

**TITLE 11**  
**DEPARTMENT OF HEALTH**  
**CHAPTER 98**  
**SPECIAL TREATMENT FACILITY**

- §11-98-01 Purpose
- §11-98-02 Definition
- §11-98-03 Licensing procedure
- §11-98-04 Administrative and statistical reports
- §11-98-05 Dietary service
- §11-98-06 Disaster preparedness
- §11-98-07 Evaluation
- §11-98-08 Fees for licensing
- §11-98-09 License suspension, revocation, termination, penalties
- §11-98-10 Minimum standards for licensure; administrative and organizational plan
- §11-98-11 Minimum standards for licensure; personnel
- §11-98-12 Minimum standards for licensure; services
- §11-98-13 Rehabilitation program
- §11-98-14 Physical facility
- §11-98-15 Research policy
- §11-98-16 Residents' rights and responsibilities
- §11-98-17 Repeal of rules
- §11-98-50 Severability

Historical note: Chapter 11-98, Hawaii Administrative Rules is based substantially upon chapter 12F of the Public Health Regulations and changes were made to clarify statements, delete requirements that were no longer relevant and comply with Administrative Rules change. [Eff MAR 10 1986]

§11-98-01 Purpose.

This chapter establishes minimum requirements for the protection of the health, welfare, and safety of residents, personnel and the public in special treatment facilities. This chapter shall not be construed as lowering standards or rules established by other divisions or subdivisions of government. In all instances the more stringent rules shall apply. [Eff MAR 10 1986] (Auth: HRS §§321-9, 321-10, 321-11) (Imp: HRS §§321-10, 321-11)

§11-98-02 Definitions as used in this chapter:

"Administrator" or "executive director" mean the person who has charge, care, control of or responsibility for the management of the facility and the program.

"Cardiopulmonary resuscitation" or "CPR" means an emergency first aid procedure that consists of opening and maintaining a patient's airway, providing artificial ventilation by means of rescue breathing, and providing artificial circulation by means of external cardiac compression.

"Department" means the department of health.

"Dietitian" means a person who:

(1) Is registered by the Commission on Dietetics Registration; or

(2) Is eligible for such registration.

"Director" means the director of health.

"Facility" means the building or buildings which house the program.

"Incident report" means a written record of any unusual occurrence either resulting, or with the potential of, personal injury or facility damage.

"License" means a license issued by the department certifying the compliance with all existing Hawaii state laws and rules relative to operation of a special treatment facility.

"Program" means the evaluation, counseling, prevention, habilitation, rehabilitation or services directed toward achieving social, emotional, mental and physical restoration of the residents.

"Program director" means the person designated by the administrator who is responsible for all facets of the therapeutic program. The program director may be the same person as the administrator.

"Provisional license" means a license issued for a specified period of time at the discretion of the director in order to allow additional time for compliance with all licensing requirements.

"Resident" means an individual admitted to the program and residing in the facility.

"Resident records" means the collection of medical, social and therapeutic information about a given resident.

"Special treatment facility" means a facility which provides a therapeutic residential program for care, diagnoses, treatment or rehabilitation services for socially or emotionally distressed persons, mentally ill persons, persons suffering from substance abuse, and developmentally disabled persons.

"Staff" means all personnel required to carry out all maintenance, management, housekeeping, treatment programs and services, whether employed, arranged for or contracted for, or full or part-time, of the facility. Staff implies that the personnel is paid as opposed to persons who volunteer their services.

"Tuberculin skin test" means an interdermal injection of .0001 mg. (five tuberculin units) of purified protein derivative in 0.1 cc of sterile diluent. If the size of any resulting palpable induration at forty-eight hours or seventy-two hours after injection is greater than 10 mm in its transverse diameter, the reaction to the skin test shall be considered significant.

"Waiver" means an exemption for a period of one year or less, from a specific rule which may be permitted a facility for a specified period of time, at the discretion of the director. [Eff MAR 10 1986] (Auth: HRS §§26-13, 321-11) (Imp: HRS §§321-10, 321-11)

#### §11-98-03 Licensing.

(a) Every facility shall have a current and valid license approved by the director and issued when the facility has met all of the requirements of this chapter.

(b) The license shall identify the owners or operators or both, of the facility and prescribe the maximum number of residents to be accommodated in each facility and the name and location of each facility. The license shall be posted in a conspicuous place within each facility.

(c) In order to obtain a license, the administrator or board of directors of a facility shall apply to the director upon forms provided by the department, and shall provide any information required by the department to demonstrate that the facility has met all the requirements of this chapter. The following shall accompany the application:

(1) Clearance by the county building department;

(2) Clearance by the county fire department;

- (3) Clearance by the sanitation branch of the department;
  - (4) Clearance by the state health planning and development agency, if appropriate;
  - (5) Floor plans indicating accurate measurements to scale of room intended for use;
  - (6) Ownership information, including corporate officers or partners; board of directors, addresses and telephone numbers;
  - (7) Annual budget, including all anticipated income and expenses; and
  - (8) Policy and procedures manual.
- (d) Provisional licenses may be issued, or waivers granted, at the discretion of the director, if:
- (1) The facility has a plan to correct the deficiencies within a reasonable time;
  - (2) The director believes the health and safety of residents and others will not be jeopardized by operation of the facility; and
  - (3) Not more than two successive provisional licenses shall be issued to a facility. Provisional licenses or waivers shall not be issued for a facility which has a major deficiency in building, electrical, plumbing, zoning, or fire codes.
- (e) Full licensure may be granted for a one year period when the facility demonstrates substantially full compliance with this chapter.
- (f) Upon approval of the director, the hospital and medical facilities branch of the department may execute an agreement with an appropriate agency to assist in certifying program compliance in respect to a particular facility.
- (g) A license shall not be transferred from one facility owner, or location to another. The administrator shall notify the department, in writing, of any proposed changes in these factors.
- (h) If the director determines that the applicant or the licensee is not in compliance with this chapter, the license may be denied, revoked, or not renewed. The denial, revocation, or refusal to renew a license shall proceed in accordance with chapter 91, HRS.
- (i) In addition to any other appropriate action to enforce this chapter, the director may initiate procedures for invoking fines as provided in chapter 321,
- (j) An application for renewal of a license shall be made ninety (90) days prior to the anniversary date of the license.
- (1) The facility shall provide county building department, county fire department, and sanitation branch clearances.
  - (2) A survey of the facility by the hospital and medical facilities branch of the department shall be completed.
  - (3) An acceptable plan of correction for any deficiencies shall be prepared and submitted.
- (k) Compliance with a rule may be waived by the director if the program is otherwise in compliance and provided that the health, safety, and welfare of the residents are assured. [Eff MAR 10 1986] (Auth: HRS §§321-9, 321-10, 321-11) (Imp: HRS §§46-4, 62-34, 64-91, 65-71, 66-71, 70-71, 132-3, 321-10, 321-11, 321-18)

#### §11-98-04 Administrative and statistical reports.

- (a) A permanent register shall be maintained in ink or typewritten of all admissions and discharges of residents including:
- (1) Name;
  - (2) Address;

- (3) Social Security number;
  - (4) Date of birth;
  - (5) Date of admission;
  - (6) Date of discharge;
  - (7) Source of referral to program; and
  - (8) Disposition of resident upon discharge.
- (b) Written records of the occurrence of fire safety and disaster drills shall be available for inspection.
- (c) A detailed incident report of any bodily injury to a resident, shall be written by the person responsible for the resident at the time of the accident. A copy of the report shall be provided to the administrator and shall be incorporated in the resident's record.
- (d) Statistical reports. A monthly program summary report shall be prepared to recap the month's activities including:
- (1) Number of current residents;
  - (2) Number of admissions by source of referral;
  - (3) Number of discharges; and
  - (4) Number of resident days of care.
- (e) A monthly, quarterly or annual statistical report, or each of these, (observing confidentiality requirements of the Federal government) may be required by the department on forms provided. [Eff MAR 10 1986] (Auth: HRS §§321-9, 321-10) (Imp: HRS §321-11)

#### §11-98-05 Dietetic services.

- (a) A special treatment facility shall have a written plan describing the organization and delivery of dietetic services and the utilization of the services of a qualified dietitian as required herein.
- (b) Overall supervisory responsibilities for the food service shall be assigned to a food service manager knowledgeable in food values and nutrition, or one who is receiving such training from the consultant dietitian.
- (c) Menus and food service shall meet the nutritional needs of the residents.
- (d) The food service manager shall have special dietary training approved by the department in order for the facility to accept residents requiring special diets ordered by a physician.
- (e) Information pertinent to special dietetic treatment shall be maintained in the resident's record. [Eff MAR 10 1986] (Auth: HRS §§321-9, 321-10) (Imp: HRS §321-11)

#### §11-98-06 Disaster preparedness.

- (a) The facility shall have a written plan for staff and residents to follow in case of fire, explosion, or other emergency. The plan shall be posted in conspicuous places throughout the facility. This plan shall include, but not be limited to:
  - (1) Assignments;
  - (2) Instructions;
  - (3) Special escape routes; and
  - (4) A quarterly drill schedule. [Eff MAR 10 1986] (Auth: HRS §§321-9, 321-10) (Imp: HRS §321-11)

#### §11-98-07 Evaluation.

- (a) The written statement of the program's goals and objectives, shall serve as the basis for program evaluation.
- (b) The evaluation plan shall include mechanisms for assessing the attainment of the program's goals and objectives.
- (c) The evaluation plan shall include mechanisms for documenting program achievements not related to original goals and objectives.
- (d) The evaluation plan shall include mechanisms for assessing the effective utilization of staff and program resources toward the attainment of the program's goals and objectives.
- (e) The evaluation plan shall include criteria to be applied in determining whether established goals and objectives are achieved.
- (f) The evaluation plan shall be reviewed and updated at least annually.
- (g) The evaluation plan shall be available to all personnel of the facility as well as the department,
- (h) The results of the evaluation process should become a part of the continuous planning process.
- (i) The results of the evaluation process shall be made available to all personnel of the facility as well as the department. [Eff MAR 10 1986] (Auth: HRS §§321-9, 321-10) (Imp: HRS §321-11)

#### §11-98-08 Fees for licensing.

Appropriate fees as determined by the director in accordance with chapter 91, HRS, shall be charged by the department for obtaining a new license or obtaining a license renewal. Prior notice of the amount of the fee shall be provided the licensee. [Eff MAR 10 1986] (Auth: HRS §§321-9, 321-10) (Imp: HRS §321-11)

#### §11-98-09 License suspension, revocation, termination.

- (a) In addition to any other appropriate action to enforce this chapter, the director may initiate procedures for invoking fines as provided in chapter 321, HRS, or to withdraw the license after hearings held in accordance with chapter 91, HRS, or both.
- (b) Infractions subject to subsection (a) include, but are not limited to:
  - (1) Operation of a special treatment facility without a license granted by the department.
  - (2) Substantive violations of this chapter which are found as a result of routine or unannounced inspection of a special treatment facility which has a license.
- (d) Any person violating this chapter shall be subject to the penalty provided in chapter 321, [Eff MAR 10 1986] (Auth: HRS §§321-9, 321-10) (Imp: HRS §§321-11, 321-18)

*Publisher's note: scetion (c) is misnumbered as (d)*

#### §11-98-10 Minimum standards for licensure; administrative and organizational plan.

- (a) Every facility shall have and maintain a current written plan describing the philosophy, goals, and objectives of its program. This program shall be reviewed and evaluated periodically or at least annually.
- (b) The plan shall also include a statement of the geographic area to be served, ages and kinds of residents to be served, anticipated average length of stay of its residents, and the limitations and scope of service for which the facility is established.
- (c) A policy of nondiscrimination based on age, race, color, creed, or national origin relating to admission of residents shall be established.

- (d) A policy of nondiscrimination based on sex, age, race, color, creed, national origin, or physical handicap relative to the personnel policies and practices governing the hiring, promotion and dismissal of its staff shall be established.
- (e) Each facility shall develop written policies and procedures, and criteria governing its management and operations. These shall include but are not limited to the following:
- (1) Personnel policies, procedures and practices including the qualifications, duties and responsibilities for each staff position, hiring, suspension, dismissal, assignment, promotion, grievance procedures and other related personnel matters;
  - (2) Policies and procedures, and criteria relative to admission of residents to the program, dismissal and discharge;
  - (3) Policies and procedures governing the rights (legal, civil, and human) and responsibilities of the residents and the confidential nature of resident information;
  - (4) Procedures for handling complaints and grievances expressed by residents, persons, or agencies responsible for residents, and the public;
  - (5) A description of the facility's services available to residents and responsible parties or agencies and the public. It shall include services directly provided or contracted for by the facility. It shall also include arrangements for emergency medical transportation on a twenty-four hour basis;
  - (6) Terms of contractual agreements entered into with outside providers of services required in this chapter including the description of roles, responsibilities and authority of all parties involved;
  - (7) Policies and procedures and copies of written agreements for coordination and liaison between the facility and relevant community agencies, concerning the admission, treatment, discharge and follow up of residents;
  - (8) A description of the provisions for rendering emergency medical and psychiatric care, including the name, address, and telephone number of the physician;
  - (9) The facility shall submit a copy of its policy and procedures regarding the use of physical or chemical restraints. No physical or chemical restraints shall be used except as outlined in the policy and procedures and only following the approval of the policy and procedures by the director;
  - (10) Policies and procedures relative to general rules regarding residents' records, including:
    - (A) All entries shall be made in ink, be legible, dated and signed with first initial and last name;
    - (B) Symbols and abbreviations shall be explained in a legend;
    - (C) An area shall be provided for safe and easy access to residents' records;
    - (D) Residents' records shall be retained for five years after discharge or, if a state-owned facility, a period to comply with state law;
    - (E) Policies governing access by the resident and others, duplication of, and dissemination of information from the record;
    - (F) Policies protecting the confidentiality of resident information;
    - (G) Policies requiring written consent of the resident, if competent, or the resident's guardian for the release of information to persons and agencies not otherwise authorized to receive it;
    - (H) The facility's responsibility to secure the information under lock against loss, distribution, defacement, tampering, or use by unauthorized persons;
- (f) Every facility shall maintain financial records, include an annual budget and its income and expenditures.
- (g) New facilities shall document in writing assurances of funding sufficient to meet projected program

costs, plus sufficient funds to cover the initial implementation costs.

(h) Each facility shall maintain statistical and other administrative records as provided in section 11-98-04. [Eff MAR 10 1986] (Auth: HRS §§321-9, 321-10) (Imp: HRS §§321-10, 92E-2, 92E-4, 92E-5, 378-2, 622-57, Pub. L. 88-352 (1964) , Pub. L. 95-555 (1978) )

§11-98-11 Minimum standards for licensure; personnel.

(a) An individual shall be designated as administrator who will be responsible for the overall operation of the program and facility. During periods of absences of the administrator, a designated staff member shall assume the responsibilities.

(b) An individual shall be designated as program director of the residential program.

(c) The administrator shall be responsible to provide staff in sufficient number and qualifications to meet the needs of the residents and to carry out the program's services and activities adequately. A minimum of one direct service staff to each eight residents is required. Whenever residents are in the facility, there shall be a responsible, designated, person in charge.

(d) The administrator shall be responsible to produce written statements as to the education, experience, and personal characteristics required to carry out adequately the assigned duties and responsibilities of each position employed by or arranged for by the facility. These written statements shall address the issue of demonstrated knowledge, skills, and attitudes regarding human relationships by staff who have direct contact with residents.

(e) There shall be documented evidence that every employee has a preemployment and an annual health evaluation by a physician. These evaluations shall be specifically oriented to determine the presence of any infectious disease liable to harm a resident. Each health evaluation shall include a tuberculin skin test or a chest x-ray.

(f) Skin lesions, respiratory tract symptoms, and diarrhea shall be considered presumptive evidence of infectious disease. Any employee who develops evidence of an infection must be immediately excluded from any duties relating to food handling or direct resident contact until such time as a physician certifies it is safe for the employee to resume such duties.

(g) If the tuberculin skin test is positive, a standard chest x-ray with appropriate medical follow-up must be obtained, as well as three subsequent yearly chest x-rays. Additional chest x-rays may be required at the discretion of the director.

(h) If the tuberculin skin test is negative, a second tuberculin skin test must be done after one week, but not later than three weeks after the first test. The results of the second test shall be considered the baseline test and used to determine appropriate treatment and follow-up. That is, if the second skin test is positive, then proceed, as above, with a chest x-ray which should be repeated as indicated in the previous paragraph (g) . If the second skin test is negative, a single skin test shall be repeated yearly until it becomes positive.

(i) When a known negative tuberculin skin test on a particular employee or resident converts to a positive test, it shall be considered a new case of tuberculosis infection and shall be reported to the department as required in chapter 11-164, relating to tuberculosis.

(j) The administrator shall arrange for clerical services to maintain records, correspondence, bookkeeping and files current and in conformity with acceptable business practice.

(k) The administrator shall arrange for staff development that includes orientation and training of all new staff and continuing educational opportunities for all staff. Volunteers, when ever utilized, shall be

included in the orientation and training programs for staff or participate in orientation and training programs geared specifically to their needs.

(1) The administrator shall see that at least one staff member on each shift possesses a current First Aid certificate and CPR training. Recertification of training shall be required by all staff at least every two years. [Eff MAR 10 1986] (Auth: HRS §§321-9, 321-10) (Imp: HRS §§321-10, 92E-2, 92E-4, 92E-5, 378-2, 622-57, Pub. L. 88-352 (1964) , Pub. L. 95-555 (1978) )

§11-98-12 Minimum standards for licensure; services.

Individual records shall be kept on each resident which contain the following:

- (1) Within twenty-one days of admission, a report of a resident's medical examination or written evidence of a physical examination within the prior twelve months shall be on file;
- (2) A report of a tuberculin skin test. If the skin test is positive, or known to be positive, there shall be documentation that appropriate medical follow-up has been obtained;
- (3) Information on any necessary special arrangements for emergency medical care;
- (4) Information pertinent to special diet treatment;
- (5) Documentation that a physician was consulted within five days of admission as well as for all significant illnesses and injuries;
- (6) Dental treatment documentation for any resident requiring dental care;
- (7) Identification and summary information including resident's name, Social Security number, marital status, veteran's status, date of birth, sex, home address, telephone number of referral agency and next of kin or other legally responsible person;
- (8) Within thirty days after admission, a written individualized rehabilitation plan rich specific objectives which are measurable and subject to evaluation shall be prepared by an appropriate rehabilitation staff in cooperation with each resident. The plans shall include:
  - (A) Those services planned for meeting the resident's needs.
  - (B) Referrals for services not provided by the program.
  - (C) How the resident will participate in the development of the plan.
  - (D) Regular review and necessary update by staff and resident at least monthly.
  - (E) The staff person responsible for monitoring the plan implementation.
- (9) Monthly observations of the resident's response to the rehabilitation plan;
- (10) Observations of unusual response to medication or diet with evidence that a report to a physician was made immediately upon occurrence;
- (11) Height and weight, which shall be recorded, upon admission and thereafter, quarterly;
- (12) Any period of unauthorized absence from the facility;
- (13) Any correspondence pertaining to the resident;
- (14) A complete record of each medication utilized by the resident;
- (15) Any significant change in the resident's behavior pattern noted at the time of occurrences-including date, time and action taken;
- (16) Should vital signs be ordered by a physician, notations of temperature, pulse and respiration shall be recorded and the physician notified immediately in case of abnormality;
- (17) Complete financial records and monetary transfers between the residents and the facility;
- (18) A discharge summary or a transfer summary including the following:
  - (A) The reason for the discharge or transfer, if identifiable.



(B) Documentation that a guardian, when applicable, B2 has been notified prior to discharge or transfer. This provision may be waived in emergency situations but in this case the guardian must be notified as soon as practical. If the resident leaves without permission of the administrator, the guardian shall be notified promptly.

(C) Current physical and emotional status report of the resident.

(D) Plans or goals for the resident.

(E) Current diet, medication, and activity as applicable. [Eff MAR 10 1986] (Auth: HRS §§321-9, 321-10) (Imp: HRS §§321-10, 92E-2, 92E-4, 92E-5, 378-2, 622-57, Pub. L. 88-352 (1964) , Pub. L. 95-555 (1978) )

#### §11-98-13 Rehabilitation program.

Rehabilitation services shall be appropriate to the individual in the facility and may include:

(1) Psychiatric services to provide care or program consultation;

(2) Psychological services to provide testing for individual assessment purposes, program evaluation and research;

(3) If the staff feels it to be advisable for a resident, or residents, to receive nutritional instruction, a dietitian shall be consulted;

(4) Social rehabilitation services to provide opportunities for individuals to learn social and self-care skills to foster independent living and which may include recreational, educational and vocational activities;

(5) Education services for children to provide and meet the scholastic requirements for school age children and youth;

(6) Counseling; and

(7) Other services to provide for planned leisure time activities and constructive therapeutic activities that enhance social and motor skills. [Eff MAR 10 1986] (Auth: HRS §§321-9, 321-10) (Imp: HRS §321-10)

#### §11-98-14 Physical facility.

(a) The design and construction of each building or buildings comprising the facility shall meet the minimum requirements of the following codes:

(1) The county fire department codes;

(2) The county building, electrical, plumbing, and zoning codes; and

(3) Applicable rules of the department relating to sanitation

(b) Existing buildings.

(1) For any building which is being considered for this type of occupancy, the director may waive or modify any portion of the rules provided the exceptions do not create a hazard to residents, personnel or public.

(2) This section shall not prohibit the use of equivalent alternate space utilizations, new concepts of plan designs and new material or systems if written approval of such alternatives is granted by the department.

(c) Maintenance. Facilities shall be maintained in accordance with provisions of state and county zoning, building, fire, safety and health codes in the State. [Eff MAR 10 1986] (Auth: §§321-9, 321-10) (Imp: §§46-4, 62-34, 64-91, 65-71, 66-71, 70-71, 132-3, 321-10)

§11-98-15 Research policy.

A special treatment facility that includes human-subject research in its objectives or allows itself to be used as a resource for research shall have written policies and procedures encompassing the purpose and conduct of all research utilizing the program's staff, residents or services. The written policies and procedures shall require informed consent for all research activities. [Eff MAR 10 1986] (Auth: HRS §§321-9, 321-10) (Imp: HRS §321-10)

§11-98-16 Resident's rights and responsibilities.

Written policies regarding the rights and responsibilities of residents and services to be provided to residents during their stay in the facility shall be established and shall be made available to the resident, to any guardian, next of kin, sponsoring agency or representative payee, and to the public. The facility's policies and procedures shall provide that each individual admitted to the facility shall:

- (1) Be fully informed, documented by signed acknowledgment prior to or at the time of admission and during stay, of these rights and of all rules governing resident conduct: and
- (2) Be fully informed, prior to or at the time of admission and during stay, of services available in or through the facility and of related charges, including any charges for services not covered by the facility's basic per diem rate. [Eff MAR 10 1986] (Auth: HRS §§321-9, 321-10) (Imp: None)

§11-98-17 Repeal of rules.

All versions of chapter 12F, Public Health Regulations, as they existed on August 1, 1985, are repealed. [Eff MAR 10 1986] (Auth: HRS §§321-9, 321-10) (Imp: HRS §321-10)

§11-98-18 to §11-98-49 reserved.

§11-98-50 Severability.

(a) If this chapter or the application thereof to any persons or circumstances is held invalid, the application of the remainder of the chapter to other persons or circumstances shall not be affected. [Eff MAR 10 1986] (Auth: HRS §§321-9, 321-10) (Imp: HRS §321-10)