

## **0720-18-.04 ADMINISTRATION**

### **(1)**

The nursing home shall have a full-time (working at least 32 hours per week) administrator licensed in Tennessee, who shall not function as the director of nursing. Any change of administrators shall be reported in writing to the department within fifteen (15) days. The administrator shall designate in writing an individual to act in his/her absence in order to provide the nursing home with administrative direction at all times. The administrator shall assure the provision of appropriate fiscal resources and personnel required to meet the needs of the residents.

### **(2)**

The hospital administrator may serve as the administrator of a hospital-based nursing home provided that he/she is a Tennessee licensed nursing home administrator, the facilities are located on the same campus, and the surveys do not reflect substandard care.

### **(3)**

Any agreement to manage a nursing home must be reported in writing to the department within fifteen (15) days of its implementation.

### **(4)**

Upon the unexpected loss of the facility administrator, the facility shall proceed according to the following provisions:(a) The term "unexpected loss" means the

absence of a nursing home administrator due to serious illness or incapacity, unplanned hospitalization, death, resignation with less than thirty (30) days notice or unplanned termination. (b) The facility must notify the department within twenty-four (24) hours after notice of the unexpected loss of the administrator. Notification to the department shall identify an individual to be responsible for administration of the facility for the immediate future not to exceed thirty (30) days. This responsible individual need not be licensed as an administrator and may be the facility's director of nursing. (c) Within seven (7) days of notice of the unexpected loss, the facility must request a waiver of the appropriate regulations from the board. (d) On or before the expiration of thirty (30) days after notice of the unexpected loss, the facility shall appoint a temporary administrator to serve until either a permanent administrator is employed or the request for a waiver is considered by the board, whichever occurs first. The temporary administrator shall be any of the following: 1. A full-time administrator licensed in Tennessee or any other state; 2. One (1) or more part-time administrators licensed in Tennessee. Part-time shall not be less than twenty (20) hours per week; or, 3. A full-time candidate for licensure as a Tennessee administrator who has completed the required training and the application process. Such candidate shall be scheduled for the next licensure exam and is eligible for the continued administrator role only with the successful completion of that exam. (e) The procedures set forth above shall be followed until the next regularly scheduled meeting of the board in which the board considers the facility's application for a waiver. After reviewing the circumstances, the board may grant, refuse or condition a waiver as necessary to protect the health, safety and welfare of the residents in the facility. (f) Any facility which follows these procedures shall not be subject to a civil penalty for absence of an administrator at any time preceding the board's consideration of the facility's

request for a waiver.

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Within seven (7) days of notice of the unexpected loss, the facility must request a waiver of the appropriate regulations from the board.

**(d)**

On or before the expiration of thirty (30) days after notice of the unexpected loss, the facility shall appoint a temporary administrator to serve until either a permanent administrator is employed or the request for a waiver is considered by the board, whichever occurs first. The temporary administrator shall be any of the following: 1. A full-time administrator licensed in Tennessee or any other state; 2. One (1) or more part-time administrators licensed in Tennessee. Part-time shall not be less than twenty (20) hours per week; or, 3. A full-time candidate for licensure as a Tennessee administrator who has completed the required training and the application process. Such candidate shall be scheduled for the next licensure exam and is eligible for the continued administrator role only with the successful completion of that exam.

**1.**

A full-time administrator licensed in Tennessee or any other state;

**2.**

One (1) or more part-time administrators licensed in Tennessee. Part-time shall not be less than twenty (20) hours per week; or,

**3.**

A full-time candidate for licensure as a Tennessee administrator who has completed the required training and the application process. Such candidate shall be scheduled for the next licensure exam and is eligible for the continued administrator role only with the successful completion of that exam.

**(e)**

The procedures set forth above shall be followed until the next regularly scheduled meeting of the board in which the board considers the facility's application for a waiver. After reviewing the circumstances, the board may grant, refuse or condition a waiver as necessary to protect the health, safety and welfare of the residents in the facility.

**(f)**

Any facility which follows these procedures shall not be subject to a civil penalty for absence of an administrator at any time preceding the board's consideration of the facility's request for a waiver.

**(5)**

The facility shall make reasonable efforts to safeguard personal property and promptly investigate complaints of such loss. A record shall be prepared of all clothing, personal possessions and money brought by the resident to the nursing home at the time of admission. The record shall be filled out in duplicate. One copy of the record shall be given to the resident or the resident's representative and the original shall be maintained in the nursing home record. This record shall be updated as additional personal property is brought to the facility.

**(6)**

The facility shall maintain a surety bond on all resident funds held in trust. Such surety bonds shall be sufficient to cover the amount of such funds. The surety bond shall be an agreement between the company issuing the bond and the nursing home and shall remain in the possession of the nursing home.

**(7)**

If the facility holds resident funds, such funds shall be kept in an account separate from the facility's funds. Resident funds shall not be used by the facility. The facility shall maintain and allow each resident access to a written record of all financial arrangements and transactions involving the individual resident's funds. The facility shall provide each resident or his/her representative with a written itemized statement at least quarterly of all financial transactions involving the resident's funds.

**(8)**

Within thirty (30) days of a resident's death, the facility shall provide an accounting of the resident's funds held by the facility and an inventory of the resident's personal property held by the facility to the resident's executor, administrator or other person authorized by law to receive the decedent's property. The facility shall obtain a signed receipt from any person to whom the decedent's property is transferred.

**(9)**

Upon the sale of the facility, the seller shall provide written verification that all the resident's funds and property have been transferred and shall obtain a signed receipt from the new owner. Upon receipt, the buyer shall provide, to the residents, an accounting of funds and property held on their behalf.

**(10)**

When licensure is applicable for a particular job, verification of the current license must be included as a part of the personnel file. Each personnel file shall contain accurate information as to the education, training, experience and personnel background of the employee. Documentation that references were verified shall be on file. Documentation that all appropriate abuse registries have been checked shall be on file. Adequate medical screenings to exclude communicable disease shall be required of each employee.

**(11)**

Prior to employment, all nursing homes shall complete a criminal background check on any person who will be in a position which involves providing direct care to a resident or patient. (a) Any person who applies for employment in a position which involves providing direct patient care to a resident in such a facility shall consent to: 1. Provide past work and personal references to be checked by the nursing home; and/or 2. Agree to release and use of any and all information and investigative records necessary for the purpose of verifying whether the individual has been convicted of a criminal offense in the state of Tennessee, to either the nursing home or its agent, to any agency that contracts with the state of Tennessee, to any law enforcement agency, or to any other legally authorized entity; and/or 3. Supply a fingerprint sample and submit to a state criminal history records check to be conducted by the Tennessee Bureau of Investigations, or a state and federal criminal history records check to be conducted by the Tennessee Bureau of Investigation and the Federal Bureau of Investigation; and/or 4. Release any information required for a criminal background investigation by a professional background screening organization or criminal background check service or registry. (b) A nursing home shall not disclose criminal background check information obtained to a person who is not involved in evaluating a person's

employment, except as required or permitted by state or federal law. (c) Any costs incurred by the Tennessee Bureau of Investigation, professional background screening organization, law enforcement agency, or other legally authorized entity, in conducting such investigations of such applicants may be paid by the nursing home, or any agency that contracts with the state of Tennessee requesting such investigation and information, or the individual who seeks employment or is employed. Payment of such costs to the Tennessee Bureau of Investigation are to be made in accordance with T.C.A. §§ 38-6-103 and 38-6-109. The costs of conducting criminal background checks shall be an allowable cost under the state Medicaid program, if paid for by the nursing home. (d) Criminal background checks are also required by any organization, company, or agency that provides or arranges for the supply of direct care staff to any nursing home licensed in the state of Tennessee. Such company, organization, or agency shall be responsible for initiating a criminal background check on any person hired by that entity for the purpose of working in a nursing home, and shall be required to report the results of the criminal background check to any facility in which the organization arranges the employee to work, upon request by a facility. (e) A nursing home that declines to employ or terminates a person based upon criminal background information provided to the facility shall be immune from suit by or on behalf of that person for the termination of or the refusal to employ that person.

**(a)**

Any person who applies for employment in a position which involves providing direct patient care to a resident in such a facility shall consent to: 1. Provide past work and personal references to be checked by the nursing home; and/or 2. Agree to release and use of any and all information and investigative records necessary for the purpose of verifying whether the individual has been convicted of a criminal offense in the state of

Tennessee, to either the nursing home or its agent, to any agency that contracts with the state of Tennessee, to any law enforcement agency, or to any other legally authorized entity; and/or 3. Supply a fingerprint sample and submit to a state criminal history records check to be conducted by the Tennessee Bureau of Investigations, or a state and federal criminal history records check to be conducted by the Tennessee Bureau of Investigation and the Federal Bureau of Investigation; and/or 4. Release any information required for a criminal background investigation by a professional background screening organization or criminal background check service or registry.

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**2.**

Agree to release and use of any and all information and investigative records necessary for the purpose of verifying whether the individual has been convicted of a criminal offense in the state of Tennessee, to either the nursing home or its agent, to any agency that contracts with the state of Tennessee, to any law enforcement agency, or to any other legally authorized entity; and/or

**3.**

Supply a fingerprint sample and submit to a state criminal history records check to be conducted by the Tennessee Bureau of Investigations, or a state and federal criminal history records check to be conducted by the Tennessee Bureau of Investigation and the Federal Bureau of Investigation; and/or

**4.**

Release any information required for a criminal background investigation by a professional background screening organization or criminal background check service or registry.

**(b)**

A nursing home shall not disclose criminal background check information obtained to a

person who is not involved in evaluating a person's employment, except as required or permitted by state or federal law.

**(c)**

Any costs incurred by the Tennessee Bureau of Investigation, professional background screening organization, law enforcement agency, or other legally authorized entity, in conducting such investigations of such applicants may be paid by the nursing home, or any agency that contracts with the state of Tennessee requesting such investigation and information, or the individual who seeks employment or is employed. Payment of such costs to the Tennessee Bureau of Investigation are to be made in accordance with T.C.A. §§ 38-6-103 and 38-6-109. The costs of conducting criminal background checks shall be an allowable cost under the state Medicaid program, if paid for by the nursing home.

**(d)**

Criminal background checks are also required by any organization, company, or agency that provides or arranges for the supply of direct care staff to any nursing home licensed in the state of Tennessee. Such company, organization, or agency shall be responsible for initiating a criminal background check on any person hired by that entity for the purpose of working in a nursing home, and shall be required to report the results of the criminal background check to any facility in which the organization arranges the employee to work, upon request by a facility.

**(e)**

A nursing home that declines to employ or terminates a person based upon criminal background information provided to the facility shall be immune from suit by or on behalf of that person for the termination of or the refusal to employ that person.

**(12)**

Whenever the rules of this chapter require that a licensee develop a written policy,

plan, procedure, technique, or system concerning a subject, the licensee shall develop the required policy, maintain it and adhere to its provisions. A nursing home which violates a required policy also violates the rule establishing the requirement.

**(13)**

Policies and procedures shall be consistent with professionally recognized standards of practice.

**(14)**

No nursing home shall retaliate against or, in any manner, discriminate against any person because of a complaint made in good faith and without malice to the board, the department, the Department of Human Services Adult Protective Services, the long term care ombudsman, the Comptroller of the State Treasury, or any government agency. A nursing home shall neither retaliate, nor discriminate, because of information lawfully provided to these authorities, because of a person's cooperation with them, or because a person is subpoenaed to testify at a hearing involving one of these authorities.

**(15)**

Each nursing home shall adopt safety policies for the protection of residents from accident and injury.

**(16)**

Each nursing home shall post whether they have liability insurance, the identity of their primary insurance carrier, and if self-insured, the corporate entity responsible for payment of any claims. It shall be posted on a sign no smaller than eleven inches (11") in width and seventeen inches (17") in height and displayed at the main public entrance.

**(17)**

Documentation pertaining to the payment agreement between the nursing home and the resident shall be completed prior to admission. A copy of the documentation shall be given to the resident and the original shall be maintained in the nursing home records.

**(18)**

The nursing home shall ensure a framework for addressing issues related to care at the end of life.

**(19)**

The nursing home shall provide a process that assesses pain in all patients. There shall be an appropriate and effective pain management program.

**(20)**

The nursing home shall carry out the following functions, all of which shall be documented in a written medical equipment management plan: (a) Develop and maintain a current itemized inventory of medical equipment used in the facility, that is owned or leased by the operator of the facility; (b) Develop and maintain a schedule for the maintenance, inspection and testing of medical equipment according to manufacturers' recommendations or other generally accepted standards. The schedule shall include the date and time such maintenance, inspection and testing was actually performed, and the name of the individual who performed such tasks; and (c) Ensure maintenance, inspection and testing were conducted by facility personnel adequately trained in such procedures or by a contractor qualified to perform such procedures.

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Develop and maintain a current itemized inventory of medical equipment used in the facility, that is owned or leased by the operator of the facility;

**(b)**

Develop and maintain a schedule for the maintenance, inspection and testing of medical equipment according to manufacturers' recommendations or other generally accepted standards. The schedule shall include the date and time such maintenance, inspection and testing was actually performed, and the name of the individual who performed such tasks; and

**(c)**

Ensure maintenance, inspection and testing were conducted by facility personnel adequately trained in such procedures or by a contractor qualified to perform such procedures.

**(21)**

All health care facilities licensed pursuant to T.C.A. §§ 68-11-201, et seq. shall post on a sign no smaller than eight and one-half inches (8½") in width and eleven inches (11") in height the following in the main public entrance:(a) a statement that any person, regardless of age, who may be the victim of domestic violence may call the nationwide domestic violence hotline, with that number printed in boldface type, for immediate assistance.

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**(22)**

"No Smoking" signs or the international "No Smoking" symbol, consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it, shall be clearly and conspicuously posted at every entrance.

**(23)**

Residents of the facility are exempt from the smoking prohibition. The resident

smoking practices shall be governed by the policies and procedures established by the facility. Smoke from such areas shall not infiltrate into the areas where smoking is prohibited.

**(24)**

The facility shall develop a concise statement of its charity care policies and shall post such statement in a place accessible to the public.