DEPARTMENT OF HEALTH

Repeal of Chapter 11-94.1, "Nursing Facilities"
and the
Adoption of Chapter 11-94.2, "Nursing Facilities,"
Hawaii Administrative Rules

(Date)

1. Chapter 11-94.1, Hawaii Administrative Rules, entitled "Nursing Facilities", is repealed.

2. Chapter 11-94.2, Hawaii Administrative Rules, entitled "Nursing Facilities", is adopted to read as follows:

"HAWAII ADMINISTRATIVE RULES

TITLE 11

DEPARTMENT OF HEALTH

CHAPTER 94.2

NURSING FACILITIES

Subchapter 1 General Provisions

§11-94.2-1 Purpose
§11-94.2-2 Definitions
§§11-94.2-3 to 11-94.2-5 (Reserved)

Subchapter 2 Licensing Requirements

§11-94.2-6 Licensing
§11-94.2-7 Application
§11-94.2-8 Maximum time period for processing of a complete license application
§11-94.2-9 Denial of licensure
§11-94.2-10 Inspection
§11-94.2-11 Waiver
§§11-94.2-12 to 11-94.2-15 (Reserved)

Subchapter 3 Administration Requirements

§11-94.2-16 Governing body and management
§11-94.2-17 Administrator
§11-94.2-18 Medical director
§11-94.2-19 Ownership and financial capability
§11-94.2-20 In-service education
§11-94.2-21 Arrangement for services
§11-94.2-22 Medical record system
§11-94.2-23 Quality assurance and performance improvement
§§11-94.2-24 to 11-94.2-26 (Reserved)

Subchapter 4 Resident Care Requirements

§11-94.2-27 Resident rights and facility practices
§11-94.2-28 Resident accounts
§11-94.2-29 Resident abuse, neglect, and misappropriation of resident property
§11-94.2-30 Resident care
§§11-94.2-31 to 11-94.2-35 (Reserved)

Subchapter 5 Program Requirements

§11-94.2-36 Admission, transfer, and discharge
§11-94.2-37 Social work services
§11-94.2-38 Activities
§11-94.2-39 Nursing services
§11-94.2-40 Dietary services
§11-94.2-41 Storage and handling of food
§11-94.2-42 Physician services
§11-94.2-43 Interdisciplinary care process
§11-94.2-44 Specialized rehabilitation services
§11-94.2-45 Dental services
§11-94.2-46 Pharmaceutical services
§11-94.2-47 Adult day health services
§§11-94.2-48 to 11-94.2-52 (Reserved)

Subchapter 6 Environmental Health Standards

§11-94.2-53 Infection control
§11-94.2-54 Sanitation
§11-94.2-55 Housekeeping
§11-94.2-56 Laundry service
§11-94.2-57 Life safety
§11-94.2-58 Emergency preparedness
§§11-94.2-59 to 11-94.2-63 (Reserved)

Subchapter 7 Physical Facility Standards

§11-94.2-64 Engineering and maintenance
§11-94.2-65 Construction requirements
§§11-94.2-66 to 11-94.2-68 (Reserved)

Subchapter 8 Administrative Enforcement

§11-94.2-69 Enforcement
§11-94.2-70 Penalties and remedies
§§11-94.2-71 to 11-94.2-74 (Reserved)
§11-94.2-75 Severability
§11-94.2-76 Transition

SUBCHAPTER 1

GENERAL PROVISIONS

§11-94.2-1 Purpose. The purpose of this chapter is to establish minimum requirements for the protection of the health, welfare, and safety of residents, personnel, and the public in nursing facilities that provide care and services for residents at the skilled nursing and intermediate care facility level of care. This chapter shall not be construed to lower standards, ordinances, or rules established by other divisions or subdivisions of State government; in all instances, the more stringent rules shall apply. [Eff] (Auth: HRS §§321-9, 321-10, 321-11) (Imp: HRS §§321-9, 321-10, 321-11)

§11-94.2-2 Definitions. As used in this chapter:

"Activities professional" or "qualified therapeutic recreational specialist" means:

(1) A qualified professional who has two years of experience in a social or recreational program within the last five years, one of which was full-time in a resident activities program in a health care setting;
(2) An occupational therapist or occupational therapy assistant;
(3) A person who has completed a training course approved by the department; or

(4) A person who is eligible for certification as a therapeutic recreation specialist or as an activities professional by a recognized accrediting body on or after October 1, 1990.

"Advanced directive" means a written or oral declaration made by a competent adult, instructing his or her physician to provide, withhold, or withdraw life-sustaining procedures under certain conditions such as a terminal condition or where the resident has a permanent loss of ability to communicate with others due to irreversible brain injury or coma. (An advanced directive is often referred to as an advanced health care directive or as a living will.)

"Advanced practice registered nurse" or "APRN" means a registered nurse who is licensed pursuant to chapter 457, HRS.

"Bedhold policy" means a written policy that specifies legal readmission rights of a resident who transfers from the facility for a hospitalization or therapeutic leave and a payment schedule to hold the bed during that resident's absence.

"Certified nursing assistant" or "CNA" or "nurse aide" means a person who is currently certified as a nurse aide pursuant to chapter 457A, HRS.

"Comprehensive assessment" means an evaluation completed by the interdisciplinary team to identify a resident's functional capacity, including the resident's strengths, preferences, and needs in the areas including but not limited to activities of daily living (ADLs), cognition, continence, mood, behavior, nutritional status, communication, vision, and psychosocial well-being.

"Controlled drugs" means drugs listed as being subject to high incidences of abuse as defined in chapter 329, HRS.

"Dental services" means an annual inspection of the oral cavity for signs of disease, diagnosis of dental disease, dental radiographs as needed, dental cleaning, fillings (new and repairs), minor dental plate adjustments, smoothing of broken teeth, and limited prosthodontic procedures, e.g., taking impressions for dentures and fitting dentures.

"Dentist" means any person holding a valid license to practice dentistry, pursuant to chapter 448, HRS.

"Department" means the department of health, State of Hawaii.

"Dietary manager" means:

(1) A dietitian who meets the requirements of section 448B-5, HRS;

(2) A graduate of a dietetic technician training program approved by the American Dietetic Association;

(3) An individual certified by the Certifying Board for Dietary Managers of the Dietary Managers Association; or

(4) An individual who has successfully completed an approved course curriculum in any of the following, and has taken annual continuing education credits to keep up with current food service trends and practices, as set forth by the Dietary Managers Association:

(A) State approved course that includes at least ninety or more hours of classroom or correspondence instruction, plus two years of work experience of which at minimum, nineteen months were at the managerial level and the remainder as a nutritionist;

(B) A two- or four-year college degree in foodservice management and nutrition; or

(C) A United States military training program in foodservice management with the attainment of a grade of E-5 or its equivalent according to the brand of service.

"Dietitian" means a person who:

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

(2) Is eligible for such registration.

"Director of health" or "director" means the director of the department of health, State of Hawaii, or the director's designee.

"Discharge" means movement of a resident from a facility to the resident's home or other location in the community, when return to the facility is not expected or planned.

"Disinfect" means to render inactive virtually all recognizable pathogenic microorganisms but not necessarily all microbial forms, e.g., bacterial endospores.

"Drug administration" means the act in which a single dose of a prescribed drug or biological substance is given to a resident by an authorized person in accordance with all existing laws and rules governing those acts.

"Drug dispensing" means the furnishing of drugs pursuant to a prescription in a suitable container, appropriately labeled for subsequent administration to or use by a resident or other individual entitled to receive the drug.

"Emergency dental service" includes dental services to control bleeding, relieve pain, eliminate acute infection, and treatment of injuries to the teeth or supporting structures, and other medically urgent dental services.

"Evacuation capacity designation" means the designation determined by the current county building and fire codes that indicates whether the physical structure of the facility is safe for residents to remain in the building, or whether they must be evacuated from a facility in an emergency or disaster.

"Governing body" means the policy-making authority, whether an individual who is not the administrator or a group, that exercises general direction or fiduciary responsibilities over the affairs of a facility and establishes policies concerning its operation and the welfare of the residents the facility serves.

"Infectious waste" or "regulated waste" or "medical waste" or "pathological waste" means any waste that may contain pathogens capable of causing an infectious disease and shall include but is not limited to wastes categorized in section 11-104.1-4.

"Interdisciplinary" means the integration of two or more professional disciplines working together to provide the greatest benefit to the resident.

"Legal guardian" means a person who has the legal authority (and the corresponding duty) to care for the personal or property interests, or both, of another person, referred to as a ward.

"Licensed practical nurse" or "LPN" means a person who is licensed as a practical nurse pursuant to chapter 457, HRS.

"Licensed social worker" or "social worker" or "LSW" means a person who is licensed to practice social work pursuant to chapter 467E, HRS.

"Nursing facility" means a skilled nursing facility or "SNF", intermediate care facility or "ICF", or a skilled nursing and intermediate care facility or "SNF/ICF".

(1) "Intermediate care facility" means a health facility to which a physician has referred individuals who do not need twenty-four hour a day skilled nursing care but who do require the following services for appropriate care:
    (A) Twenty-four hours a day assistance with the normal activities of daily living; and
    (B) Care provided by licensed nursing and paramedical personnel on a regular, long-term basis.

(2) "Skilled nursing facility" means a health facility that provides skilled nursing and related services to residents who require twenty-four hour a day medical or nursing care, or rehabilitation services, including but not limited to physical therapy, occupational therapy, and speech therapy services.

"Nursing home administrator" means a person licensed pursuant to chapter 457B, HRS.

"Nursing plan of care" means an individualized treatment plan developed at the time of admission, based on the initial nursing assessment of the resident in conjunction with the physician's admission physical examination and initial orders.

"Occupational therapist" means a person licensed pursuant to chapter 457G, HRS.

"Occupational therapy assistant" means a person who is currently certified or eligible for certification by the National Board for Certification in occupational therapy.

"Overall plan of care" means an integrated plan of care that includes the interventions and care or services to be provided by nurses, social workers, rehabilitative therapists, physicians, APRNs, physician assistants, dietitians and other professionals as determined by a comprehensive assessment. The overall plan of care shall have measurable goals and objectives with specific time lines directed to attain or maintain the resident's highest practicable physical, mental, and psychosocial well-being. The plan shall also include appropriate discharge planning.

"Performance improvement" or "PI" means the continuous study and improvement of processes with the intent to improve services or outcomes, and prevent or decrease the likelihood of problems, by identifying opportunities for improvement, and testing new approaches to fix underlying causes of persistent or systemic problems or barriers to improvement. PI aims to improve facility processes involved in care delivery and enhanced resident quality of life.

"Pharmacist" means a person who is licensed as a registered pharmacist pursuant to chapter 461, HRS.

"Physical therapist" means a person who is licensed as a physical therapist pursuant to chapter 461J, HRS.

"Physical therapy assistant" means a person who has graduated from a two-year college-level program approved by the Section on Education of the American Physical Therapy Association.

"Physician" means a person who is licensed to practice medicine or osteopathy pursuant to chapter 453, HRS.

"Physician assistant" means a person who is licensed pursuant to chapter 453, HRS.

"Plan of correction" means a plan developed by the facility that includes actions that will be taken to address deficiencies cited or detected by the department pursuant to a survey, inspection, or complaint investigation that shall include preventive measures to ensure compliance with this chapter and chapter 321, HRS, and the timeframe in which these corrections shall take place.

"Quality assurance" or "QA" means the specification of standards for quality of care, service and outcomes, and systems throughout the facility for assuring that care is maintained at acceptable levels in relation to those standards. QA is on-going and both anticipatory and retrospective in its efforts to identify how the facility is performing, including where and why facility performance is at risk or has failed to meet standards.

"Quality assurance and performance improvement" or "QAPI" means the coordinated application of mutually-reinforcing aspects of quality management that takes a systematic, interdisciplinary, comprehensive, and data-driven approach to maintaining and improving safety and quality.

"Registered health information administrator" or "RHIA" means a person who successfully passed a national qualifying examination offered by the American Health Information Management Association and is currently certified by the association as a RHIA.

"Registered health information technician" or "RHIT" means a person who successfully passed a national qualifying examination offered by the American Health Information Management Association and is currently certified by the association as a RHIT.

"Registered nurse" or "RN" means a person who is licensed as a registered nurse pursuant to chapter 457, HRS.

"Rehabilitative plan of care" means a treatment plan based on the attending physician's, physician assistant's, or APRN's orders and assessment of a resident's needs in regard to specialized rehabilitative procedures.

"Reputable and responsible character" means the character of an individual who has not been:

(1) Convicted of a relevant crime as defined in section 321-15.2(a), HRS; or

(2) Confirmed by the State as a perpetrator of adult or child abuse, neglect, financial exploitation, or domestic violence.

"Social work plan of care" means a plan of services based on an assessment completed by the social worker or designee to address social, behavioral, or treatment interventions required to assist the resident to maintain his or her highest practicable physical, mental, or psychosocial well-being, with plans for appropriate and timely discharge as practical.

"Social worker designee" means a person who is supervised by a licensed social worker.

"Special diet" or "therapeutic diet" means a diet ordered by a physician or APRN that is prescribed as part of the medical nutrition therapy of a nursing facility resident.

"Speech pathologist" or "speech therapist" or "audiologist" means a person who is licensed pursuant to chapter 468E, HRS, and:

(1) Is eligible for a certificate of clinical competence granted by the American Speech-Language-Hearing Association in speech therapy, pathology, or audiology; or

(2) Meets the educational requirements for certification and is in the process of accumulating the supervised experience required to take the examination for certification.

"Statement of deficiencies" means a listing of citations given to the facility that describes the extent to which the facility is not compliant with the requirements of this chapter, and that is issued to the facility at the completion of a survey or licensing inspection or complaint investigation.

"Surrogate" means an individual other than the nursing facility's agent or legal guardian who is authorized under chapter 327E, HRS, to make a healthcare decision for the resident.

"Transfer" means the movement of a resident from one facility to another facility for continued care regardless of whether the resident is expected or planned to return to the original facility. It does not refer to movement between beds within the same licensed facility.

"Waiver" means an exemption to a rule.

[Eff] (Auth: HRS §§321-9, 321-11) (Imp: HRS §§321-9, 321-11)

§§11-94.2-3 to 11-94.2-5 (Reserved).

SUBCHAPTER 2

LICENSING REQUIREMENTS

§11-94.2-6 Licensing. (a) No person or group of persons may operate a nursing facility unless the facility is licensed by the department.

(b) All nursing facilities shall be licensed pursuant to this chapter and meet all requirements for licensure under state law prior to admitting any residents, except those operated by the federal government or agency thereof.

(c) The department may accept accreditation by the Joint Commission or other nationally recognized accreditation or certification organizations including, but not limited to, the U.S. Centers for Medicare and Medicaid Services, as demonstrating a

facility's compliance with all relicensing inspections required by the department.

(d) The department shall inspect each nursing facility at least annually, or at a time interval as determined by the department for relicensing. The department, without prior notice, may enter the premises at any time to secure compliance with or to prevent a violation of this chapter.

(e) The department may exempt a facility from a relicensing inspection when the facility is accredited or certified in accordance with this section under the following conditions:

(1) The facility provides a certified copy of the facility's official accreditation or certification report to the department;

(2) The facility continuously holds full accreditation or certification by the accreditation or certification organization; and

(3) The facility holds a current and valid state license.

(f) The most current licensing statement of deficiencies and plan of correction shall be kept on file in the facility, and the facility shall:

(1) Make the statement of deficiencies and plan of correction available for examination in a place readily accessible to residents; and

(2) Post a notice of the availability of the statement of deficiencies and plan of correction.

(g) All facilities shall not discriminate against any individual as per all federal and state civil rights and anti-discrimination regulations. Should the facility not be able to provide care and services to individuals based on their age, i.e., infants and youth, or specific disability, the facility will need to indicate so in their policies and procedures and by-laws.

(h) The department shall prescribe the content and form of the license and may authorize a waiver or waivers for a particular facility.

(i) In the event of a change of administration, name, location, ownership, or the number and type of operational beds, the facility shall notify the department fifteen days prior to the change, an inspection at the discretion of the department shall be conducted, and if the provisions of this chapter are met, a new license shall be issued.

(j) Every regular license shall continue in force for a period of one year unless otherwise specified, or unless it is suspended or revoked.

(k) The current license shall be posted in a conspicuous place visible to the public within the facility.

(l) A provisional license may be issued at the discretion of the department to allow sufficient time for correction to deficiencies cited.

(m) When a facility intends to voluntarily close, the following shall apply:

(1) The licensee shall notify the department in writing at least thirty days prior to an intended closure;

(2) All residents, legal guardians, surrogates, and other responsible agencies shall be notified at least thirty days prior to an intended closure;

(3) All residents shall be transferred to appropriate licensed facilities prior to closure; and

(4) The licensee shall notify the department that all residents have been transferred and provide a listing of residents' names, name of facility transferred to, and date of transfer.

[Eff] (Auth: HRS §§321-9, 321-11; SLH 2021, Act 28) (Imp: HRS §§321-9, 321-11; SLH 2021, Act 28)

§11-94.2-7 Application. The applicant shall submit:

(1) An application on a form approved by the department with the following supporting documentation or information:
   (A) Name, address, and contact information of the owner(s);
   (B) Registration of corporation, articles of incorporation, limited liability company with a list of officers, directors, trustees, members, or advisory board members;
   (C) Bylaws;
   (D) Copy of documents recognizing the applicant's ability to do business in the State;
   (E) An annual budget including all anticipated income and expenses demonstrating the facility's financial capability to ensure the health, safety, and welfare of residents; and
   (F) Building plans indicating accurate measurements to scale of the entire facility with certificate of occupancy as appropriate;

(2) Documented compliance with current county building and land use codes;

(3) Documented compliance with current county fire code requirements;

(4) Documented clearance by the sanitation branch of the department;

(5) Documented clearance by the wastewater branch of the department;

(6) A certificate of need from the state health planning and development agency as determined by the State;

(7) All prospective applicants, licensees, operators, administrators, and direct resident access employees, and volunteers shall be screened for a history of abuse, neglect, or misappropriation of funds that

includes but is not limited to fingerprint record checks through the Federal Bureau of Investigation and the Hawaii criminal justice data center, obtaining information from previous and current employers, and checking with the appropriate licensing boards and registries. [Eff] (Auth: HRS §§321-9, 321-11, 321-15.2) (Imp: HRS §§321-9, 321-11, 321-15.2)

§11-94.2-8 Maximum time period for processing of a complete license application. (a) The department shall grant or deny an application and inform the applicant of its decision within ninety days of receipt of a complete application.

(b) If the department does not grant a license or deny an application within ninety days of receipt of the complete application, the application for issuance of a license shall be deemed approved on the ninetieth day. After the expiration of the ninety days, the department shall issue the license within thirty days.

(c) Notwithstanding the requirements of subsections (a) and (b), the maximum period of ninety days shall be extended indefinitely in the event of a national disaster, state emergency, or union strike that would prevent the applicant, the agency, or the department from fulfilling application review in a timely manner. [Eff] (Auth: HRS §§321-9, 321-11) (Imp: HRS §§321-9, 321-11)

§11-94.2-9 Denial of licensure. An application for a license may be denied for any of the reasons that include but are not limited to the following:

(1) Failure of the applicant to comply with this chapter or chapter 321, HRS;
(2) Failure of the applicant to provide all requirements specified in section 11-94.2-7;

(3) Failure of the applicant to possess and provide evidence of financial capability to operate the facility pursuant to this chapter;
(4) The fraudulent representation or misrepresentation of facts by the applicant;
(5) Failure to comply with and provide criminal history record check information pursuant to section 321-15.2, HRS; and
(6) Determination by the department that the applicant does not possess a reputable or responsible character. [Eff] (Auth: HRS §§321-9, 321-11) (Imp: HRS §§321-9, 321-11)

§11-94.2-10 Inspection. (a) All inspections and complaint investigations shall be unannounced and may be conducted outside of normal business hours of the State.

(b) The department may conduct inspections and investigations of an exempt facility regarding complaints, adverse accreditation or certification findings, or periodic validation surveys.

(c) Following an inspection, a statement of deficiencies, if any, shall be presented to the facility. The facility shall return a plan of correction to the department within ten days of the receipt of the statement of deficiencies. Receipt of the statement of deficiencies is presumed to be within five days from the date of the notice. Facilities shall be allowed a reasonable time to implement the plan of correction. A follow-up inspection may be made by the department to assess the progress in the plan of correction. If there has not been substantial progress in carrying out the plan of correction, the license shall be revoked or shall not be renewed. A provisional license may be issued should the department determine that good faith efforts are being made by the facility to carry out the plan of correction and the facility requires additional time to meet the requirements.

(d) The department shall charge appropriate fees for the processing of an application, issuance of a new license, and a license renewal. The department shall provide prior notice of the amount of the fee to the licensee. [Eff] (Auth: HRS §§321-9, 321-11; SLH 2021, Act 28) (Imp: HRS §§321-9, 321-11; SLH 2021, Act 28)

§11-94.2-11 Waiver. (a) Every request for a waiver from an otherwise applicable licensing requirement shall be set forth in writing and submitted to the department for approval. The licensee shall submit the information required in this subsection to enable the department to make a decision on the request for a waiver.

(1) The department shall not act upon or consider any incomplete requests for waivers. A waiver request shall be deemed complete only when all required and requested information, including a reason for the waiver and a proposal for an alternate plan to ensure the health, safety, welfare, and civil rights of the resident(s), including resident care and life safety safeguards, is received by the department;
(2) Every request shall be signed by the licensee and shall constitute an acknowledgment and agreement that the licensee will comply with all terms and conditions of the waiver and this chapter upon approval of the request;
(3) The department may require the submission of additional information after the request has been submitted;
(4) A waiver shall not be transferable;
(5) The failure of the department to act on a completed request for a waiver within

sixty days of receipt of request shall be deemed an approval of the request, provided that the licensee acts in accordance with the request process;

(6) Notwithstanding the requirements of paragraph (5), the maximum period of time of sixty days shall be extended indefinitely in the event of a national disaster, state emergency, or union strike that would prevent the applicant, the agency, or the department from fulfilling application review in a timely manner; and

(7) Waivers may be granted on a case-by-case basis and shall not be construed as a precedent for any other circumstances or situations.

(b) The waiver request will be reviewed by the department giving due consideration to the effect or probable effect the waiver would have on the health, safety, and welfare of the residents.

(c) Whenever a request is approved by the department, the department shall issue a waiver authorizing the operation of a nursing facility pursuant to the conditions specified in the request for the waiver, or conditions specified by the department, or both. No waiver shall be granted by the department unless the request and the supporting information clearly show that:

(1) Granting the waiver will not endanger the health, safety, or welfare of the resident(s);

(2) Granting the waiver will not affect the requirements of licensure provided in section 11-94.2-6; and

(3) Granting the waiver will not affect the nursing services provided in section 11-94.2-39.

(d) Any approved waiver shall be granted within the requirements of this section, for time periods and under conditions consistent with this chapter, and with the following limitations:

(1) The department may issue a waiver for a period not exceeding one year;
(2) The department may revoke the waiver at any time if the waiver creates a threat to the health, safety, or welfare of the resident(s);
(3) For every waiver granted under this section, the department shall, on a case-by-case basis, require the licensee to submit to the department additional information as may be necessary or appropriate such as:
    (A) Resident diagnosis, physician or APRN order, training to be provided to licensee, plan for monitoring, oversight, and evaluation of resident status;
    (B) Conditions under which any structural changes to the facility will be completed, specific timeframe for construction completion, and plan to ensure the safety of the residents during construction; and
    (C) Procedure to be undertaken to ensure the health, safety, and welfare of residents as necessitated by staffing changes or training to meet the requirements of this chapter;
(4) For every waiver granted under this section, the department shall perform a thorough review of known and available means of protecting the health, safety, or welfare of the resident(s) to which the waiver applies.

(e) Renewal of waivers shall be requested in writing and shall be submitted to the department at least sixty days prior to the expiration of the waiver. The department shall act on a request for renewal within sixty days of the receipt of the request.

(f) Any waiver granted pursuant to this section may be renewed on the same terms and conditions on which the waiver was initially granted, for a period not exceeding one year, provided that:

(1) The request for renewal has met all of the conditions specified in the immediately preceding waiver; and

(2) The request for renewal and the waiver issued in response to that request shall provide for the protection of the health, safety, and welfare of the resident(s) in a manner that is consistent with the terms of the immediately preceding waiver at its expiration.

(g) No waiver shall be construed to prevent or limit the application of any emergency provisions and procedures provided by law. [Eff] (Auth: HRS §§321-9, 321-11) (Imp: HRS §§321-9, 321-11)

§§11-94.2-12 to 11-94.2-15 (Reserved).

SUBCHAPTER 3

ADMINISTRATION REQUIREMENTS

§11-94.2-16 Governing body and management. (a) Each facility shall have an organized governing body, or designated persons functioning as the governing body, that has overall responsibility for the conduct of all activities. The facility shall maintain methods of administrative management that assure that the requirements of this section are met.

(b) The facility shall ensure that:

(1) Staff sufficient in number and qualifications shall be on duty twenty-four hours a day to carry out the policies, responsibilities, assessed care needs of the residents and program of the facility; and

(2) The numbers and categories of personnel shall be determined by the number, acuity level, and needs of residents.

(c) The facility shall have written personnel policies available to staff, residents, and the public that govern all services provided by the facility and include but are not limited to:

(1) Written job descriptions available for all positions. Each employee shall be informed of the employee's duties and responsibilities at the time of employment;

(2) Requirements that all employees have appropriate licenses or certification as required by law, and their licenses or certification shall be readily available for examination by the department;

(3) Ethical standards of professional conduct that shall apply in the facility; and

(4) An organization chart showing the major operating programs of the facility, with staff division, administrative personnel in charge of programs and divisions, and their lines of authority, responsibility, and communication. [Eff] (Auth: HRS §§321-9, 321-11) (Imp: HRS §§321-9, 321-11)

§11-94.2-17 Administrator. All freestanding and hospital-based nursing facilities shall be administered by:

(1) A person appointed by the governing body and responsible for the management of the facility; and

(2) Licensed by the State as a nursing home administrator; or

(3) In the absence of the administrator, an employee who has been designated, in

writing, to act on the administrator's behalf for a determined period of time as approved by the department. [Eff] (Auth: HRS §§321-9, 321-11) (Imp: HRS §§321-9, 321-11)

§11-94.2-18 Medical director. The facility must designate a physician to serve as medical director. The medical director is responsible for:

(1) Development, implementation, and evaluation of resident care policies;
(2) Coordination of medical care in the facility; and
(3) Consultation and training to licensed staff as necessary. [Eff] (Auth: HRS §§321-9, 321-11) (Imp: HRS §§321-9, 321-11)

§11-94.2-19 Ownership and financial capability. (a) The facility shall provide the department with current information about ownership of the facility including:

(1) The name of each person who has an ownership interest of ten per cent or more in the facility;
(2) The name of each person who is the owner (in whole or in part) of any mortgage, deed or trust, note, or other obligation secured (in whole or in part) by the facility;
(3) The officers and directors of the corporation, if the facility is organized as a corporation, is incorporated, or is a limited liability company, and any changes in the officers and directors; and
(4) The name of each partner if the facility is organized as a partnership.

(b) The owner shall provide evidence as deemed necessary by the department to establish that the financial resources of the owner are sufficient to

operate and maintain the facility according to the standards set forth in this chapter. [Eff] (Auth: HRS §§321-9, 321-11) (Imp: HRS §§321-9, 321-11)

§11-94.2-20 In-service education. (a) There shall be a staff in-service education program that includes the following:

(1) Orientation for all new employees that shall include:
   (A) Information to acquaint them with the philosophy, organization, program, policies and procedures, practices, and goals of the facility; and
   (B) Competency evaluation to ensure that staff are able to carry out their respective duties;
(2) In-service training for employees who have not achieved the desired level of competence, and continuing in-service education to update and improve the skills and competencies of all employees;
(3) In-service training that shall include annually, at minimum, prevention and control of infections, fire prevention and safety, disaster preparedness for all hazards, accident prevention, resident rights including prevention of resident abuse, neglect and financial exploitation, and problems and needs of the aged, ill, and disabled;
(4) Competency testing for cardiopulmonary resuscitation to annually certify the nursing staff;
(5) Training in oral hygiene and denture care, which shall be given to the nursing staff at least annually; and
(6) Appropriate personal hygiene instructions at regular intervals shall be given to all personnel providing direct care and handling food.

(b) Records shall be maintained and available for departmental review for all orientation and staff in-service and development programs.

(c) The facility shall have in place a system to ensure that all staff receive in-service training.

[Eff] (Auth: HRS §§321-9, 321-11) (Imp: HRS §§321-9, 321-11)

§11-94.2-21 Arrangement for services. When the facility does not employ a qualified person to render a required or necessary service, it shall have a written agreement or contract with a qualified outside person or provider to provide the needed service.

[Eff] (Auth: HRS §§321-9, 321-11) (Imp: HRS §§321-9, 321-11)

§11-94.2-22 Medical record system. (a) The facility shall have available sufficient appropriately qualified staff and necessary supporting personnel to facilitate the accurate processing, auditing and analysis, indexing, filing, and prompt retrieval of records, record data, and resident health information.

(b) If the employee who supervises medical records is not a registered health information administrator or registered health information technician, there shall be regularly scheduled visits by a qualified consultant who shall provide reports to the administrator.

(c) The following information shall be obtained and entered in the resident's record at the time of admission to the facility:

(1) Personal information such as name, date, and time of admission, date and place of birth, citizenship status, marital status, social security number, or an admission number that can be used to identify the resident without use of name when the latter is desirable;

(2) Name and address of next of kin, legal guardian, surrogate, or representative holding a power of attorney;
(3) Sex, height, weight, race, and identifying marks;
(4) Reason for admission or referral;
(5) Language spoken and understood;
(6) Information relevant to religious affiliation, if any;
(7) Admission diagnosis, summary of prior medical care with listing of physicians providing care, recent physical examination, tuberculosis status, and physician's orders; and
(8) Advanced directives, as applicable.

(d) Records to be maintained and updated, as necessary, for the duration of each resident's stay shall also include:

(1) Appropriate authorizations and consents for medical procedures;
(2) Records of all periods, with physician orders, of use of physical or chemical restraints with justification and authorization for each and documentation of ongoing assessment of resident during use of restraints;
(3) Copies of initial and periodic examinations and evaluations, as well as progress notes at appropriate intervals;
(4) Regular review of an overall plan of care setting forth goals to be accomplished through individually designed activities, therapies, and treatments, and indicating which professional services or individual is responsible for providing the care or service;
(5) Entries describing all care, treatments, medications, tests, immunizations, and all ancillary services provided; and

(6) All physician's, physician assistant's, or APRN's orders completed with appropriate documentation (signature, title, and date).

(e) When a resident is transferred to another facility or discharged, there shall be:

(1) Written documentation of the reason for the transfer or discharge and efforts made by the facility to mitigate any stress that may arise due to the transfer;

(2) Documentation to indicate that the resident understood the reason for transfer, or that the duly authorized healthcare decision maker and family were notified;

(3) A complete summary including current status and care, final diagnosis, and prognosis; and

(4) Documentation of efforts made for effective discharge planning.

(f) The facility shall have available a master alphabetical index that is a permanent record of all residents admitted to the facility. The index shall include but not be limited to name, date of birth, facility medical record number, name of physician, and dates of admission and discharge.

(g) All entries in a resident's record shall be:

(1) Accurate and complete;

(2) Legible and typed or written in black or blue ink;

(3) Dated;

(4) Authenticated by signature and title of the individual making the entry; and

(5) Written completely without the use of abbreviations except for those abbreviations approved by a medical consultant or the medical doctor.

(h) All information contained in the resident's record, including any information contained in an automated data bank, shall be considered confidential and adhere to requirements as set forth by the Health Insurance Portability and Accountability Act of 1996.

(i) The record shall be the property of the facility, whose responsibility shall be to secure the information against loss, destruction, defacement, tampering, or use by unauthorized persons.

(j) There shall be written policies and procedures governing the management of resident health information including but not limited to access to, duplication of, and dissemination of information from the record, and the retention of the medical records and disposal methods as appropriate.

(k) Written consent of the resident, if competent, or the duly authorized healthcare decision maker if the resident is not competent, shall be required for the release of information to persons not otherwise authorized to receive it. Consent forms shall include:

(1) The use for which the information is requested;

(2) Sections or elements of information to be released and specific period of time during which the information is to be released; and

(3) Consent of the resident, legal guardian, or surrogate for release of any medical record information.

(l) Records shall be readily accessible and available to authorized department personnel for the purpose of determining compliance with this chapter.

(m) The facility shall retain medical records pursuant to section 622-58, HRS, in the original or reproduced form for a minimum of seven years after the last data entry, except in the case of minors, whose records shall be retained during the period of minority plus seven years after the minor reaches the age of majority. [Eff] (Auth: HRS §§321-9, 321-11) (Imp: HRS §§321-9, 321-11)

§11-94.2-23 Quality assurance and performance improvement. (a) The facility shall develop, implement, and maintain an effective, comprehensive, data-driven quality assurance and performance improvement program that focuses on indicators of the outcomes of care and quality of life for the full range of care and services provided by the facility.

(b) The administrator shall be responsible and accountable for ensuring the program is defined, implemented, and maintained and addresses identified priorities, and is annually approved by the governing body.

(c) The program shall be described in a written plan containing the process that will guide the facility's efforts in assuring care and services are maintained at acceptable levels of performance and continuous improvement. [Eff] (Auth: HRS §§321-9, 321-11) (Imp: HRS §§321-9, 321-11)

§§11-94.2-24 to 11-94.2-26 (Reserved).

SUBCHAPTER 4

RESIDENT CARE REQUIREMENTS

§11-94.2-27 Resident rights and facility practices. Written policies regarding the rights and responsibilities of residents during the resident's stay in the facility shall be established and shall be made available to the resident, resident family, legal guardian, surrogate, sponsoring agency or representative payee, and the public upon request. A facility must protect and promote the rights of each resident, including:

(1) The free exercise of rights as a resident of the facility and as a citizen or resident of the United States;

(2) The right to be free of interference, coercion, discrimination, and reprisal from

the facility that shall include the right to be free of chemical or physical restraints not medically indicated;

(3) The right to be fully informed, both orally and in writing in a language understood by the resident, or in a manner that allows for the resident's understanding, of the resident's rights and all rules and regulations governing resident conduct and responsibilities;

(4) The right to a dignified existence, self-determination, and communication with and access to persons and services inside and outside the facility;

(5) The right to access all records pertaining to the resident, including current clinical records, and to purchase copies of those records at a cost not to exceed community standards;

(6) The right to be informed in a language, or in a manner that the resident understands, of the resident's health status and medical condition;

(7) The right to refuse treatment, to refuse to participate in experimental research, and to formulate an advance directive;

(8) The right to be informed of medicaid benefits and requirements and procedures for establishing eligibility;

(9) The right to names, addresses, and telephone numbers of pertinent resident advocacy groups;

(10) The right to manage the resident's financial affairs to the extent the resident is competent and capable of doing so;

(11) The right to choose a personal physician to the extent the resident is competent and capable of doing so;

(12) The right to be fully informed in advance about care and treatment and of any changes

in that care and treatment and the right to participate in planning care and treatment, unless adjudged incompetent or incapacitated;

(13) The right to be fully informed, prior to or at the time of admission and during the resident's 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;

(14) The right to personal privacy and confidentiality of personal and clinical records; and

(15) The right to translation or interpretation services or other communication assistance as necessary. [Eff] (Auth: HRS §§321-9, 321-11) (Imp: HRS §§321-9, 321-11)

§11-94.2-28 Resident accounts. (a) In the event the resident or family member requests the facility to manage the resident's personal funds, an itemized account shall be made available in writing to the resident or the legal guardian or surrogate, and shall be maintained and kept current for the resident, including:

(1) Written receipts for all personal possessions and funds received by or deposited with the facility; and

(2) Written receipts for all disbursements made to, or on behalf of, the resident.

(b) Upon request of each resident or legal guardian or surrogate, articles kept for safekeeping shall be released.

(c) Neither the administrator nor any staff member nor any member of the governing board, nor any owner of a facility shall serve as legal guardian or surrogate for a resident. [Eff] (Auth: HRS §§321-9, 321-11) (Imp: HRS §§321-9,321-11)

§11-94.2-29 Resident abuse, neglect, and misappropriation of resident property. (a) The facility shall develop and implement written policies and procedures that prohibit mistreatment, neglect, and abuse of residents and misappropriation of resident property.

(b) All alleged violations involving mistreatment, neglect, or abuse, including injuries of unknown source or origin, and alleged misappropriation of resident property shall be reported immediately to the administrator of the facility, and to other officials in accordance with state law through established procedures.

(c) The resident involved, and the resident's family, legal guardian, or surrogate shall be informed of the alleged violation and the investigation that is being conducted.

(d) The facility shall maintain a record that all alleged violations were thoroughly investigated and shall take all reasonable steps to prevent further abuse while the investigation is in progress.

(e) The results of all investigations shall be reported to the administrator of the facility or the designated representative and to other officials, including the department, in accordance with state law within five working days of the incident.

(f) If the alleged violation is verified, appropriate corrective action shall be taken to protect the resident's safety as well as other residents in the facility. [Eff] (Auth: HRS §§321-9, 321-11) (Imp: HRS §§321-9, 321-11)

§11-94.2-30 Resident care. The facility shall have written policies and procedures that address all aspects of resident care needs to assist the resident to attain and maintain the highest practicable health and medical status, including but not limited to:

(1) Respiratory care including ventilator use;

(2) Dialysis;

(3) Skin care and prevention of skin breakdown;

(4) Nutrition and hydration;
(5) Fall prevention;
(6) Use of restraints;
(7) Communication; and
(8) Care that addresses appropriate growth and development when the facility provides care to infants, children, and youth.
[Eff] (Auth: HRS §§321-9, 321-11) (Imp: HRS §§321-9, 321-11)

§§11-94.2-31 to 11-94.2-35 (Reserved).

SUBCHAPTER 5

PROGRAM REQUIREMENTS

§11-94.2-36 Admission, transfer, and discharge. (a) There shall be written policies and procedures available to staff, residents, and the public that govern:

(1) All services provided by the facility;
(2) The admission, transfer, and discharge of residents; and.
(3) Notification to the resident, resident's representative, and the state long term care ombudsman of transfer or discharge initiated by the facility.

(b) These policies shall ensure that:

(1) The facility shall not discriminate against admission of any individual as per all federal and state civil rights and anti-discrimination regulations. Should the facility not be able to provide care and services to individuals based on their age, i.e., infants and youth, or specific disability, the facility will need to indicate so in their policies and procedures and by-laws;

(2) The facility shall accept only those residents whose needs can be met by the facility directly or in cooperation with community resources or other providers of care with which it is affiliated or has contracts;

(3) As changes occur in a resident's physical or mental condition necessitating a different level of service or care that cannot be adequately provided by the facility, the residents shall be transferred promptly to a facility capable of providing an appropriate level of care;

(4) Except in the case of an emergency, the resident or the resident's legal guardian, family, or surrogate and the attending physician shall be informed in advance of the transfer or discharge to another facility; and

(5) The facility's buildings are constructed, equipped, and maintained to protect the resident's health, and assure the safety of residents, personnel, and visitors.

(c) The facility shall permit each resident to remain in the facility and shall not transfer or discharge the resident from the facility unless:

(1) The transfer or discharge is necessary for the resident's welfare, or the resident's needs cannot be met in the facility;

(2) The transfer or discharge is appropriate because the resident's health has improved sufficiently such that the services provided by the facility are no longer needed;

(3) The health and safety of individuals in the facility are, or would otherwise be, endangered;

(4) The resident has failed, after reasonable and appropriate notice, to pay for all costs attendant to residency at the facility; or

(5) The facility license is terminated, revoked, or suspended.

(d) The facility shall provide supportive counseling and preparation to the resident to ensure safe and orderly transfer or discharge from the facility to mitigate possible relocation stress.

(e) At the time of transfer for hospitalization or therapeutic leave, the facility shall provide written information to the resident concerning the facility's bedhold policy. [Eff] (Auth: HRS §§321-9, 321-11) (Imp: HRS §§321-9, 321-11)

§11-94.2-37 Social work services. (a) The facility shall provide medically related social work services to help residents attain or maintain the residents' highest practicable physical, mental, and psychosocial well-being.

(b) The number of hours of social work services shall be determined by the resident capacity, acuity level, and needs.

(c) Social work services provided to each resident shall be documented in each resident's medical record and shall include but not be limited to:

(1) A social history and assessment of current social and emotional needs;

(2) A social work plan of care for each resident recorded in the medical record and integrated into the comprehensive assessment and overall care plan coordinated or integrated with other various disciplines;

(3) A discharge plan, as appropriate; and

(4) Evidence of regular review of social work services and discharge plan in

conjunction with the overall plan of care. [Eff] (Auth: HRS §§321-9, 321-11) (Imp: HRS §§321-9, 321-11)

§11-94.2-38 Activities. (a) The facility must provide for an ongoing program of age-appropriate activities designed to meet the interests, physical, mental, and psychosocial well-being of each resident.

(b) The activities program shall be directed by an activity professional.

(c) A schedule of activities shall be made available for review by the department as requested. [Eff] (Auth: HRS §§321-9, 321-11) (Imp: HRS §§321-9, 321-11

§11-94.2-39 Nursing services. (a) Each facility shall have nursing staff sufficient in number and qualifications to meet the nursing needs of the residents. There shall be at least one registered nurse at work full-time on the day shift, for eight consecutive hours, seven days a week, and at least one licensed nurse at work on the evening and night shifts, unless otherwise determined by the department.

(b) Nursing services shall include but are not limited to the following:

(1) A comprehensive nursing assessment of each resident and the development and implementation of a plan of care within five days of admission. The nursing plan of care shall be developed in conjunction with the physician's admission physical examination and initial orders. A nursing plan of care shall be integrated with an overall plan of care developed by an interdisciplinary team no later than the twenty-first day after, or simultaneously, with the initial interdisciplinary care plan conference;

(2) Written nursing observations and summaries of the resident's status recorded, as appropriate, due to changes in the resident's condition, but no less than quarterly; and

(3) Ongoing evaluation and monitoring of direct care staff to ensure quality resident care is provided.

(c) There shall be a registered nurse designated as the nursing administrator or director of nursing who will be responsible for all nursing services.

(d) Should drug or medication administration be delegated pursuant to chapter 16-89, subchapter 15, there shall be documented evidence of a training program, individuals receiving training, and ongoing monitoring and evaluation to assess compliance with requirements.

(e) There shall be a policies and procedures manual that is kept current and consistent with current nursing and medical practices and approved by the medical advisor or director and the person responsible for nursing procedures. The policies and procedures shall include but not be limited to:

(1) Written procedures for personnel to follow in an emergency including:

(A) Care of the resident;

(B) Notification of the attending physician and other persons responsible for the resident; and

(C) Arrangements for transportation, hospitalization, or other appropriate services;

(2) All treatment and care provided relative to the resident's needs and requirements for documentation; and

(3) Medication or drug administration procedures that clearly define drug administration process, documentation,

and authorized individuals able to administer medications or drugs. [Eff] (Auth: HRS §§321-9, 321-11) (Imp: HRS §§321-9, 321-11)

§11-94.2-40 Dietary services. (a) The food and nutritional needs of the residents shall be met through a nourishing, well-balanced diet in accordance with the recommended dietary allowances of the Food and Nutrition Board of the National Research Council, and shall be adjusted for age, sex, activity, and disability.

(1) At least three meals shall be served daily at regular times with not more than a fourteen hour span between a substantial evening meal and breakfast on the following day;
(2) Between meals nourishment that is consistent with the resident's needs shall be offered routinely and shall include a regular schedule of hydration to meet each resident's needs;
(3) Appropriate substitution of foods shall be promptly offered to all residents as necessary;
(4) Food shall be served in a form consistent with the needs of the resident and the resident's ability to consume it;
(5) Food shall be served with appropriate utensils;
(6) Residents needing special equipment, implements, or utensils to assist them when eating shall have the items provided by the facility; and
(7) There shall be a sufficient number of competent personnel to fulfill the food

and nutrition needs of residents. Paid feeding attendants shall be trained as per the facility's state-approved training protocol.

(b) All diets prepared for residents shall be:

(1) Prescribed by the resident's physician, physician assistant, or APRN with a record of the diet as ordered kept on file;

(2) Planned, prepared, and served by qualified personnel according to diet prescription. The current Hawaii Dietetic Association Manual or The Manual of Clinical Dietetics of the American Dietetic Association or both shall be readily available to all medical, nursing, and food service personnel;

(3) All diets shall appropriately meet the nutrient, texture, and fluid needs of each resident; and

(4) Therapeutic or special diets shall be planned by a dietitian and served accordingly as prescribed by the resident's physician, physician assistant, or APRN.

(c) A nutritional assessment and care plan shall be recorded in each resident's medical record and integrated into the overall comprehensive assessment and overall plan of care coordinated/integrated with all disciplines. The nutritional assessment and care plan shall be reviewed on a regular basis and adjusted as needed.

(d) The food service shall be directed by a dietary manager. If the food service is directed by a dietary manager who is not a dietitian, there shall be frequent and regularly scheduled consultation with, and in-service education by, a dietitian. Consultation and in-service education shall be appropriate to the needs of the dietary personnel and

residents of the facility, and this shall be documented. In-service education specific to the needs of the dietary staff shall be provided at least on a semi-annual basis.

(e) A facility may provide for food service by contract with an outside supplier. The method of transport, storage, preparation, and serving of food, as well as the method of providing prompt, appropriate substitution of foods in therapeutic or special diets shall be approved by the dietitian or dietary manager prior to the implementation of the contract.

(f) The facility shall have a food service plan documented and available for department review that shall include but not be limited to the following:

(1) Menus shall be written at least one week in advance;

(2) Menus shall provide a sufficient variety of foods served in adequate amounts at each meal, and be adjusted for seasonal changes along with resident preference;

(3) A different menu shall be followed for each day of the week. If a cycle menu is used, the cycle shall cover a minimum of four weeks;

(4) All menus shall be filed and maintained with any recorded changes for at least three months; and

(5) Menus shall be in place for at least three to five days of meal service in case of a natural or external disaster. A plan for meal service in the event of an internal disaster such as interruption of power or water supply shall also be in place and available for departmental review.

[Eff] (Auth: HRS §§321-9, 321-11) (Imp: HRS §§321-9, 321-11)

§11-94.2-41 Storage and handling of food. (a) All food shall be procured, stored, prepared, distributed, and served under sanitary conditions.

(1) Dry or staple food items shall be stored above the floor in a ventilated room not subject to seepage or wastewater backflow, or contamination by condensation, leakages, rodents, or vermin; and

(2) Perishable foods shall be stored at the proper temperatures to conserve nutritive value and prevent spoilage.

(b) Effective procedures to promptly and consistently clean all equipment and work areas shall be enforced.

(c) Hand-washing facilities, including hot and cold water, soap, and paper towels adjacent to the work areas shall be provided.

(d) In the kitchen and food preparation areas, receptacles shall be kept closed by tight-fitting covers, except in the kitchen during hours of food preparation and serving. [Eff] (Auth: HRS §§321-9, 321-11) (Imp: HRS §§321-9, 321-11)

§11-94.2-42 Physician services. (a) Admission orders and ongoing orders by a physician, physician assistant, or APRN and plan of treatment shall be in writing and carried out by the staff of the facility including arrangement for transfer to other facilities when indicated.

(b) Each resident admitted to the facility shall be under the care of a physician selected by the resident, legal guardian, or surrogate.

(c) The facility shall ensure that arrangements have been made for all physician, physician assistant, or APRN visits and services.

(d) Physicians, physician assistants, or APRNs shall visit the facility as necessary to assure that adequate medical care is being provided, review plan of care, make pertinent recommendations, and determine appropriate level of care of resident.

(e) Physician visits shall be made at least once every thirty days for the first ninety days of stay. After ninety days, a schedule of no less than quarterly visits may be adopted; however, this does not apply to residents who require specialized rehabilitative services. APRN, physician assistant, and physician visits may be alternated after the initial physician visit.

(f) Physicians, physician assistants, or APRNs shall provide an annual health evaluation of each resident.

(g) Each resident shall have a physical examination by a physician, physician assistant, or APRN within five days prior to admission or within one week after admission, and shall have had a tuberculosis clearance within the previous year, pursuant to section 11-164-10.

(h) The facility shall promptly notify the physician, physician assistant, or APRN of any accident, injury, or change in the resident's condition.

(i) The physician, physician assistant, or APRN shall write a discharge summary to ensure adequate continuing care when a resident is transferred to another primary care provider.

(j) Each resident shall receive age-appropriate immunizations or vaccinations including but not limited to pneumococcal and annual influenza vaccines and any necessary immunizations following the recommendations of the Advisory Committee of Immunization Practices unless otherwise contraindicated, or refused by the resident, legal guardian, or surrogate. All immunizations provided shall be documented in each resident's medical record. [Eff] (Auth: HRS §§321-9, 321-11) (Imp: HRS §§321-9, 321-11)

§11-94.2-43 <u>Interdisciplinary care process.</u> (a) A comprehensive assessment shall be completed for each resident by an interdisciplinary team at least

annually and updated as appropriate, based on the resident's condition.

(b) An individualized, interdisciplinary overall plan of care shall be developed to address prioritized resident needs including nursing care, social work services, medical services, rehabilitative services, restorative care, preventative care, dietary or nutritional requirements, and resident/family education.

(c) The overall plan of care shall be reviewed periodically by the interdisciplinary team to determine if goals have been met, if any changes are required to the overall plan of care, and as necessitated by changes in the resident's condition.

(d) Implementation of the overall plan of care shall be documented in each resident's medical record. [Eff] (Auth: HRS §§321-9, 321-11) (Imp: HRS §§321-9, 321-11)

§11-94.2-44 Specialized rehabilitation services. (a) The facility shall provide for specialized and supportive rehabilitation services, including occupational therapy, physical therapy, and speech therapy, according to the needs of each resident, either directly by qualified staff or through arrangements with qualified outside resources. Services shall be programmed to:

(1) Preserve and improve the resident's maximal abilities for independent function;

(2) Prevent, insofar as possible, irreversible or progressive disabilities; and

(3) Provide for the procurement and maintenance of assistive devices as needed by the resident to adapt and function within the resident's environment.

(b) A written rehabilitative plan of care integrated into the overall plan of care, shall be

provided that is based on the attending physician's, physician assistant's, or APRN's orders and assessment of a resident's needs in regard to specialized rehabilitative procedures. It shall be developed by the rehabilitative staff and incorporated in, and regularly reviewed in conjunction with, the overall care plan for the resident.

(c) Physician's orders for evaluation and treatment shall be documented in each resident's medical record.

(d) Rehabilitation services shall have adequate space, facilities, equipment, supplies, and other related resources.

(e) Rehabilitation services may be ordered by or recertified by APRNs and physician assistants, if within their scope of practice. [Eff] (Auth: HRS §§321-9, 321-11) (Imp: HRS §§321-9, 321-11)

§11-94.2-45 Dental services. (a) Emergency and restorative dental services shall be available to each resident.

(b) Each resident or resident's legal guardian, or surrogate shall select the dentist of his or her choice, and the facility shall assist each resident to obtain necessary dental care by making arrangements for appointments and transportation, as requested. [Eff] (Auth: HRS §§321-9, 321-11) (Imp: HRS §§321-9, 321-11)

§11-94.2-46 Pharmaceutical services. (a) Each facility shall employ a licensed pharmacist or shall have a written contractual arrangement with a licensed pharmacist, to provide consultation on methods and procedures for ordering, storing, administering, disposing, and recordkeeping of drugs and biologicals, and provisions for emergency service.

(b) A facility shall have a current pharmacy policy manual consistent with current pharmaceutical

practices developed and approved by the pharmacist, medical director/medical advisor, and director of nursing that:

(1) Includes policies and procedures, and defines the functions and responsibilities relating to pharmacy services, including the safe administration and handling of all drugs and self-administration of drugs. Policies and procedures shall include pharmacy functions and responsibilities, formulary, storage, administration, documentation, verbal and telephone orders, authorized personnel, recordkeeping, and disposal of drugs;

(2) Is reviewed at least every two years and revised as necessary to keep abreast of current developments in overall drug usage; and

(3) Has a drug recall procedure that can be readily implemented.

(c) As authorized by facility policy and state law, a physician, physician assistant, or APRN shall order medications, either in writing or verbally, to be administered to a resident.

(d) A physician's, physician assistant's, or APRN's verbal orders for prescription drugs shall be given only to a licensed nurse, pharmacist, or another physician.

(e) All verbal or telephone orders for medication shall be recorded and signed by the licensed person receiving them and shall be authenticated by the prescribing physician according to the policies and procedures of the facility.

(f) The physician, physician assistant, or APRN shall review all orders at the time of the visit to the resident.

(g) Each drug shall be rechecked and identified immediately prior to administration.

(h) Prescription medication shall not be used for any resident other than the resident for whom it was issued. Stock supply items may be administered per facility protocol.

(i) Appropriately licensed and trained staff shall be responsible for the entire act of medication administration, which entails removing an individual dose from a container properly labeled by a pharmacist or manufacturer (unit dose included), verifying the dosage with the physician's orders, giving the specified dose to the proper resident, and promptly recording the time, route, and dose given to the resident, and signing the record. Only a licensed nurse, physician, or other individual to whom the licensed professional has delegated the responsibility pursuant to chapter 16-89, subchapter 15, may administer medications.

(j) Medication errors and drug reactions shall be recorded in the resident's chart and reported immediately to the physician, physician assistant, or APRN who ordered the drug, and a medication error report shall be prepared and given to the administrator of the facility or director of nursing for review and appropriate action, according to facility policy.

(k) Drugs shall be stored under proper conditions of sanitation, temperature, light, moisture, ventilation, segregation, and security.

(l) All drugs, including drugs that are stored in a refrigerator, shall be kept under lock and key, except when authorized personnel are in attendance. The facility shall be in compliance with all security requirements of federal and state laws as they relate to storerooms and pharmacies.

(m) Drugs for external and internal use shall be kept separate and stored in locked, well-marked, separate cabinets.

(n) Discontinued and outdated prescriptions and containers with worn, illegible, or missing labels shall be disposed of according to facility policy.

(o) A pharmacist shall, on a monthly basis, review the record of all residents receiving medications to determine potential adverse reactions, interactions, and contraindications. The review and any concerns identified shall be documented in the resident's record.

(p) When appropriateness of drugs or dosage of drugs as ordered are questioned by the pharmacist or licensed nurse, the licensed nurse or the pharmacist shall consult the physician, and a record of the consultation shall be made available to the administrator of the facility or director of nursing. [Eff] (Auth: HRS §§321-9, 321-11) (Imp: HRS §§321-9, 321-11)

§11-94.2-47 Adult day health services. (a) If a nursing facility chooses to provide adult day health services in its facility, the space and staff requirements for the adult day health service activities shall not reduce the space and staff requirements of the nursing facility.

(b) Client records in adult day health services shall include a pertinent medical history, nursing assessment, emergency telephone numbers, and a plan of care. Adult day health service client records shall be kept separate from the medical records of the nursing facility residents.

(c) All care and services provided to the adult day health service client shall be consistent with the assessment and plan of care and physician orders, as applicable. [Eff] (Auth: HRS §§321-9, 321-11) (Imp: HRS §§321-9, 321-11)

§§11-94.2-48 to 11-94.2-52 (Reserved).

SUBCHAPTER 6

ENVIRONMENTAL HEALTH STANDARDS

§11-94.2-53 Infection control. (a) There shall be appropriate policies and procedures written and implemented for the prevention and control of infectious diseases that shall be in compliance with all applicable laws of the State, rules of the department relating to infectious diseases and infectious waste, and national standards such as the Centers for Disease Control and Prevention and Centers for Medicare & Medicaid Services.

(b) The facility shall have provisions for isolating residents with infectious diseases until appropriate transfers can be made.

(1) The facility shall have a written policy that outlines proper isolation and infection control techniques and practices;

(2) At least one single bedroom shall be designated as an isolation room as needed and shall have:

(A) An adjoining toilet room with nurses' call system, a lavatory, and a toilet;

(B) Appropriate hand-washing facilities available to all staff; and

(C) Appropriate methods for cleaning and disposing of contaminated materials and equipment;

(3) The facility shall ensure that visual observations of the resident can be made in each isolation room:

(A) By means of the view window in each isolation room; or

(B) By an approved mechanical system e.g., closed circuit television monitoring;

(4) The facility shall have documented evidence that every employee has both an initial employment evaluation and an annual health evaluation. These evaluations shall be specifically oriented to determine the presence of any infectious disease liable to harm a resident;

(5) 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;

(6) There shall be a documented record that every employee and resident have an initial and an annual tuberculosis (TB) clearance. Facilities shall comply with the most current and updated guidelines as set forth in chapter 11-164, Exhibit A; and

(7) When a known negative tuberculin skin test on an 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.

[Eff] (Auth: HRS §§321-9, 321-11) (Imp: HRS §§321-9, 321-11)

§11-94.2-54 Sanitation. (a) The facility shall comply with all applicable laws of the State and rules of the department relating to sanitation.

(b) Written summary reports of inspections by state or county health authorities, and records of action taken in response to deficiencies and recommendations shall be kept on file at the facility.

(c) Every facility shall provide a sufficient number of watertight receptacles of metal or other material acceptable to the department for rubbish, garbage, refuse, and other discarded matter. An area shall be provided for the washing and cleaning of garbage containers and the storage of garbage, trash, and solid waste.

(d) Every facility shall maintain an effective pest control program so that the facility is free of pests and rodents. [Eff] (Auth: HRS §§321-9, 321-11) (Imp: HRS §§321-9, 321-11)

§11-94.2-55 Housekeeping. (a) Each facility shall have a plan for routine periodic cleaning of the entire building and premises.

(b) After discharge of any resident, the resident's bedroom and equipment shall be thoroughly cleaned prior to reuse.

(c) Floors, sinks, toilets, and showers in resident areas shall be cleaned at least once daily.

(d) The facility shall be kept free of unreasonable accumulation of personal possessions.

(e) All floors, walls, ceilings, windows, and fixtures shall be kept clean and in good repair.

(f) All areas that have contained infectious residents and materials shall be thoroughly cleaned with appropriate sanitizing methods.

(g) All combustible, potentially hazardous, or poisonous agents used for the cleaning of the facility shall be stored in a secured and locked area. [Eff] (Auth: HRS §§321-9, 321-11) (Imp: HRS §§321-9, 321-11)

§11-94.2-56 Laundry service. (a) Laundry service shall be managed so that daily clothing and linen needs are met without delay and in compliance

with facility policies and procedures for infection control.

(b) Personnel must handle, store, process, and transport linens so as to prevent the spread of infection.

(1) Provisions shall be made for the handling, storage, and transportation of soiled and clean laundry and for satisfactory cleaning procedures;

(2) Provisions may be made for contract service outside the facility in a laundry approved by the department;

(3) Laundry contaminated with blood, blood products, or infectious waste shall be handled in accordance with U.S. Department of Labor, Occupational Safety and Health Administration (OSHA) regulation 29 C.F.R., Part 1910.1030;

(4) Clean linen shall be stored in enclosed areas; and

(5) Hampers shall be provided for soiled linen.

[Eff](Auth: HRS§§321-9, 321-11) (Imp: HRS §§321-9, 321-11)

§11-94.2-57 Life safety. (a) Facilities licensed under this chapter shall be inspected by appropriate fire authorities for compliance with the current state and county life safety rules and ordinances.

(b) Smoking rules shall be adopted in accordance with applicable state, federal, and county laws, statutes, and regulations. "No Smoking" signs shall be posted where flammable liquids, combustible gases, or oxygen are used or stored. Smoking by residents shall be permitted only under supervision in designated areas, and ashtrays shall be provided.

(c) Electric heating pads shall be prohibited.

(d) Facilities shall have written procedures in case of fire, disasters, and emergencies.

(e) The facility evacuation plan shall be posted in prominent locations on each floor.

(f) Fire drills shall be conducted at least quarterly, for each shift, under varied conditions. At least twelve drills shall be held every year and reports filed in the facility and available for review by the department.

(g) All employees shall be instructed and kept informed regarding their duties under the fire, disaster, and emergency programs.

(h) The facility shall establish procedures to ensure that water is available to essential areas when there is a loss of normal water supply.

(i) The facility shall ensure the availability of emergency power:

(1) An emergency electrical power system shall be available and shall, at a minimum, supply power adequate for lighting all entrances and exits and the equipment to maintain the fire detection, alarm, and extinguishing systems, and life support systems in the event the normal electrical supply is interrupted; and

(2) When life support systems are used, the facility must provide emergency electrical power to those life support systems with an emergency generator (as defined in the most current National Fire Protection Association Code, Health Care Facilities) that is located on the premises. [Eff] Auth: HRS §§321-9,321-11) (Imp: HRS §§321-9, 321-11)

§11-94.2-58 <u>Emergency preparedness.</u> (a) There shall be written policies and procedures to follow in an emergency that shall include provisions for the following:

(1) Arranging for rapid primary care provider assistance;

(2) Transportation arrangements for hospitalization or other services that are appropriate;
(3) Maintenance of an appropriate emergency preparedness kit for all emergencies or disasters; and
(4) Preparedness for all hazards to include but not be limited to:
(A) Natural disasters such as tropical storm, hurricane, flooding, tsunami, earthquake, and any island-specific disaster such as volcanic eruption and lava flow;
(B) Fire;
(C) Medical emergencies;
(D) Terrorist threat;
(E) Pandemic flu; and
(F) Public health emergencies.

(b) The facility shall develop and maintain a written disaster preparedness plan consistent with state and local civil defense guidelines that includes the evacuation capacity designation to be followed in case of an emergency or disaster. A copy of the plan shall be readily available at all times within the facility. The plan shall include procedures for evacuating all individuals in the facility to an approved point of safety as designated by the county authority or designated shelter as determined by the state or local civil defense, unless the facility has been determined by the State to be capable of sheltering in place. The plan shall include the following:

(1) Fire drills that include the transmission of a fire alarm signal and that shall be held at least quarterly for each shift, under varied conditions. At least twelve drills shall be held every year and reports filed in the facility;
(2) Specific provisions and plan for evacuating residents with specific

details for residents with impaired mobility or cognitive impairments;

(3) Specific provisions and plan for transporting all of the residents of the facility to a pre-determined appropriate facility or facilities that will accommodate all the residents of the facility in case of a disaster requiring evacuation of the facility;

(4) Specific provision to determine the safety of the facility post-disaster prior to the return of evacuated residents;

(5) Specific provisions for transfer of residents should the facility not be determined to be structurally sound post-disaster and plan for continuing operations;

(7) Evacuation drills shall be conducted at least quarterly and documented; and

(8) A written transfer agreement with the appropriate facility or facilities for accommodating all of the residents of the facility in case of a disaster requiring evacuation of the facility.

[Eff] (Auth: HRS §§321-9, 321-11) (Imp: HRS §§321-9, 321-11)

§§11-94.2-59 to 11-94.2-63 (Reserved).

SUBCHAPTER 7

PHYSICAL FACILITY STANDARDS

§11-94.2-64 Engineering and maintenance. (a) The facility shall maintain all essential mechanical, electrical, and resident care equipment in safe operating condition.

(b) The facility shall have an appropriate written preventive maintenance program.

(c) The facility shall provide sufficiently trained and experienced personnel to accomplish the required engineering and maintenance functions within the facility or available through contract with an appropriate provider(s).

(d) The facility shall maintain records that document that inspection of all devices essential to the health and safety of residents and personnel shall be carried out at sufficient intervals to ensure proper operational performance. [Eff] (Auth: HRS §§321-9, 321-11) (Imp: HRS §§321-9, 321-11)

§11-94.2-65 Construction requirements. (a) The facility's buildings shall be constructed and equipped to protect the health and assure the safety of residents, personnel, and visitors.

(b) The facility shall be fully accessible to, and functional for, physically disabled residents, personnel, and the public.

(1) Resident living areas shall be designed and equipped for the comfort and privacy of the resident;

(2) Temperature and humidity shall be maintained within a normal comfort range;

(3) There shall be provisions within the facility for one or more areas of resident dining, diversional, and social activities. Total area for recreational and dining activities shall be not less than thirty-seven and one-half square feet per bed;

(A) Dayrooms shall be equipped with reading lamps, adequate lighting, tables, chairs, or their equivalent, for the use and comfort of the residents;

(B) Dining areas shall be equipped with tables and safe chairs. A

sufficient number of tables shall be of proper height to accommodate wheelchair residents. As possible, residents shall be transferred from wheelchairs to safe chairs during meals;

(C) If a multi-purpose room is used for dining, diversional, and social activities, there shall be sufficient space to accommodate all activities and prevent their interference with each other; and

(D) In the event that adult nonresidents (including adult day health services) use part of the facility twenty-four hours or more a week on a regular basis, additional space must be provided on the following basis for those persons:

(i) Twenty square feet per person in dining areas;

(ii) Thirty square feet per person in recreational areas;

(iii) One conveniently located toilet for each eight persons; and

(iv) Sufficient additional staff shall be provided to care for the needs of the persons;

(4) Illumination shall be provided for the comfort and safety of residents and personnel; and

(5) Wall or door mirrors shall be provided and placed at convenient heights for resident use.

(c) The facility shall ensure resident accessibility to living and service areas:

(1) There shall be adequate space to allow free movement of occupants using

wheelchairs, walkers, canes, and crutches to beds, bathrooms, closets, and common hallways;

(2) Areas used for recreation, cooking, dining, storage, bathrooms, laundries, foyers, corridors, lanais, libraries, and other areas not suitable for sleeping shall not be used as bedrooms;

(3) Access from each bedroom to a bathing room, toilet or lavatory, or corridor shall not require passing through another bedroom, cooking, dining, or recreational area; and

(4) All occupants of any bedroom shall be of the same sex except for those semi-private rooms that may be occupied by married couples or long-time non-married couples upon request.

(d) The facility shall have adequate toilet and bath facilities:

(1) One toilet room shall serve not more than eight residents;

(2) The toilet room shall contain a toilet and washbasin. The washbasin may be omitted from a toilet room that serves single or multi-bed rooms if each resident room contains a washbasin;

(3) There shall be one shower or tub for each fourteen beds that are not otherwise served by bathing facilities within the resident room;

(4) Appropriately placed and mounted safety-grab bars shall be provided in each toilet, bathtub, or shower enclosure;

(5) Curtains or doors to ensure privacy shall be provided;

(6) An adequate supply of potable running water shall be provided at all times. Temperatures of hot water at plumbing fixtures used by the residents shall be

automatically regulated and shall not be below 100 or above 120 degrees Fahrenheit;

(7) Each toilet and bath facility shall have a call system that permits the occupant to signal the nursing station in an emergency;

(8) Where bedpans are used, equipment for their care shall be provided in an appropriate area of the facility;

(9) Provisions shall be made for disinfecting of permanent personal care equipment unless disposables are used; and

(10) Separate toilet facilities shall be provided for the use of residents and personnel.

(e) The facility shall have resident bedrooms that ensure the health and safety of residents:

(1) Each room shall be at or above grade level;

(2) Each resident bedroom shall have window coverings to provide an adequate means of ensuring privacy;

(3) Resident bedrooms shall have not more than four beds;

(4) Single resident bedrooms shall measure at least one hundred square feet of usable space, excluding closets, bathrooms, alcoves, and entryways;

(5) Multi-resident bedrooms shall provide a minimum of eighty square feet per bed of usable space, excluding closets, bathrooms, alcoves, and entryways;

(6) Bedside screens or curtains shall be provided in multi-bed bedrooms to ensure privacy for each resident;

(7) Beds shall be placed at least three feet apart; and

(8) Each resident shall be provided with:

(A) A separate bed of proper size and height for the convenience of the resident and that permits an individual in a wheelchair to get in and out of bed unassisted;
(B) A comfortable mattress with impermeable mattress cover, and a pillow with an impermeable cover;
(C) Sufficient clean bed linen and blankets to meet the resident's needs;
(D) Appropriate furniture, cabinets, and closets, accessible to and meeting individual resident's needs. Locked containers shall be available upon resident's request; and
(E) An effective signal call system at the resident's bedside.

(f) Ramps must be designed to permit use by residents in wheelchairs. Ramps shall comply with the American with Disabilities Act requirements (28 C.F.R. Part 36).

(g) The facility shall ensure that floors and walls are maintained as follows:
(1) Floor coverings shall be of slip resistant material that does not retain odors and is flush at doorways; and
(2) Walls, floors, and ceilings of rooms used by residents shall be made of materials that shall permit washing, cleaning, and painting.

(h) The facility shall have adequate windows and lighting:
(1) Each resident bedroom shall have at least one outside window;
(2) Each resident bedroom shall have an aggregate window area of not less than one-tenth of the gross floor area;
(3) Resident bedrooms shall have artificial light adequate for reading at bedside;

(4) There shall be night lighting in resident bedrooms, toilets, and service areas; and

(5) In bedrooms containing wheelchair residents, at least one window shall be low enough to permit outdoor viewing by the wheelchair-bound resident.

(i) Where appropriate, screening of doors and windows shall be provided, using screen having sixteen meshes per inch.

(j) The facility shall ensure that:

(1) Sliding doors or folding doors shall not be used as exit doors, and if used in other areas, shall be of light material and easy to handle; and

(2) Double acting doors shall be provided with vision panels of sufficient height to permit use by walkers as well as wheelchair riders.

(k) The facility corridors shall:

(1) Have a minimum clear width of forty-four inches, except that corridors serving one or more non-ambulatory or semi-ambulatory residents shall be not less than eight feet in width; and

(2) Stationary handrails shall be installed along both sides of corridors.

(l) The facility shall have sufficient storage space:

(1) Locked space shall be provided for janitorial supplies and equipment; and

(2) Conveniently located space for other equipment shall be provided.

(m) The water supply shall be in accordance with chapter 340E, HRS.

(n) Chapter 11-39, relating to air conditioning and ventilating, shall be followed.

(o) Additions and alterations or repairs to existing buildings:

(1) Where the structure was in use for this type of occupancy prior to December 31,

2009, the director, with discretion, may waive or modify any portion of these requirements provided such exceptions do not create a hazard to residents, personnel, or the public;

(2) The provisions of this section shall not prohibit the use of equivalent alternate space use, or new concepts of plan designs and material or systems if written approval of those alterations is granted by the director; and

(3) Facilities shall be constructed and maintained in accordance with provisions of state and county zoning, building, fire safety, and sanitation laws and ordinances.

(p) There shall be an appropriately equipped nursing station in each unit.

(1) At a minimum, the nursing station shall include a telephone, writing space, storage cabinets, and medical record space;

(2) There shall be a nurses' call system that registers calls within hearing range and is directly visible by on-duty personnel; and

(3) There shall be appropriately equipped utility rooms within each nursing unit or on each resident floor. [Eff](Auth: HRS §§321-9, 321-11) (Imp: HRS §§321-9, 321-11)

§§11-94.2-66 to 11-94.2-68 (Reserved).

SUBCHAPTER 8

ADMINISTRATIVE ENFORCEMENT

§11-94.2-69 Enforcement. (a) If the department determines that any person has violated any provision

of this chapter, any provision of chapter 321, HRS, or any term or condition of a license issued pursuant to this chapter, the department may do one or more of the following:

(1) Issue an order assessing an administrative penalty for any past or current violation;
(2) Require compliance immediately or within a specific time; or
(3) Suspend or revoke a license to operate a nursing facility.

(b) Any order issued pursuant to this section may include a suspension, modification, or revocation of any license issued pursuant to this chapter and any administrative penalty assessed in accordance with section 321-20, HRS. The order shall state with reasonable specificity the nature of the violation, the legal bases for the finding of violation, and the right to request an administrative hearing and retain legal counsel. The order shall be sent to the alleged violator by certified mail.

(c) Any order issued under this chapter shall become final, unless not later than twenty days after receipt of the notice of order by certified mail, the alleged violator submits a written request for a hearing, along with a copy of the notice, to the Hearings Officer, c/o Director of Health, 1250 Punchbowl St., Third Floor, Honolulu, Hawaii 96813. The written request for hearing, along with the notice, must be filed with the hearings office within the twenty-day period. The hearing request may be filed in person at the director's office, during regular business hours, at the above address within the allotted time. Failure to timely file the hearing request and related documents may result in a denial of the hearing request. Any penalty imposed under this chapter shall become due and payable twenty days after receipt of the notice of order by certified mail unless the alleged violator requests in writing a hearing before the director. Whenever a hearing is

requested on any penalty imposed under this chapter, the penalty shall become due and payable only upon completion of all review proceedings and the issuance of a final order confirming the penalty in whole or in part. Upon receipt of a request for a hearing, the director or director's designee shall require that the alleged violator appear before the director or the director's designee for a hearing at a time and place specified in a notice of hearing and answer the charges complained of.

(d) Any hearing conducted under this section shall be conducted as a contested case hearing under chapter 91, HRS. If, after a hearing held pursuant to this section, the director or director's designee finds that the violation has, or violations have, occurred, the director or director's designee shall affirm or modify any penalties imposed or shall modify or affirm the order previously issued or issue an appropriate order or orders. If, after the hearing on an order or penalty contained in a notice, the director or the director's designee finds that no violation has occurred or is occurring, the director or the director's designee shall rescind the order or penalty or both.

(e) Nothing in this section shall be construed to nullify or limit other penalties provided elsewhere. [Eff] (Auth: HRS §§321-9, 321-10, 321-11, 321-20) (Imp: HRS §§321-9, 321-10, 321-11, 321-20)

§11-94.2-70 Penalties and remedies. In addition to any other action to enforce these rules, the director may initiate either administrative or judicial proceedings as provided in chapter 321, HRS. [Eff] (Auth: HRS §§321-9, 321-10, 321-11, 321-18, 321-20) (Imp: HRS §§321-9, 321-10, 321-11, 321-18, 321-20)

§§11-94.2-71 to 11-94.2-74 (Reserved).

§11-94.2-75 Severability. If any provision of this chapter or the application thereof to any person or circumstance is held invalid, the remainder of this chapter, or the application of the provision to other persons or circumstances shall not be affected. [Eff] (Auth: HRS §§321-1, 321-9, 321-10, 321-11) (Imp: HRS §§321-1, 321-9, 321-10, 321-11)

§11-94.2-76 Transition. A nursing facility licensed at the time of adoption of these rules shall have a period of six months after July 1, 2021, to institute required changes to meet the requirements set forth in this chapter." [Eff] (Auth: HRS §§321-9, 321-11) (Imp: HRS §§321-9, 321-11)

3. The repeal of chapter 11-94.1 and the adoption of chapter 11-94.2, Hawaii Administrative Rules, shall take effect ten days after filing with the Office of the Lieutenant Governor.

I certify that the foregoing are copies of the rules drafted in the Ramseyer format, pursuant to the requirements of section 91-4.1, Hawaii Revised Statutes, which were adopted on _____, and filed with the Office of the Lieutenant Governor.

ELIZABETH A. CHAR, M.D.
Director
Department of Health

APPROVED AS TO FORM:

_____
Deputy Attorney General