to its residents;

(2) An emergency exists in the facility;

(3) The licensee voluntarily closes the facility; or

(4) The facility requests the aid of the office in the removal of residents and the removal is made:

(A) With consent of the residents;

(B) For valid medical reasons; or

(C) For the welfare of the resident or other residents.

(c)(1) The office may suspend the admission of residents to a facility on the following grounds:

(A) One (1) or more deficiencies that directly affect the health and safety of residents remain uncorrected after efforts seeking compliance have failed and the effect of the violation or violations is to impair significantly the facility's ability to provide an adequate level of services or assistance to its residents; or

(B) An emergency exists in the facility.

(2) Before new admissions are suspended, the licensee shall receive prompt notice of the office's decision.

(3) The suspension shall terminate upon:

(A) The office's determination that the facility is in substantial compliance;

or

(B) Successful appeal of the suspension by the licensee.

**Authority.** Arkansas Code §§ 20-10-203, 20-76-201.