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Fast-Track Regulation Agency Background Document

Agency name	Virginia Board of Health
Virginia Administrative Code (VAC) Chapter citation(s)	12VAC5-371
VAC Chapter title(s)	Regulations for the Licensure of Nursing Facilities
Action title	Amend Regulation Following Periodic Review
Date this document prepared	September 14, 2020

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 14 (as amended, July 16, 2018), the Regulations for Filing and Publishing Agency Regulations (1VAC7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

Brief Summary

Provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.

The Virginia Board of Health recently concluded a periodic review of 12VAC5-371, in which it decided to amend the regulation. References to outdated vaccination protocols have been updated, as has the associated Documents Incorporated by Reference section, and duplicative requirements were removed. A new section and additional definitions has been added to address the statutorily mandated criminal background checks and the remaining sections have been updated for consistency with the statutes and the defined terms in 12VAC5-371-10.

Acronyms and Definitions

Define all acronyms used in this form, and any technical terms that are not also defined in the "Definitions" section of the regulation.

“Agency” means the Virginia Department of Health.

“Board” means the Virginia Board of Health.

“Nursing facility” means any nursing home as defined in § 32.1-123 of the Code of Virginia.

Statement of Final Agency Action

Provide a statement of the final action taken by the agency including: 1) the date the action was taken; 2) the name of the agency taking the action; and 3) the title of the regulation.

The Board of Health approved this Fast Track Action regarding the Regulations for the Licensure of Nursing Facilities on June 4, 2020.

Mandate and Impetus

Identify the mandate for this regulatory change and any other impetus that specifically prompted its initiation (e.g., new or modified mandate, petition for rulemaking, periodic review, or board decision). For purposes of executive branch review, “mandate” has the same meaning as defined in Executive Order 14 (as amended, July 16, 2018), “a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part.”

As required by Virginia Code § 2.2-4012.1, also explain why this rulemaking is expected to be noncontroversial and therefore appropriate for the fast-track process.

The Board is mandated by Va. Code § 2.2-4007.1(D) and Executive Order 14 to conduct a periodic review of its regulations. The most recent periodic review and the opinion of subject matter experts within the agency prompted the Board to amend this regulation. The rulemaking is expected to be noncontroversial because it is being utilized to conform to the statutes and existing regulatory definitions, and no new requirements are being developed that did not already exist in statute. Additionally, the agency’s subject matter experts believe that proposed changes would not jeopardize the protection of public health, safety, and welfare. Further, the additional updates to the regulations do not alter the intent of the regulations or the requirements placed on regulated entities.

Legal Basis

Identify (1) the promulgating agency, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia and Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating agency to regulate this specific subject or program, as well as a reference to the agency’s overall regulatory authority.

Va. Code § 32.1-12 gives the Board the responsibility to make, adopt, promulgate, and enforce such regulations as may be necessary to carry out the provisions of Title 32.1 of the Code of Virginia. Va. Code § 32.1-127 requires the Board to adopt regulations that include minimum standards for (i) the construction and maintenance of hospitals, nursing homes and certified nursing facilities to ensure the environmental protection and the life safety of its patients, employees, and the public; (ii) the operation, staffing and equipping of hospitals, nursing homes and certified nursing facilities; (iii) qualifications and training of staff of hospitals, nursing homes and certified nursing facilities, except those professionals licensed or certified by the Department of Health Professions; (iv) conditions under which a hospital or nursing home may provide medical and nursing services to patients in their places of residence; and (v) policies related to

infection prevention, disaster preparedness, and facility security of hospitals, nursing homes, and certified nursing facilities.

Purpose

Explain the need for the regulatory change, including a description of: (1) the rationale or justification, (2) the specific reasons the regulatory change is essential to protect the health, safety or welfare of citizens, and (3) the goals of the regulatory change and the problems it's intended to solve.

The rationale or justification for this regulatory change is that regulations should be clearly written, up to date, conform to the law, and should be the least burdensome means of protecting the health, safety, and welfare of citizens. The regulatory change is essential to protect the health, safety, and welfare of citizens because unclear regulations hamper licensees' ability to comply, out of date regulations may make reference to standards and practices that are not current, and reducing regulatory burden on nursing facilities allows them to redirect resources to resident care. The goals of this regulatory change are to improve consistency across the sections of this regulatory text, bring the regulatory text into alignment with the statutes; and update references to current medical guidelines.

Substance

Briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both. A more detailed discussion is provided in the "Detail of Changes" section below.

Section 10 Definitions

Added definitions for "barrier crime", "criminal record report", "legal representative", and "sworn disclosure." Removed definitions for "guardian" and "responsible person or party." Revised definition for "facility-managed."

Section 30 License

Added language about the non-applicability of the chapter to certain entities and facilities. Revised text regarding what constitutes an appropriate name and removed text about notifying OLC about name changes. Revised text to more closely align with Section 10's definitions.

Section 40 Licensing process

Revised text to clarify that all nursing facilities must have a COPN prior to receiving a license. Removed text about modifications to the nursing facility that may impact the terms of a license.

Section 60 On-site inspections

Revised text to more closely align with Section 10's definitions.

Section 70 Complaint investigation

Revised text to more closely align with Section 10's definitions.

Section 75 Criminal records check

Created new section to include statutorily mandated criminal records check, including language on how nursing facilities satisfy this requirement when utilizing staff from temporary staffing agencies.

Section 80 Variances

Revised text to reflect the commissioner grants variances and to more closely align with Section 10's definitions.

Section 110 Management and administration

Added language about a nursing facility's requirement to inform the OLC of changes impacting its license. Updated references to documents incorporated by reference. Revised text to more closely align with Section 10's definitions.

Section 120 Governing body

Removed text about notifying OLC about changes impacting a nursing facility license.

Section 130 Administrator

Revised text to more closely align with Section 10's definitions.

Section 140 Policies and procedures

Revised text to more closely align with Section 10's definitions.

Section 150 Resident rights

Revised text to more closely align with Section 10's definitions.

Section 160 Financial controls and resident funds

Revised text to more closely align with Section 10's definitions.

Section 170 Quality assessment and assurance

Revised text to more closely align with Section 10's definitions.

Section 180 Infection control

Revised text to more closely align with Section 10's definitions.

Section 190 Safety and emergency procedures

Revised text to more closely align with Section 10's definitions.

Section 191 Electronic monitoring in resident rooms

Revised text to more closely align with Section 10's definitions.

Section 210 Nurse staffing

Revised text to more closely align with Section 10's definitions.

Section 260 Staff development and inservice training

Revised text to more closely align with Section 10's definitions.

Section 300 Pharmaceutical services

Revised text to more closely align with Section 10's definitions.

Section 330 Restraint usage

Revised text to more closely align with Section 10's definitions.

Section 360 Clinical records

Revised text to more closely align with Section 10's definitions.

Section 380 Laundry services

Revised text to more closely align with Section 10's definitions.

Section 390 Transportation

Revised text to more closely align with Section 10's definitions.

Section 400 Unique design solutions

Repealed this section.

DOCUMENTS INCORPORATED BY REFERENCE (12VAC5-371)

Updated to reflect the changes in the proposed text and to reference the most current edition of each relevant document.

Issues

Identify the issues associated with the regulatory change, including: 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions; 2) the primary advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, include a specific statement to that effect.

The primary advantages to the public is removal of language that was unclear, inconsistent, or outdated. There are no primary disadvantages to the public. There are no primary advantages to the agency or the Commonwealth. There are no primary disadvantages to the agency or the Commonwealth. There is no other pertinent matters of interest to the regulated community, government officials and the public.

Requirements More Restrictive than Federal

Identify and describe any requirement of the regulatory change which is more restrictive than applicable federal requirements. Include a specific citation for each applicable federal requirement, and a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements, or no requirements that exceed applicable federal requirements, include a specific statement to that effect.

There are no requirements in this proposal that exceed applicable federal requirements.

Agencies, Localities, and Other Entities Particularly Affected

Identify any other state agencies, localities, or other entities particularly affected by the regulatory change. "Particularly affected" are those that are likely to bear any identified disproportionate material impact which would not be experienced by other agencies, localities, or entities. "Locality" can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulation or regulatory change are most likely to occur. If no agency, locality, or entity is particularly affected, include a specific statement to that effect.

Other State Agencies Particularly Affected

No other state agencies are particularly affect by this proposed regulatory change.

Localities Particularly Affected

No localities are particularly affected by this proposed regulatory change.

Other Entities Particularly Affected

Nursing facilities and nursing facility applicants will be particularly affected by this proposed regulatory change.

Economic Impact

Pursuant to § 2.2-4007.04 of the Code of Virginia, identify all specific economic impacts (costs and/or benefits), anticipated to result from the regulatory change. When describing a particular economic impact, specify which new requirement or change in requirement creates the anticipated economic impact. Keep in mind that this is change versus the status quo.

Impact on State Agencies

<p><i>For your agency:</i> projected costs, savings, fees or revenues resulting from the regulatory change, including: a) fund source / fund detail; b) delineation of one-time versus on-going expenditures; and c) whether any costs or revenue loss can be absorbed within existing resources</p>	<p>There are no projected costs, savings, fees, or revenues resulting from the regulatory change.</p>
<p><i>For other state agencies:</i> projected costs, savings, fees or revenues resulting from the regulatory change, including a delineation of one-time versus on-going expenditures.</p>	<p>There are no projected costs, savings, fees, or revenues resulting from the regulatory change for other state agencies.</p>
<p><i>For all agencies:</i> Benefits the regulatory change is designed to produce.</p>	<p>This regulatory action is designed to promote and ensure the health and safety of nursing facility residents.</p>

Impact on Localities

<p>Projected costs, savings, fees or revenues resulting from the regulatory change.</p>	<p>There are no projected costs, savings, fees or revenues resulting from the regulatory change for localities.</p>
<p>Benefits the regulatory change is designed to produce.</p>	<p>This regulatory action is designed to promote and ensure the health and safety of nursing facility residents.</p>

Impact on Other Entities

<p>Description of the individuals, businesses, or other entities likely to be affected by the regulatory change. If no other entities will be affected, include a specific statement to that effect.</p>	<p>The individuals, businesses, or other entities likely to be affected by the regulatory change include nursing facility residents, persons seeking to become residents at nursing facilities; licensed nursing facilities; and persons or entities seeking licensure to operate a nursing facility.</p>
<p>Agency's best estimate of the number of such entities that will be affected. Include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that: a) is independently owned and operated and; b) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.</p>	<p>Nursing facility residents and persons seeking to become residents at nursing facilities will be affected. As of November 1, 2019, 32,371 nursing facility beds are authorized in the Commonwealth. As of November 1, 2019, there are 291 licensed nursing facilities in Virginia, of which 12 are believed to be small businesses.</p>

<p>All projected costs for affected individuals, businesses, or other entities resulting from the regulatory change. Be specific and include all costs including, but not limited to:</p> <ul style="list-style-type: none"> a) projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses; b) specify any costs related to the development of real estate for commercial or residential purposes that are a consequence of the regulatory change; c) fees; d) purchases of equipment or services; and e) time required to comply with the requirements. 	<p>There are no projected costs for affected individuals, businesses, or other entities resulting from the regulatory change.</p>
<p>Benefits the regulatory change is designed to produce.</p>	<p>This regulatory action is designed to promote and ensure the health and safety of nursing facility residents.</p>

Alternatives to Regulation

Describe any viable alternatives to the regulatory change that were considered, and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the regulatory change. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in § 2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulatory change.

No alternative was considered because the General Assembly required the Board to adopt regulations governing the licensure of nursing facilities and amending the regulation is the least burdensome, less intrusive, and less costly method to accomplish the purpose of this action.

Regulatory Flexibility Analysis

Pursuant to § 2.2-4007.1B of the Code of Virginia, describe the agency’s analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) establishing less stringent compliance or reporting requirements; 2) establishing less stringent schedules or deadlines for compliance or reporting requirements; 3) consolidation or simplification of compliance or reporting requirements; 4) establishing performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the regulatory change.

No alternatives to the regulatory action were considered because the General Assembly required the Board to adopt regulations governing the licensure of nursing facilities. The regulatory action does not change any standards for small businesses or negatively affect small businesses.

Public Participation

Indicate how the public should contact the agency to submit comments on this regulation, and whether a public hearing will be held, by completing the text below.

As required by § 2.2-4011 of the Code of Virginia, if an objection to the use of the fast-track process is received within the 30-day public comment period from 10 or more persons, any member of the applicable

standing committee of either house of the General Assembly or of the Joint Commission on Administrative Rules, the agency shall: 1) file notice of the objections with the Registrar of Regulations for publication in the Virginia Register and 2) proceed with the normal promulgation process with the initial publication of the fast-track regulation serving as the Notice of Intended Regulatory Action.

If you are objecting to the use of the fast-track process as the means of promulgating this regulation, please clearly indicate your objection in your comment. Please also indicate the nature of, and reason for, your objection to using this process.

The Board is providing an opportunity for comments on this regulatory proposal, including but not limited to (i) the costs and benefits of the regulatory proposal and any alternative approaches, (ii) the potential impacts of the regulation, and (iii) the agency's regulatory flexibility analysis stated in this background document.

Anyone wishing to submit written comments for the public comment file may do so through the Public Comment Forums feature of the Virginia Regulatory Town Hall web site at: <https://townhall.virginia.gov>. Comments may also be submitted by mail, email or fax to Rebekah E. Allen, Senior Policy Analyst, Virginia Department of Health, Office of Licensure and Certification, 9960 Mayland Drive, Suite 401, Henrico, VA 23233; email: regulatorycomment@vdh.virginia.gov; fax: (804) 527-4502. In order to be considered, comments must be received by 11:59 pm on the last day of the public comment period.

Detail of Changes

List all regulatory changes and the consequences of the changes. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. For example, describe the intent of the language and the expected impact. Describe the difference between existing requirement(s) and/or agency practice(s) and what is being proposed in this regulatory change. Use all tables that apply, but delete inapplicable tables.

Table 1: Changes to Existing VAC Chapter(s)

Current section number	New section number, if applicable	Current requirement	Change, intent, rationale, and likely impact of new requirements
10	N/A	<p style="text-align: center;">CHAPTER 371 REGULATIONS FOR LICENSURE OF NURSING FACILITIES Part I Definitions and General Information 12VAC5-371-10. Definitions. The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:</p> <p>"Abuse" means the willful infliction of injury, unreasonable confinement, intimidation, or punishment with resulting physical harm, pain or mental anguish, or deprivation by an individual, including caretaker, of goods or services</p>	<p>CHANGE: The Board is proposing the following changes:</p> <p style="text-align: center;">CHAPTER 371 REGULATIONS FOR LICENSURE OF NURSING FACILITIES Part I Definitions and General Information 12VAC5-371-10. Definitions. The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:</p> <p>"Abuse" means the willful infliction of injury, unreasonable confinement, intimidation, or punishment with</p>

	<p>that are necessary to attain or maintain physical, mental, and psychosocial well-being. This includes verbal, sexual, physical or mental abuse.</p> <p>"Administrator" means the individual licensed by the Virginia Board of Long-Term Care Administrators and who has the necessary authority and responsibility for management of the nursing facility.</p> <p>"Admission" means the process of acceptance into a nursing facility, including orientation, rules and requirements, and assignment to appropriate staff. Admission does not include readmission to the facility after a temporary absence.</p> <p>"Advance directive" means (i) a witnessed written document, voluntarily executed by the declarant in accordance with the requirements of § 54.1-2983 of the Code of Virginia, or (ii) a witnessed oral statement, made by the declarant subsequent to the time he is diagnosed as suffering from a terminal condition and in accordance with the provision of § 54.1-2983 of the Code of Virginia.</p> <p>"Assessment" means the process of evaluating a resident for the purpose of developing a profile on which to base services. Assessment includes information gathering, both initially and on an ongoing basis, designed to assist the multi-disciplinary staff in determining the resident's need for care, and the collection and review of resident-specific data.</p> <p>"Attending physician" means a physician currently licensed by the Virginia Board of Medicine and identified by the resident, or legal representative, as having the primary responsibility in determining the delivery of the resident's medical care.</p> <p>"Board" means the Board of Health.</p> <p>"Certified nurse aide" means the title that can only be used by individuals who have met the requirements to be certified, as defined by the Virginia</p>	<p>resulting physical harm, pain or mental anguish, or deprivation by an individual, including caretaker, of goods or services that are necessary to attain or maintain physical, mental, and psychosocial well-being. This includes verbal, sexual, physical or mental abuse.</p> <p>"Administrator" means the individual licensed by the Virginia Board of Long-Term Care Administrators and who has the necessary authority and responsibility for management of the nursing facility.</p> <p>"Admission" means the process of acceptance into a nursing facility, including orientation, rules and requirements, and assignment to appropriate staff. Admission does not include readmission to the facility after a temporary absence.</p> <p>"Advance directive" means (i) a witnessed written document, voluntarily executed by the declarant in accordance with the requirements of § 54.1-2983 of the Code of Virginia, or (ii) a witnessed oral statement, made by the declarant subsequent to the time he is diagnosed as suffering from a terminal condition and in accordance with the provision of § 54.1-2983 of the Code of Virginia.</p> <p>"Assessment" means the process of evaluating a resident for the purpose of developing a profile on which to base services. Assessment includes information gathering, both initially and on an ongoing basis, designed to assist the multi-disciplinary staff in determining the resident's need for care, and the collection and review of resident-specific data.</p> <p>"Attending physician" means a physician currently licensed by the Virginia Board of Medicine and identified by the resident, or legal representative, as having the primary responsibility in determining the delivery of the resident's medical care.</p> <p><u>"Barrier crime" means any offense set forth in clause (i) of the definition of barrier crime in § 19.2-392.02 of the Code of Virginia.</u></p>
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	<p>Board of Nursing, and who are listed in the nurse aide registry.</p> <p>"Chemical restraint" means a psychopharmacologic drug (a drug prescribed to control mood, mental status, or behavior) that is used for discipline or convenience and not required to treat medical symptoms or symptoms from mental illness or mental retardation that prohibit an individual from reaching his highest level of functioning.</p> <p>"Clinical record" means the documentation of health care services, whether physical or mental, rendered by direct or indirect resident-provider interactions. An account compiled by physicians and other health care professionals of a variety of resident health information, such as assessments and care details, including testing results, medicines, and progress notes.</p> <p>"Commissioner" means the State Health Commissioner.</p> <p>"Complaint" means any allegation received by the Department of Health other than an incident reported by the facility staff. Such allegations include abuse, neglect, exploitation, or violation of state or federal laws or regulations.</p> <p>"Comprehensive plan of care" means a written action plan, based on assessment data, that identifies a resident's clinical and psychosocial needs, the interventions to meet those needs, treatment goals that are measurable and that documents the resident's progress toward meeting the stated goals.</p> <p>"Construction" means the building of a new nursing facility or the expansion, remodeling, or alteration of an existing nursing facility and includes the initial and subsequent equipping of the facility.</p> <p>"Department" means the Virginia Department of Health.</p>	<p>"Board" means the Board of Health.</p> <p>"Certified nurse aide" means the title that can only be used by individuals who have met the requirements to be certified, as defined by the Virginia Board of Nursing, and who are listed in the nurse aide registry.</p> <p>"Chemical restraint" means a psychopharmacologic drug (a drug prescribed to control mood, mental status, or behavior) that is used for discipline or convenience and not required to treat medical symptoms or symptoms from mental illness or mental retardation that prohibit an individual from reaching his highest level of functioning.</p> <p>"Clinical record" means the documentation of health care services, whether physical or mental, rendered by direct or indirect resident-provider interactions. An account compiled by physicians and other health care professionals of a variety of resident health information, such as assessments and care details, including testing results, medicines, and progress notes.</p> <p>"Commissioner" means the State Health Commissioner.</p> <p>"Complaint" means any allegation received by the Department of Health other than an incident reported by the facility staff. Such allegations include abuse, neglect, exploitation, or violation of state or federal laws or regulations.</p> <p>"Comprehensive plan of care" means a written action plan, based on assessment data that identifies a resident's clinical and psychosocial needs, the interventions to meet those needs, treatment goals that are measurable and that documents the resident's progress toward meeting the stated goals.</p> <p>"Construction" means the building of a new nursing facility or the expansion, remodeling, or alteration of an existing</p>
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	<p>"Dignity" means staff, in their interactions with residents, carry out activities which assist a resident in maintaining and enhancing the resident's self-esteem and self-worth.</p> <p>"Discharge" means the process by which the resident's services, delivered by the nursing facility, are terminated.</p> <p>"Discharge summary" means the final written summary of the services delivered, goals achieved and post-discharge plan or final disposition at the time of discharge from the nursing facility. The discharge summary becomes a part of the clinical record.</p> <p>"Drug" means (i) articles or substances recognized in the official United States "Drug" Pharmacopoeia National Formulary or official Homeopathic Pharmacopoeia of the United States, or any supplement to any of them; (ii) articles or substances intended for the use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animal; (iii) articles or substances, other than food, intended to affect the structure or any function of the body of man or other animal; and (iv) articles or substances intended for use as a component of any article specified in clause (i), (ii), or (iii). This does not include devices or their components, parts or accessories.</p> <p>"Electronic monitoring" means an unmanned video recording system with or without audio capability installed in the room of a resident.</p> <p>"Emergency preparedness plan" means a component of a nursing facility's safety management program designed to manage the consequences of natural disasters or other emergencies that disrupt the nursing facility's ability to provide care.</p> <p>"Employee" means a person who performs a specific job function for financial remuneration on a full-time or part-time basis.</p>	<p>nursing facility and includes the initial and subsequent equipping of the facility.</p> <p><u>"Criminal record report" means either the criminal record clearance with respect to convictions for barrier crimes or the criminal history record from the Central Criminal Records Exchange of the Virginia Department of State Police.</u></p> <p>"Department" means the Virginia Department of Health.</p> <p>"Dignity" means staff, in their interactions with residents, carry out activities which assist a resident in maintaining and enhancing the resident's self-esteem and self-worth.</p> <p>"Discharge" means the process by which the resident's services, delivered by the nursing facility, are terminated.</p> <p>"Discharge summary" means the final written summary of the services delivered, goals achieved and post-discharge plan or final disposition at the time of discharge from the nursing facility. The discharge summary becomes a part of the clinical record.</p> <p>"Drug" means (i) articles or substances recognized in the official United States "Drug" Pharmacopoeia National Formulary or official Homeopathic Pharmacopoeia of the United States, or any supplement to any of them; (ii) articles or substances intended for the use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animal; (iii) articles or substances, other than food, intended to affect the structure or any function of the body of man or other animal; and (iv) articles or substances intended for use as a component of any article specified in clause (i), (ii), or (iii). This does not include devices or their components, parts or accessories.</p> <p>"Electronic monitoring" means an unmanned video recording system with or without audio capability installed in the room of a resident.</p>
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	<p>"Facility-managed" means an electronic monitoring system that is installed, controlled, and maintained by the nursing facility with the knowledge of the resident or resident's responsible party in accordance with the facility's policies.</p> <p>"Full-time" means a minimum of 35 hours or more worked per week in the nursing facility.</p> <p>"Guardian" means a person legally invested with the authority and charged with the duty of taking care of the resident, managing his property, and protecting the rights of the resident who has been declared by the circuit court to be incapacitated and incapable of administering his own affairs. The powers and duties of the guardian are defined by the court and are limited to matters within the areas where the resident in need of a guardian has been determined to be incapacitated.</p> <p>"Medication" means any substance, whether prescription or over-the-counter drug, that is taken orally or injected, inserted, topically applied, or otherwise administered.</p> <p>"Neglect" means a failure to provide timely and consistent services, treatment, or care to a resident necessary to obtain or maintain the resident's health, safety, or comfort or a failure to provide timely and consistent goods and services necessary to avoid physical harm, mental anguish, or mental illness.</p> <p>"Nursing facility" means any nursing home as defined in § 32.1-123 of the Code of Virginia.</p> <p>"OLC" means the Office of Licensure and Certification of the Virginia Department of Health.</p> <p>"Person" means any individual, corporation, partnership, association, trust, or other legal entity, whether governmental or private, owning, managing, or operating a nursing facility.</p>	<p>"Emergency preparedness plan" means a component of a nursing facility's safety management program designed to manage the consequences of natural disasters or other emergencies that disrupt the nursing facility's ability to provide care.</p> <p>"Employee" means a person who performs a specific job function for financial remuneration on a full-time or part-time basis.</p> <p>"Facility-managed" means an electronic monitoring system that is installed, controlled, and maintained by the nursing facility with the knowledge of the resident or resident's responsible party <u>legal representative</u> in accordance with the facility's policies.</p> <p>"Full-time" means a minimum of 35 hours or more worked per week in the nursing facility.</p> <p>"Guardian" means a person legally invested with the authority and charged with the duty of taking care of the resident, managing his property, and protecting the rights of the resident who has been declared by the circuit court to be incapacitated and incapable of administering his own affairs. The powers and duties of the guardian are defined by the court and are limited to matters within the areas where the resident in need of a guardian has been determined to be incapacitated.</p> <p><u>"Legal representative" means a person legally responsible for representing or standing in the place of the resident for the conduct of his affairs. This may include a guardian, conservator, attorney-in-fact under durable power of attorney, trustee, or other person expressly named by a court of competent jurisdiction or the resident as his agency in a legal document that specifies the scope of the representative's authority to act. A legal representative may only represent or stand in the place of a resident for the function or functions for which he has legal authority to act.</u></p>
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	<p>"Physical restraint" means any manual method or physical or mechanical device, material, or equipment attached or adjacent to the resident's body that the individual cannot remove easily which restricts freedom of movement or normal access to one's own body.</p> <p>"Policy" means a written statement that describes the principles and guides and governs the activities, procedures and operations of the nursing facility.</p> <p>"Procedures" means a series of activities designed to implement program goals or policy, which may or may not be written, depending upon the specific requirements within this chapter. For inspection purposes, there must be evidence that procedures are actually implemented.</p> <p>"Progress note" means a written statement, signed and dated by the person delivering the care, consisting of a pertinent, chronological report of the resident's care. A progress note is a component of the clinical record.</p> <p>"Qualified" means meeting current legal requirements of licensure, registration or certification in Virginia; having appropriate training and experience commensurate with assigned responsibilities; or, if referring to a professional, possessing an appropriate degree or having documented equivalent education, training or experience.</p> <p>"Quality assurance" means systematic activities performed to determine the extent to which clinical practice meets specified standards and values with regard to such things as appropriateness of service assignment and duration, appropriateness of facilities and resources utilized, adequacy and clinical soundness of care given. Such activities should also assure changes in practice that do not meet accepted standards. Examples of quality assurance activities include the establishment of facility-wide goals for resident care, the assessment of the procedures used to achieve the goals,</p>	<p>"Medication" means any substance, whether prescription or over-the-counter drug, that is taken orally or injected, inserted, topically applied, or otherwise administered.</p> <p>"Neglect" means a failure to provide timely and consistent services, treatment, or care to a resident necessary to obtain or maintain the resident's health, safety, or comfort or a failure to provide timely and consistent goods and services necessary to avoid physical harm, mental anguish, or mental illness.</p> <p>"Nursing facility" means any nursing home as defined in § 32.1-123 of the Code of Virginia.</p> <p>"OLC" means the Office of Licensure and Certification of the Virginia Department of Health.</p> <p>"Person" means any individual, corporation, partnership, association, trust, or other legal entity, whether governmental or private, owning, managing, or operating a nursing facility.</p> <p>"Physical restraint" means any manual method or physical or mechanical device, material, or equipment attached or adjacent to the resident's body that the individual cannot remove easily which restricts freedom of movement or normal access to one's own body.</p> <p>"Policy" means a written statement that describes the principles and guides and governs the activities, procedures and operations of the nursing facility.</p> <p>"Procedures" means a series of activities designed to implement program goals or policy, which may or may not be written, depending upon the specific requirements within this chapter. For inspection purposes, there must be evidence that procedures are actually implemented.</p> <p>"Progress note" means a written statement, signed and dated by the person delivering the care, consisting of</p>
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	<p>and the proposal of solutions to problems in attaining those goals.</p> <p>"Readmission" means a planned return to the nursing facility following a temporary absence for hospitalization, off-site visit or therapeutic leave, or a return stay or confinement following a formal discharge terminating a previous admission.</p> <p>"Resident" means the primary service recipient, admitted to the nursing facility, whether that person is referred to as a client, consumer, patient, or other term.</p> <p>"Resident-managed" means an electronic monitoring system that is installed, controlled, and maintained by the resident with the knowledge of the nursing facility.</p> <p>"Responsible person or party" means an individual authorized by the resident to act for him as an official delegate or agent. The responsible person may be a guardian, payee, family member or any other individual who has arranged for the care of the resident and assumed this responsibility. The responsible person or party may or may not be related to the resident. A responsible person or party is not a guardian unless so appointed by the court.</p> <p>"Supervision" means the ongoing process of monitoring the skills, competencies and performance of the individual supervised and providing regular, face-to-face guidance and instruction.</p> <p>"Volunteer" means a person who, without financial remuneration, provides services to the nursing facility.</p> <p>Statutory Authority §§ 32.1-12 and 32.1-127 of the Code of Virginia.</p>	<p>a pertinent, chronological report of the resident's care. A progress note is a component of the clinical record.</p> <p>"Qualified" means meeting current legal requirements of licensure, registration or certification in Virginia; having appropriate training and experience commensurate with assigned responsibilities; or, if referring to a professional, possessing an appropriate degree or having documented equivalent education, training or experience.</p> <p>"Quality assurance" means systematic activities performed to determine the extent to which clinical practice meets specified standards and values with regard to such things as appropriateness of service assignment and duration, appropriateness of facilities and resources utilized, adequacy and clinical soundness of care given. Such activities should also assure changes in practice that do not meet accepted standards. Examples of quality assurance activities include the establishment of facility-wide goals for resident care, the assessment of the procedures used to achieve the goals, and the proposal of solutions to problems in attaining those goals.</p> <p>"Readmission" means a planned return to the nursing facility following a temporary absence for hospitalization, off-site visit or therapeutic leave, or a return stay or confinement following a formal discharge terminating a previous admission.</p> <p>"Resident" means the primary service recipient, admitted to the nursing facility, whether that person is referred to as a client, consumer, patient, or other term.</p> <p>"Resident-managed" means an electronic monitoring system that is installed, controlled, and maintained by the resident with the knowledge of the nursing facility.</p> <p>"Responsible person or party" means an individual authorized by the resident to act for him as an official delegate or</p>
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			<p>agent. The responsible person may be a guardian, payee, family member or any other individual who has arranged for the care of the resident and assumed this responsibility. The responsible person or party may or may not be related to the resident. A responsible person or party is not a guardian unless so appointed by the court.</p> <p>"Supervision" means the ongoing process of monitoring the skills, competencies and performance of the individual supervised and providing regular, face-to-face guidance and instruction.</p> <p><u>"Sworn disclosure" means a written statement or affirmation disclosing any criminal convictions or any pending criminal charges, whether within or outside the Commonwealth, by an applicant for compensated employment with a nursing facility.</u></p> <p>"Volunteer" means a person who, without financial remuneration, provides services to the nursing facility.</p> <p>Statutory Authority §§ 32.1-12 and 32.1-127 of the Code of Virginia.</p> <p>INTENT: The intent of these proposed changes is to include definitions related to the criminal records check and to consolidate overlapping terms into a single defined term.</p> <p>RATIONALE: The rationale behind these proposed changes is to create umbrella terms and definitions related to criminal records checks that would improve readability and clarify of the proposed new Section 75. Additionally, the use of overlapping terms throughout the chapter to refer to a person who can act in the stead of the resident was confusing for regulants and staff.</p> <p>LIKELY IMPACT: The likely impact of these proposed changes is reduced confusion for licensees.</p>
30	N/A	12VAC5-371-30. License.	CHANGE: The Board is proposing the following changes:

	<p>A. A license to operate a facility is issued to a person or organization. An organization may be a partnership, association, corporation, or public entity.</p> <p>B. Each license and renewal thereof shall be issued for one year. A nursing facility shall operate within the terms of its license, which include the:</p> <ol style="list-style-type: none"> 1. Name of the facility; 2. Name of the operator; 3. Physical location of the nursing facility; 4. Maximum number of beds allowed; and 5. Date the license expires. <p>C. A separate license shall be required for nursing facilities maintained on separate premises, even though they are owned or are operated under the same management.</p> <p>D. Every nursing facility shall be designated by a permanent and appropriate name. The name shall not be changed without first notifying the OLC.</p> <p>E. The number of resident beds allowed in a nursing facility shall be determined by the department. Requests to increase beds must be made in writing and must include an approved Certificate of Public Need, except as provided in 12VAC5-371-40 J.</p> <p>F. Nursing facility units located in and operated by hospitals shall be licensed under Regulations for the Licensure of Hospitals in Virginia (12VAC5-410). Approval for such units shall be included on the annual license issued to each hospital.</p> <p>G. Any person establishing, conducting, maintaining, or operating a nursing facility without a license shall be guilty of a Class 6 felony.</p> <p>Statutory Authority §§ 32.1-12 and 32.1-127 of the Code of Virginia.</p>	<p>12VAC5-371-30. License.</p> <p>A. <u>This chapter is not applicable to:</u></p> <ol style="list-style-type: none"> 1. <u>Those entities listed in § 32.1-124 of the Code of Virginia; and</u> 2. <u>Facilities established or operated for the practice of religious tenets pursuant to § 32.1-128 of the Code of Virginia, except that such facilities shall comply with the statutes and regulations on environmental protection and life safety.</u> <p>B. A license to operate a <u>nursing</u> facility is issued to a person or organization. An organization may be a partnership, association, corporation, or public entity.</p> <p>B. C. Each license and renewal thereof shall be issued for one year. A nursing facility shall operate within the terms of its license, which include the:</p> <ol style="list-style-type: none"> 1. Name of the <u>nursing</u> facility; 2. Name of the operator; 3. Physical location of the nursing facility; 4. Maximum number of beds allowed; and 5. Date the license expires. <p>C. D. A separate license shall be required for nursing facilities maintained on separate premises, even though they are owned or are operated under the same management.</p> <p>D. E. Every nursing facility shall be designated by a permanent and <u>appropriate unique</u> name. The name shall not be changed without first notifying the OLC.</p> <p>E. F. The number of resident beds allowed in a nursing facility shall be determined by the department. Requests to increase beds must be made in writing and must include an approved Certificate of Public Need, except as provided in 12VAC5-371-40 J.</p> <p>F. G. Nursing facility units located in and operated by hospitals shall be licensed under Regulations for the Licensure of Hospitals in Virginia (12VAC5-410). Approval for such units shall be included on the annual license issued to each hospital.</p> <p>G. H. Any person establishing, conducting, maintaining, or operating a</p>
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			<p>nursing facility without a license shall be guilty of a Class 6 felony.</p> <p>Statutory Authority §§ 32.1-12 and 32.1-127 of the Code of Virginia.</p> <p>INTENT: The intent of these proposed changes is to align the terminology used with the defined terms in Section 10, clarify that an appropriate name means a unique name, and clarify which facilities are exempt from all or part of the chapter.</p> <p>RATIONALE: The rationale behind these proposed changes is that use of undefined terms is disfavored when a defined term is available, that appropriate is an ambiguous standard to administer whereas “unique” is clearer, and that the chapter had previously failed to identify what facilities were exempt from all or part of the chapter.</p> <p>LIKELY IMPACT: The likely impact of these proposed changes is reduced confusion for licensees, applicants, and exempted facilities.</p>
40	N/A	<p>12VAC5-371-40. Licensing process.</p> <p>A. Upon request, the OLC will provide consultation to any person seeking information about obtaining a license. The purpose of such consultation is to:</p> <ol style="list-style-type: none"> 1. Explain the standards and the licensing process; 2. Provide assistance in locating other sources of information; 3. Review the potential applicant's proposed program plans, forms, and other documents, as they relate to standards; and 4. Alert the potential applicant regarding the need to meet other state and local ordinances, such as fire and building codes and environmental health standards, where applicable. <p>B. Upon request, the OLC will provide an application form for a license to operate a nursing facility.</p>	<p>CHANGE: The Board is proposing the following changes:</p> <p>12VAC5-371-40. Licensing process.</p> <p>A. Upon request, the OLC will provide consultation to any person seeking information about obtaining a license. The purpose of such consultation is to:</p> <ol style="list-style-type: none"> 1. Explain the standards and the licensing process; 2. Provide assistance in locating other sources of information; 3. Review the potential applicant's proposed program plans, forms, and other documents, as they relate to standards; and 4. Alert the potential applicant regarding the need to meet other state and local ordinances, such as fire and building codes and environmental health standards, where applicable.

	<p>C. The OLC shall consider the application complete when all requested information and the application fee is submitted with the form required. If the OLC finds the application incomplete, the applicant will be notified of receipt of the incomplete application.</p> <p>D. The applicant shall complete and submit the initial application to the OLC at least 30 days prior to a planned opening date to allow the OLC time to act on the application. An application for a license may be withdrawn at any time.</p> <p>E. Application for initial license of a nursing facility shall include a statement of any agreement made with the commissioner as a condition for Certificate of Public Need approval to provide a level of care at a reduced rate to indigents or accept patients requiring specialized care.</p> <p>Any initial license issued to any nursing facility that made such agreement as a condition of its Certificate of Public Need approval shall not be renewed without demonstrating prior to or at the time of applying for renewal that it is substantially complying with its agreement.</p> <p>F. The renewal of a nursing facility license shall be conditioned upon the up-to-date payment of any civil penalties owed as a result of willful refusal, failure, or neglect to honor certain conditions established in their award of a Certificate of Public Need pursuant to § 32.1-102.4 F of the Code of Virginia.</p> <p>G. Prior to changes in operation which would affect the terms of the license, the licensee must secure a modification to the terms of the license from the OLC.</p> <p>H. Requests to modify a license must be submitted in writing, 30 working days in advance of any proposed changes, to the Director of the Office of Licensure and Certification.</p> <p>I. The license shall be returned to the OLC following a correction or reissuance when there has been a change in:</p> <ol style="list-style-type: none"> 1. Address; 2. Operator; 3. Name; or 4. Bed capacity. 	<p>B. Upon request, the OLC will provide an application form for a license to operate a nursing facility. Licensees and applicants shall obtain licensure applications from the OLC.</p> <p>C. The OLC shall consider the application complete when all requested information and the application fee is submitted with the form required. If the OLC finds the application incomplete, the applicant will be notified of receipt of the incomplete application.</p> <p>D. The applicant shall complete and submit the initial application to the OLC at least 30 days prior to a planned opening date to allow the OLC time to act on the application. An application for a license may be withdrawn at any time.</p> <p>E. <u>A nursing facility may not be licensed without first complying with the requirements for a Certificate of Public Need as required by Article 1.1. (§ 32.1-102.1 et seq.) of Chapter 4 of Title 32.1 of the Code of Virginia.</u></p> <ol style="list-style-type: none"> <u>1. Application for initial license of a nursing facility shall include a statement of any agreement made with the commissioner as a condition for Certificate of Public Need approval to provide a level of care at a reduced rate to indigents or accept patients requiring specialized care.</u> <u>2. Any initial license issued to any nursing facility that made such agreement as a condition of its Certificate of Public Need approval shall not be renewed without demonstrating prior to or at the time of applying for renewal that it is substantially complying with its agreement.</u> <p>F. The renewal of a nursing facility license shall be conditioned upon the up-to-date payment of any civil penalties owed as a result of willful refusal, failure, or neglect to honor certain conditions established in their award of a Certificate of Public Need pursuant to § 32.1-102.4 F of the Code of Virginia.</p> <p>G. Prior to changes in operation which would affect the terms of the license, the licensee must secure a modification to the terms of the license from the OLC.</p>
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	<p>J. Nursing facilities shall be exempt, for a period of no more than 30 days, from the requirement to obtain a license to add temporary beds when the commissioner has determined that a natural or man-made disaster has caused the evacuation of a hospital or nursing home and that a public health emergency exists due to a shortage of hospital or nursing home beds.</p> <p>K. The OLC will evaluate written information about any planned changes in operation which would affect either the terms of the license or the continuing eligibility for a license. A licensing representative may visit the facility during the process of evaluating a proposed modification.</p> <p>L. If a modification can be granted, the OLC shall respond in writing with a modified license. In the event a new application is needed, the licensee will receive written notification. When the modification cannot be granted, the licensee shall be advised by letter.</p> <p>M. The department shall send an application for renewal of the license to the licensee prior to the expiration date of the current license.</p> <p>N. The licensee shall submit the completed renewal application form along with any required attachments and the application fee by the date indicated in the cover letter.</p> <p>O. It is the licensee's responsibility to complete and return the application to assure timely processing. Should a current license expire before a new license is issued, the current license shall remain in effect provided the complete and accurate application was filed on time.</p> <p>Statutory Authority §§ 32.1-12 and 32.1-127 of the Code of Virginia.</p>	<p>H. Requests to modify a license must be submitted in writing, 30 working days in advance of any proposed changes, to the Director of the Office of Licensure and Certification.</p> <p>I. The license shall be returned to the OLC following a correction or reissuance when there has been a change in:</p> <ol style="list-style-type: none"> 1. Address; 2. Operator; 3. Name; or 4. Bed capacity. <p>J. G. Nursing facilities shall be exempt, for a period of no more than 30 days, from the requirement to obtain a license to add temporary beds when the commissioner has determined that a natural or man-made disaster has caused the evacuation of a hospital or nursing home and that a public health emergency exists due to a shortage of hospital or nursing home beds.</p> <p>K. The OLC will evaluate written information about any planned changes in operation which would affect either the terms of the license or the continuing eligibility for a license. A licensing representative may visit the facility during the process of evaluating a proposed modification.</p> <p>L. If a modification can be granted, the OLC shall respond in writing with a modified license. In the event a new application is needed, the licensee will receive written notification. When the modification cannot be granted, the licensee shall be advised by letter.</p> <p>M. The department shall send an application for renewal of the license to the licensee prior to the expiration date of the current license.</p> <p>N. H. The licensee shall submit the completed renewal application form along with any required attachments and the application fee by the date indicated in the cover letter.</p> <p>O. I. It is the licensee's responsibility to complete and return the application to assure timely processing. Should a current license expire before a new license is issued, the current license shall remain in effect provided the complete and accurate application was filed on time.</p>
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			<p>Statutory Authority §§ 32.1-12 and 32.1-127 of the Code of Virginia.</p> <p>INTENT: The intent of the proposed changes is to remove duplicative notice requirements, clarify that a Certificate of Public Need is required prior to applying for a license, and to remove language about OLC providing forms upon request.</p> <p>RATIONALE: The rationale behind the proposed changes is that having multiple disparate sections discussing notice requirements is confusing for licensees and staff. The clarification that a Certificate of Public Need is required is to address confusion about the order of licensing and certification. Placing the onus on applicants to retrieve application forms is due to OLC's forms being available online, negating the need for forms to be requested.</p> <p>LIKELY IMPACT: The likely impact of these proposed changes is reduced confusion for licensees and applicants.</p>
60	N/A	<p>12VAC5-371-60. On-site inspections.</p> <p>A. The licensing representative shall make unannounced on-site inspections of the nursing facility. The licensee shall be responsible for correcting any deficiencies found during any on-site inspection. Compliance with all standards will be determined by the OLC.</p> <p>B. The licensee shall make available to the licensing representative any necessary records.</p> <p>C. The licensee shall also allow the licensing representative to interview the agents, employees, residents, family members, and any person under its custody, control, direction or supervision.</p> <p>D. After the on-site inspection, the licensing representative shall discuss the findings of the inspection with the administrator of record or designee.</p> <p>E. As applicable, the administrator of record shall submit an acceptable plan for correcting any deficiencies found during an on-site inspection.</p>	<p>CHANGE: The Board is proposing the following changes:</p> <p>12VAC5-371-60. On-site inspections.</p> <p>A. The licensing representative shall make unannounced on-site inspections of the nursing facility. The licensee shall be responsible for correcting any deficiencies found during any on-site inspection. Compliance with all standards will be determined by the OLC.</p> <p>B. The licensee shall make available to the licensing representative any necessary records.</p> <p>C. The licensee shall also allow the licensing representative to interview the agents, employees, residents, family members, and any person under its custody, control, direction or supervision.</p> <p>D. After the on-site inspection, the licensing representative shall discuss the findings of the inspection with the administrator of record or designee.</p> <p>E. As applicable, the administrator of record shall submit an acceptable</p>

		<p>F. The administrator of record will be notified whenever any item in the plan of correction is determined to be unacceptable.</p> <p>G. The administrator of record shall be responsible for assuring the plan of correction is implemented and monitored so that compliance is maintained.</p> <p>Statutory Authority §§ 32.1-12 and 32.1-127 of the Code of Virginia.</p>	<p>plan for correcting any deficiencies found during an on-site inspection.</p> <p>F. The administrator of record will be notified whenever any item in the plan of correction is determined to be unacceptable.</p> <p>G. The administrator of record shall be responsible for assuring the plan of correction is implemented and monitored so that compliance is maintained.</p> <p>Statutory Authority §§ 32.1-12 and 32.1-127 of the Code of Virginia.</p> <p>INTENT: The intent of this proposed change is to align the terminology used with the defined terms in Section 10.</p> <p>RATIONALE: The rationale behind this proposed change is that use of undefined terms is disfavored when a defined term is available.</p> <p>LIKELY IMPACT: The likely impact of these proposed changes is reduced confusion for licensees.</p>
70	N/A	<p>12VAC5-371-70. Complaint investigation.</p> <p>A. The OLC has the responsibility to investigate any complaints regarding alleged violations of the standards or statutes and complaints of the abuse or neglect of persons in care. The Department of Social Services and the State Ombudsman are notified of complaints received.</p> <p>B. Complaints may be received in written or oral form and may be anonymous.</p> <p>C. When the investigation is complete, the licensee and the complainant, if known, will be notified of the findings of the investigation.</p> <p>D. As applicable, the facility's administrator of record shall submit an acceptable plan for correcting any deficiencies found during a complaint investigation.</p> <p>E. The administrator of record will be notified whenever any item in the plan of correction is determined to be unacceptable.</p>	<p>CHANGE: The Board is proposing the following changes:</p> <p>12VAC5-371-70. Complaint investigation.</p> <p>A. The OLC has the responsibility to investigate any complaints regarding alleged violations of the standards or statutes and complaints of the abuse or neglect of persons in care. The Department of Social Services and the State Ombudsman are notified of complaints received.</p> <p>B. Complaints may be received in written or oral form and may be anonymous.</p> <p>C. When the investigation is complete, the licensee and the complainant, if known, will be notified of the findings of the investigation.</p> <p>D. As applicable, the facility's administrator of record shall submit an acceptable plan for correcting any deficiencies found during a complaint investigation.</p> <p>E. The administrator of record will be notified whenever any item in the</p>

		<p>F. The administrator of record shall be responsible for assuring the plan of correction is implemented and monitored so that compliance is maintained.</p> <p>Statutory Authority §§ 32.1-12 and 32.1-127 of the Code of Virginia.</p>	<p>plan of correction is determined to be unacceptable.</p> <p>F. The administrator of record shall be responsible for assuring the plan of correction is implemented and monitored so that compliance is maintained.</p> <p>Statutory Authority §§ 32.1-12 and 32.1-127 of the Code of Virginia.</p> <p>INTENT: The intent of this proposed change is to align the terminology used with the defined terms in Section 10.</p> <p>RATIONALE: The rationale behind this proposed change is that use of undefined terms is disfavored when a defined term is available.</p> <p>LIKELY IMPACT: The likely impact of these proposed changes is reduced confusion for licensees.</p>
80	N/A	<p>12VAC5-371-80. Variances.</p> <p>A. The OLC can authorize variances only to its own licensing standards, not to regulations of another agency or to any requirements in federal, state, or local laws.</p> <p>B. A nursing facility may request a variance to a particular standard or requirement contained in this chapter when the standard or requirement poses a special hardship and when a variance to it would not endanger the safety or well-being of residents, employees, or the public.</p> <p>C. Upon finding that the enforcement of one or more of the standards would be clearly impractical, the OLC shall have the authority to waive, either temporarily or permanently, the enforcement of one or more of these standards, provided safety, resident care and services are not adversely affected.</p> <p>D. The OLC may rescind or modify a variance if (i) conditions change; (ii) additional information becomes known which alters the basis for the original decision; (iii) the facility fails to meet any conditions attached to the variance; or (iv) results of the variance jeopardize the</p>	<p>CHANGE: The Board is proposing the following changes:</p> <p>12VAC5-371-80. Variances.</p> <p>A. The OLC commissioner can <u>may</u> authorize variances only to its own licensing standards, not to regulations of another agency or to any requirements in federal, state, or local laws.</p> <p>B. A nursing facility may request a variance to a particular standard or requirement contained in this chapter when the standard or requirement poses a special hardship and when a variance to it would not endanger the safety or well-being of residents, employees, or the public.</p> <p>C. Upon finding that the enforcement of one or more of the standards would be clearly impractical, the OLC commissioner shall have the authority to waive, either temporarily or permanently, the enforcement of one or more of these standards, provided safety, resident care and services are not adversely affected.</p> <p>D. The OLC commissioner <u>may</u> rescind or modify a variance if (i) conditions change; (ii) additional information becomes known which alters the basis for the original decision;</p>

	<p>safety, comfort, or well-being of residents, employees and the public.</p> <p>E. Consideration of a variance is initiated when a written request is submitted to the Director of the Office of Licensure and Certification. The OLC may provide consultation in the development of the written request and throughout the variance process.</p> <p>F. The request for a variance must describe the special hardship to the existing program or to a planned innovative or pilot program caused by the enforcement of the requirements. When possible, the request should include proposed alternatives to meet the purpose of the requirements which will ensure the protection and well-being of residents, employees, and the public.</p> <p>G. The OLC shall notify the facility of the receipt of the request for a variance. The OLC may attach conditions to the granting of the variance in order to protect persons in care.</p> <p>H. When the decision is to deny a request for a variance, the reason shall be provided in writing to the licensee.</p> <p>I. When a variance is denied, expires, or is rescinded, routine enforcement of the standard or portion of the standard shall be resumed. The nursing facility may at any time withdraw a request for a variance.</p> <p>Statutory Authority §§ 32.1-12 and 32.1-127 of the Code of Virginia.</p>	<p>(iii) the <u>nursing</u> facility fails to meet any conditions attached to the variance; or (iv) results of the variance jeopardize the safety, comfort, or well-being of residents, employees and the public.</p> <p>E. Consideration of a variance is initiated when a written request is submitted to the Director <u>director</u> of the Office of Licensure and Certification <u>OLC</u>. The OLC may provide consultation in the development of the written request and throughout the variance process.</p> <p>F. The request for a variance must describe the special hardship to the existing program or to a planned innovative or pilot program caused by the enforcement of the requirements. When possible, the request should include proposed alternatives to meet the purpose of the requirements which will ensure the protection and well-being of residents, employees, and the public.</p> <p>G. The OLC shall notify the <u>nursing</u> facility of the receipt of the request for a variance. The OLC <u>commissioner</u> may attach conditions to the granting of the variance in order to protect persons in care.</p> <p>H. When the decision is to deny a request for a variance, the reason shall be provided in writing to the licensee.</p> <p>I. When a variance is denied, expires, or is rescinded, routine enforcement of the standard or portion of the standard shall be resumed. The nursing facility may at any time withdraw a request for a variance.</p> <p>Statutory Authority §§ 32.1-12 and 32.1-127 of the Code of Virginia.</p> <p>INTENT: The intent of this proposed change is to align the terminology used with the defined terms in Section 10 and to clarify that the State Health Commissioner is responsible for the denial, suspension, or revocation of a nursing facility's license.</p> <p>RATIONALE: The rationale behind this proposed change is that use of undefined terms is disfavored when a defined term is available. Additionally, the Commissioner holds the statutory</p>
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			<p>authority to deny, suspend, or revoke licenses and no written delegation of that authority to the OLC exists.</p> <p>LIKELY IMPACT: The likely impact of these proposed changes is reduced confusion for licensees.</p>
110	N/A	<p style="text-align: center;">Part II Administrative Services 12VAC5-371-110. Management and administration.</p> <p>A. No person shall own, establish, conduct, maintain, manage, or operate any nursing facility, as defined in § 32.1-123 of the Code of Virginia, without having obtained a license.</p> <p>B. The nursing facility must comply with:</p> <ol style="list-style-type: none"> 1. These regulations (12VAC5-371); 2. Other applicable federal, state or local laws and regulations; and 3. Its own policies and procedures. <p>C. The nursing facility shall submit, or make available, reports and information necessary to establish compliance with these regulations and applicable statutes.</p> <p>D. The nursing facility shall submit, in a timely manner as determined by the OLC, and implement a written plan of action to correct any noncompliance with these regulations identified during an inspection. The plan shall include:</p> <ol style="list-style-type: none"> 1. Description of the corrective action or actions to be taken; 2. Date of completion for each action; and 3. Signature of the person responsible for the operation. <p>E. The nursing facility shall permit representatives from the OLC to conduct inspections to:</p> <ol style="list-style-type: none"> 1. Verify application information; 2. Determine compliance with this chapter; 3. Review necessary records; and 4. Investigate complaints. <p>F. The current license from the department shall be posted in a place clearly visible to the general public.</p>	<p>CHANGE: The Board is proposing the following changes:</p> <p style="text-align: center;">Part II Administrative Services 12VAC5-371-110. Management and administration.</p> <p>A. No person shall own, establish, conduct, maintain, manage, or operate any nursing facility, as defined in § 32.1-123 of the Code of Virginia, without having obtained a license.</p> <p>B. The nursing facility must comply with:</p> <ol style="list-style-type: none"> 1. These regulations (12VAC5-371); 2. Other applicable federal, state or local laws and regulations; and 3. Its own policies and procedures. <p>C. The nursing facility shall submit, or make available, reports and information necessary to establish compliance with these regulations and applicable statutes.</p> <p>D. The nursing facility shall submit, in a timely manner as determined by the OLC, and implement a written plan of action to correct any noncompliance with these regulations identified during an inspection. The plan shall include:</p> <ol style="list-style-type: none"> 1. Description of the corrective action or actions to be taken; 2. Date of completion for each action; and 3. Signature of the person responsible for the operation. <p>E. The nursing facility shall permit representatives from the OLC to conduct inspections to:</p> <ol style="list-style-type: none"> 1. Verify application information; 2. Determine compliance with this chapter; 3. Review necessary records; and 4. Investigate complaints.

	<p>G. The nursing facility shall not operate more resident beds than the number for which it is licensed.</p> <p>H. The nursing facility shall fully disclose its admission policies, including any preferences given, to applicants for admission.</p> <p>I. The nursing facility shall identify its operating elements and programs, the internal relationship among these elements and programs, and the management or leadership structure.</p> <p>J. The facility shall provide, or arrange for, the administration to its residents of an annual influenza vaccination and a pneumonia vaccination according to the most recent recommendations for "Prevention and Control of Influenza" (www.cdc.gov/mmwr/preview/mmwrhtml/rr5306a1.htm), MMWR 53 (RR06), and "Guidelines for Preventing Health Care-Associated Pneumonia, 2003" (www.cdc.gov/mmwr/preview/mmwrhtml/rr5303a1.htm), MMWR 53 (RR03), of the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention, unless the vaccination is medically contraindicated or the resident declines the vaccination offer.</p> <p>K. Upon request of the facility's family council, the facility shall send notices and information about the family council mutually developed by the family council and the administration of the nursing home, and provided to the facility for such purpose, to the listed responsible party or a contact person of the resident's choice up to six times a year. Such notices may be included together with a monthly billing statement or other regular communication. Notices and information shall also be posted in a designated location within the nursing facility.</p> <p>Statutory Authority §§ 32.1-12 and 32.1-127 of the Code of Virginia.</p>	<p>F. The current license from the department shall be posted in a place clearly visible to the general public <u>A nursing facility shall give written notification 30 calendar days in advance of implementation of changes affecting the accuracy of the license. Changes affecting the accuracy of the license are:</u></p> <ol style="list-style-type: none"> <u>1. Address;</u> <u>2. Operator;</u> <u>3. Name of the nursing facility;</u> <u>4. Any proposed change in management contract or lease agreement to operate the nursing facility;</u> <u>5. Implementing any proposed addition, deletion, or change in nursing facility services whether or not licensure is required;</u> <u>6. A change in ownership; or</u> <u>7. Bed capacity.</u> <p><u>Notices shall be sent to the attention of the director of the OLC.</u></p> <p>G. The nursing facility shall not operate more resident beds than the number for which it is licensed <u>The current license from the commissioner shall be posted in a place clearly visible to the general public.</u></p> <p>H. The nursing facility shall fully disclose its admission policies, including any preferences given, to applicants for admission.</p> <p>I. The nursing facility shall identify its operating elements and programs, the internal relationship among these elements and programs, and the management or leadership structure.</p> <p>J. The <u>nursing</u> facility shall provide, or arrange for, the administration to its residents of an annual influenza vaccination and a pneumonia vaccination according to the <u>most recent recommendations for "Prevention and Control of Influenza"</u> (www.cdc.gov/mmwr/preview/mmwrhtml/rr5306a1.htm), MMWR 53 (RR06) <u>"Prevention and Control of Seasonal Influenza with Vaccines: Recommendations of the Advisory Committee on Immunization Practices — United States, 2020–21 Influenza Season"</u>, and <u>"Guidelines for Preventing Health Care-Associated Pneumonia, 2003"</u></p>
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			<p>(www.cdc.gov/mmwr/preview/mmwrhtml/rr5303a1.htm), MMWR 53 (RR03), of “Guidelines for Preventing Health-Care-Associated Pneumonia” from the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention, unless the vaccination is medically contraindicated or the resident declines the vaccination offer.</p> <p>K. Upon request of the <u>nursing facility's family council</u>, the <u>nursing facility</u> shall send notices and information about the family council mutually developed by the family council and the administration of the nursing home facility, and provided to the <u>nursing facility</u> for such purpose, to the listed responsible party <u>legal representative</u> or a contact person of the resident's choice up to six times a year. Such notices may be included together with a monthly billing statement or other regular communication. Notices and information shall also be posted in a designated location within the nursing facility.</p> <p>Statutory Authority §§ 32.1-12 and 32.1-127 of the Code of Virginia</p> <p>INTENT: The intent of the proposed changes is to consolidate duplicative notice requirements and update references to immunization guidelines.</p> <p>RATIONALE: The rationale behind the proposed changes is that having multiple disparate sections discussing notice requirements is confusing for licensees and staff. The citations to the Centers for Disease Control's MMWR documents were outdated.</p> <p>LIKELY IMPACT: The likely impact of these proposed changes is reduced confusion for licensees and applicants.</p>
120	N/A	<p>12VAC5-371-120. Governing body. A. The nursing facility shall have a governing body that is legally responsible for the management of the operation. B. The governing body shall adopt written bylaws that describe the</p>	<p>CHANGE: The Board is proposing the following changes:</p> <p>12VAC5-371-120. Governing body. A. The nursing facility shall have a governing body that is legally</p>

	<p>organizational structure and establish authority and responsibility in accordance with applicable laws, including a:</p> <ol style="list-style-type: none"> 1. Statement of purpose; 2. Description of the functions of the governing body members, officers and committees; 3. Description of the method of adoption, implementation, and periodic review of policies and procedures; and 4. Description of the methods to be utilized to assure compliance with this chapter. <p>C. The governing body shall disclose the names and addresses of any individual or entity that holds 5.0% or more ownership interest in the operation of the nursing facility.</p> <p>D. When the governing body is not the owner of the physical plant, the governing body shall disclose the name and address of the individual or entity responsible for the alterations, modifications, maintenance and repairs to the building.</p> <p>E. The governing body shall notify the OLC in writing 30 days in advance of changes affecting the accuracy of the license. Changes affecting the accuracy of the license are:</p> <ol style="list-style-type: none"> 1. Any proposed change in management contract or lease agreement to operate the nursing facility; 2. Implementing any proposed addition, deletion, or change in nursing facility services whether or not licensure is required; 3. Selling the facility; or 4. A change in ownership. <p>Statutory Authority §§ 32.1-12 and 32.1-127 of the Code of Virginia.</p>	<p>responsible for the management of the operation.</p> <p>B. The governing body shall adopt written bylaws that describe the organizational structure and establish authority and responsibility in accordance with applicable laws, including a:</p> <ol style="list-style-type: none"> 1. Statement of purpose; 2. Description of the functions of the governing body members, officers and committees; 3. Description of the method of adoption, implementation, and periodic review of policies and procedures; and 4. Description of the methods to be utilized to assure compliance with this chapter. <p>C. The governing body shall disclose the names and addresses of any individual or entity that holds 5.0% or more ownership interest in the operation of the nursing facility.</p> <p>D. When the governing body is not the owner of the physical plant, the governing body shall disclose the name and address of the individual or entity responsible for the alterations, modifications, maintenance and repairs to the building.</p> <p>E. The governing body shall notify the OLC in writing 30 days in advance of changes affecting the accuracy of the license. Changes affecting the accuracy of the license are:</p> <ol style="list-style-type: none"> 1. Any proposed change in management contract or lease agreement to operate the nursing facility; 2. Implementing any proposed addition, deletion, or change in nursing facility services whether or not licensure is required; 3. Selling the facility; or 4. A change in ownership. <p>Statutory Authority §§ 32.1-12 and 32.1-127 of the Code of Virginia.</p> <p>INTENT: The intent of the proposed changes is to remove duplicative notice requirements.</p>
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130	N/A	<p>12VAC5-371-130. Administrator.</p> <p>A. The governing body shall appoint an individual, on a full-time basis, to serve as its on-site agent, responsible for the day-to-day administration and management.</p> <p>B. The governing body shall provide the OLC with evidence that the individual appointed as administrator is:</p> <ol style="list-style-type: none"> 1. Currently licensed by the Virginia Board of Long-Term Care Administrators; or 2. Holds a current administrator's license in another state and has filed an application for license with the Virginia Board of Long-Term Care Administrators. <p>C. Within five working days of the effective date of termination of the administrator's employment, the governing body shall notify the OLC, in writing, of the name and qualifications of the replacement administrator of record or the acting administrator.</p> <p>D. The governing body shall appoint a qualified administrator within 90 days of the effective date of the termination of the previously qualified administrator, and shall provide the OLC with written notification of the administrator's name, license number, and effective date of employment.</p> <p>An additional 30-day extension may be granted if a written request provides documentation that the individual designated as administrator is awaiting the final licensing decision of the Virginia Board of Long-Term Care Administrators.</p> <p>E. The governing body shall assure that administrative direction is provided at all times. The governing body, the administrator, or the chief executive officer shall designate, in writing, a qualified individual to act as the</p>	<p>CHANGE: The Board is proposing the following changes:</p> <p>12VAC5-371-130. Administrator.</p> <p>A. The governing body shall appoint an individual, on a full-time basis, to serve as its on-site agent, responsible for the day-to-day administration and management.</p> <p>B. The governing body shall provide the OLC with evidence that the individual appointed as administrator is:</p> <ol style="list-style-type: none"> 1. Currently licensed by the Virginia Board of Long-Term Care Administrators; or 2. Holds a current administrator's license in another state and has filed an application for license with the Virginia Board of Long-Term Care Administrators. <p>C. Within five working days of the effective date of termination of the administrator's employment, the governing body shall notify the OLC, in writing, of the name and qualifications of the replacement administrator of record or the acting administrator.</p> <p>D. The governing body shall appoint a qualified administrator within 90 days of the effective date of the termination of the previously qualified administrator, and shall provide the OLC with written notification of the administrator's name, license number, and effective date of employment.</p> <p>An additional 30-day extension may be granted if a written request provides documentation that the individual designated as administrator is awaiting the final licensing decision of the Virginia Board of Long-Term Care Administrators.</p> <p>E. The governing body shall assure that administrative direction is provided at all times. The governing body, the</p>

		<p>alternate nursing home administrator in the absence of the administrator of record.</p> <p>Statutory Authority §§ 32.1-12 and 32.1-127 of the Code of Virginia.</p>	<p>administrator, or the chief executive officer shall designate, in writing, a qualified individual to act as the alternate nursing home administrator in the absence of the administrator of record.</p> <p>Statutory Authority §§ 32.1-12 and 32.1-127 of the Code of Virginia.</p> <p>INTENT: The intent of this proposed change is to align the terminology used with the defined terms in Section 10.</p> <p>RATIONALE: The rationale behind this proposed change is that use of undefined terms is disfavored when a defined term is available.</p> <p>LIKELY IMPACT: The likely impact of these proposed changes is reduced confusion for licensees.</p>
140	N/A	<p>12VAC5-371-140. Policies and procedures.</p> <p>A. The nursing facility shall implement written policies and procedures approved by the governing body.</p> <p>B. All policies and procedures shall be reviewed at least annually, with recommended changes submitted to the governing body for approval.</p> <p>C. A written record of the annual policy review, including at least the review dates, participants, recommendations and action dates of the governing body, shall be maintained.</p> <p>D. Administrative and operational policies and procedures shall include, but are not limited to:</p> <ol style="list-style-type: none"> 1. Administrative records; 2. Admission, transfer and discharge; 3. Medical direction and physician services; 4. Nursing direction and nursing services; 5. Pharmaceutical services, including drugs purchased outside the nursing facility; 6. Dietary services; 7. Social services; 8. Activities services; 	<p>CHANGE: The Board is proposing the following changes:</p> <p>12VAC5-371-140. Policies and procedures.</p> <p>A. The nursing facility shall implement written policies and procedures approved by the governing body.</p> <p>B. All policies and procedures shall be reviewed at least annually, with recommended changes submitted to the governing body for approval.</p> <p>C. A written record of the annual policy review, including at least the review dates, participants, recommendations and action dates of the governing body, shall be maintained.</p> <p>D. Administrative and operational policies and procedures shall include, but are not limited to:</p> <ol style="list-style-type: none"> 1. Administrative records; 2. Admission, transfer and discharge; 3. Medical direction and physician services; 4. Nursing direction and nursing services; 5. Pharmaceutical services, including drugs purchased outside the nursing facility; 6. Dietary services;

		<p>9. Restorative and rehabilitative resident services; 10. Contractual services; 11. Clinical records; 12. Resident rights and grievances; 13. Quality assurance and infection control and prevention; 14. Safety and emergency preparedness procedures; 15. Professional and clinical ethics, including: a. Confidentiality of resident information; b. Truthful communication with residents; c. Observance of appropriate standards of informed consent and refusal of treatment; and d. Preservation of resident dignity, with special attention to the needs of the aged, the cognitively impaired, and the dying; and 16. Facility security.</p> <p>E. Personnel policies and procedures shall include, but are not limited to:</p> <ol style="list-style-type: none"> 1. Written job descriptions that specify authority, responsibility, and qualifications for each job classification; 2. An on-going plan for employee orientation, staff development, in-service training and continuing education; 3. An accurate and complete personnel record for each employee including: <ol style="list-style-type: none"> a. Verification of current professional license, registration, or certificate or completion of a required approved training course; b. Criminal record check; c. Verification that the employee has reviewed or received a copy of the job description; d. Orientation to the nursing facility, its policies and to the position and duties assigned; e. Completed continuing education program approved 	<p>7. Social services; 8. Activities services; 9. Restorative and rehabilitative resident services; 10. Contractual services; 11. Clinical records; 12. Resident rights and grievances; 13. Quality assurance and infection control and prevention; 14. Safety and emergency preparedness procedures; 15. Professional and clinical ethics, including: a. Confidentiality of resident information; b. Truthful communication with residents; c. Observance of appropriate standards of informed consent and refusal of treatment; and d. Preservation of resident dignity, with special attention to the needs of the aged, the cognitively impaired, and the dying; and 16. Facility <u>Nursing facility</u> security.</p> <p>E. Personnel policies and procedures shall include, but are not limited to:</p> <ol style="list-style-type: none"> 1. Written job descriptions that specify authority, responsibility, and qualifications for each job classification; 2. An on-going plan for employee orientation, staff development, in-service training and continuing education; 3. An accurate and complete personnel record for each employee including: <ol style="list-style-type: none"> a. Verification of current professional license, registration, or certificate or completion of a required approved training course; b. Criminal record check; c. Verification that the employee has reviewed or received a copy of the job description; d. Orientation to the nursing facility, its policies and to the
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		<p>for the employee as determined by the outcome of the annual performance evaluation;</p> <p>f. Annual employee performance evaluations; and</p> <p>g. Disciplinary action taken; and</p> <p>4. Employee health-related information retained in a file separate from personnel files.</p> <p>F. Financial policies and procedures shall include, but not be limited to:</p> <ol style="list-style-type: none"> 1. Admission agreements; 2. Methods of billing: <ol style="list-style-type: none"> a. Services not included in the basic daily or monthly rate; b. Services delivered by contractors of the nursing facility; and c. Third party payers; 3. Resident or designated representative notification of changes in fees and charges; 4. Correction of billing errors and refund policy; 5. Collection of delinquent resident accounts; and 6. Handling of resident funds. <p>G. Policies shall be made available for review, upon request, to residents and their designated representatives.</p> <p>H. Policies and procedures shall be readily available for staff use at all times.</p> <p>Statutory Authority §§ 32.1-12 and 32.1-127 of the Code of Virginia.</p>	<p>position and duties assigned;</p> <p>e. Completed continuing education program approved for the employee as determined by the outcome of the annual performance evaluation;</p> <p>f. Annual employee performance evaluations; and</p> <p>g. Disciplinary action taken; and</p> <p>4. Employee health-related information retained in a file separate from personnel files.</p> <p>F. Financial policies and procedures shall include, but not be limited to:</p> <ol style="list-style-type: none"> 1. Admission agreements; 2. Methods of billing: <ol style="list-style-type: none"> a. Services not included in the basic daily or monthly rate; b. Services delivered by contractors of the nursing facility; and c. Third party payers; 3. Resident or designated representative notification of changes in fees and charges; 4. Correction of billing errors and refund policy; 5. Collection of delinquent resident accounts; and 6. Handling of resident funds. <p>G. Policies shall be made available for review, upon request, to residents and their designated representatives.</p> <p>H. Policies and procedures shall be readily available for staff use at all times.</p> <p>Statutory Authority §§ 32.1-12 and 32.1-127 of the Code of Virginia.</p> <p>INTENT: The intent of this proposed change is to align the terminology used with the defined terms in Section 10.</p> <p>RATIONALE: The rationale behind this proposed change is that use of undefined terms is disfavored when a defined term is available.</p>
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<p>150</p>	<p>N/A</p>	<p>12VAC5-371-150. Resident rights. A. The nursing facility shall develop and implement policies and procedures that ensure resident's rights as defined in §§ 32.1-138 and 32.1-138.1 of the Code of Virginia. B. The procedures shall: 1. Not restrict any right a resident has under law; 2. Provide staff training to implement resident's rights; and 3. Include grievance procedures. C. The name and telephone number of the complaint coordinator of the OLC, the Adult Protective Services toll-free telephone number, and the toll-free telephone number for the State Ombudsman shall be conspicuously posted in a public place. D. Copies of resident rights shall be given to residents upon admittance to the facility and made available to residents currently in residence, to any guardians, next of kin, or sponsoring agency or agencies, and to the public. E. The nursing facility shall have a plan to review resident rights with each resident annually, or with the responsible family member or responsible agent at least annually, and have a plan to advise each staff member at least annually. F. The nursing facility shall certify, in writing, that it is in compliance with the provisions of §§ 32.1-138 and 32.1-138.1 of the Code of Virginia, relative to resident rights, as a condition of license issuance or renewal. G. The nursing facility shall register with the Department of State Police to receive notice of the registration or reregistration of any sex offender within the same or a contiguous zip code area in which the facility is located pursuant to § 9.1-914 of the Code of Virginia. H. Prior to admission, each nursing facility shall determine if a potential resident is a registered sex offender when the potential resident is anticipated to have a length of stay: 1. Greater than three days; or</p>	<p>CHANGE: The Board is proposing the following changes: 12VAC5-371-150. Resident rights. A. The nursing facility shall develop and implement policies and procedures that ensure resident's rights as defined in §§ 32.1-138 and 32.1-138.1 of the Code of Virginia. B. The procedures shall: 1. Not restrict any right a resident has under law; 2. Provide staff training to implement resident's rights; and 3. Include grievance procedures. C. The name and telephone number of the complaint coordinator of the OLC, the Adult Protective Services toll-free telephone number, and the toll-free telephone number for the State Ombudsman shall be conspicuously posted in a public place. D. Copies of resident rights shall be given to residents upon admittance to the <u>nursing</u> facility and made available to residents currently in residence, to any guardians <u>legal representatives</u>, next of kin, or sponsoring agency or agencies, and to the public. E. The nursing facility shall have a plan to review resident rights with each resident annually, or with the responsible family member or responsible agent <u>legal representative</u> at least annually, and have a plan to advise each staff member at least annually. F. The nursing facility shall certify, in writing, that it is in compliance with the provisions of §§ 32.1-138 and 32.1-138.1 of the Code of Virginia, relative to resident rights, as a condition of license issuance or renewal. G. The nursing facility shall register with the Department of State Police to receive notice of the registration or reregistration of any sex offender within the same or a contiguous zip code area in which the <u>nursing</u> facility is located pursuant to § 9.1-914 of the Code of Virginia.</p>

		<p>2. In fact stays longer than three days.</p> <p>I. The nursing facility shall not restrict the rights of a nursing home resident's family and resident's legal representative to meet in the facility with the families and legal representatives of other residents of the facility.</p> <p>Statutory Authority §§ 32.1-12, 32.1-127, and 32.1-162.12 of the Code of Virginia.</p>	<p>H. Prior to admission, each nursing facility shall determine if a potential resident is a registered sex offender when the potential resident is anticipated to have a length of stay:</p> <ol style="list-style-type: none"> 1. Greater than three days; or 2. In fact stays longer than three days. <p>I. The nursing facility shall not restrict the rights of a nursing home resident's family and resident's legal representative to meet in the <u>nursing</u> facility with the families and legal representatives of other residents of the <u>facility</u>.</p> <p>Statutory Authority §§ 32.1-12, 32.1-127, and 32.1-162.12 of the Code of Virginia.</p> <p>INTENT: The intent of this proposed change is to align the terminology used with the defined terms in Section 10.</p> <p>RATIONALE: The rationale behind this proposed change is that use of undefined terms is disfavored when a defined term is available.</p> <p>LIKELY IMPACT: The likely impact of these proposed changes is reduced confusion for licensees.</p>
160	N/A	<p>12VAC5-371-160. Financial controls and resident funds.</p> <p>A. All financial records, including resident funds, shall be kept according to generally accepted accounting principles (GAAP).</p> <p>B. Each nursing facility shall maintain liability insurance coverage in a minimum of \$1 million and professional liability coverage in an amount at least equal to the recovery limit set forth in § 8.01-581.15 of the Code of Virginia to compensate residents or individuals for injuries and losses resulting from the negligent or criminal acts of the facility. Failure to maintain minimum insurance shall result in revocation of the facility's license.</p> <p>C. Nursing facilities choosing to handle resident funds shall:</p> <ol style="list-style-type: none"> 1. Comply with § 32.1-138 A 7 of the Code of Virginia regarding resident funds; 	<p>CHANGE: The Board is proposing the following changes:</p> <p>12VAC5-371-160. Financial controls and resident funds.</p> <p>A. All financial records, including resident funds, shall be kept according to generally accepted accounting principles (GAAP).</p> <p>B. Each nursing facility shall maintain liability insurance coverage in a minimum of \$1 million and professional liability coverage in an amount at least equal to the recovery limit set forth in § 8.01-581.15 of the Code of Virginia to compensate residents or individuals for injuries and losses resulting from the negligent or criminal acts of the <u>nursing</u> facility. Failure to maintain minimum insurance shall result in revocation of the <u>nursing</u> facility's license.</p> <p>C. Nursing facilities choosing to handle resident funds shall:</p>

		<p>2. Purchase a surety bond or otherwise provide assurance for the security of all personal funds deposited with the facility; and</p> <p>3. Provide for separate accounting for resident funds.</p> <p>D. In the event the facility is sold, the nursing facility shall provide written verification that all resident funds have been transferred and shall obtain a signed receipt from the new owner. Upon receipt, the new owner shall provide an accounting of resident funds.</p> <p>E. Each nursing facility shall be required to provide a full refund of any unexpended patient funds on deposit with the facility following the discharge or death of a patient, other than entrance related fees, within 30 days of a written request for such funds by the discharged patient or, in the case of the death of a patient, the person administering the patient's estate in accordance with the Virginia Small Estate Act (§ 64.2-600 et seq. of the Code of Virginia).</p> <p>Statutory Authority §§ 32.1-12 and 32.1-127 of the Code of Virginia.</p>	<p>1. Comply with § 32.1-138 A 7 of the Code of Virginia regarding resident funds;</p> <p>2. Purchase a surety bond or otherwise provide assurance for the security of all personal funds deposited with the <u>nursing</u> facility; and</p> <p>3. Provide for separate accounting for resident funds.</p> <p>D. In the event the <u>nursing</u> facility is sold, the nursing facility shall provide written verification that all resident funds have been transferred and shall obtain a signed receipt from the new owner. Upon receipt, the new owner shall provide an accounting of resident funds.</p> <p>E. Each nursing facility shall be required to provide a full refund of any unexpended patient funds on deposit with the <u>nursing</u> facility following the discharge or death of a patient, other than entrance related fees, within 30 days of a written request for such funds by the discharged patient or, in the case of the death of a patient, the person administering the patient's estate in accordance with the Virginia Small Estate Act (§ 64.2-600 et seq. of the Code of Virginia).</p> <p>Statutory Authority §§ 32.1-12 and 32.1-127 of the Code of Virginia.</p> <p>INTENT: The intent of this proposed change is to align the terminology used with the defined terms in Section 10.</p> <p>RATIONALE: The rationale behind this proposed change is that use of undefined terms is disfavored when a defined term is available.</p> <p>LIKELY IMPACT: The likely impact of these proposed changes is reduced confusion for licensees.</p>
170	N/A	<p>12VAC5-371-170. Quality assessment and assurance.</p> <p>A. The nursing facility shall maintain a quality assessment and assurance committee consisting of at least the following individuals:</p> <p>1. The director of nursing services;</p>	<p>CHANGE: The Board is proposing the following changes:</p> <p>12VAC5-371-170. Quality assessment and assurance.</p> <p>A. The nursing facility shall maintain a quality assessment and assurance</p>

		<p>2. A physician designated by the facility; and 3. At least three other members of the facility staff, one of whom demonstrates an ability to represent the rights and concerns of residents.</p> <p>B. The quality assessment and assurance committee shall:</p> <p>1. Meet at least quarterly to identify issues which would improve quality of care and services provided to residents; and 2. Develop and implement appropriate plans of action to correct identified deficiencies.</p> <p>C. The nursing facility shall document compliance with these requirements.</p> <p>Statutory Authority §§ 32.1-12 and 32.1-127 of the Code of Virginia.</p>	<p>committee consisting of at least the following individuals:</p> <p>1. The director of nursing services; 2. A physician designated by the <u>nursing</u> facility; and 3. At least three other members of the <u>nursing</u> facility staff, one of whom demonstrates an ability to represent the rights and concerns of residents.</p> <p>B. The quality assessment and assurance committee shall:</p> <p>1. Meet at least quarterly to identify issues which would improve quality of care and services provided to residents; and 2. Develop and implement appropriate plans of action to correct identified deficiencies.</p> <p>C. The nursing facility shall document compliance with these requirements.</p> <p>Statutory Authority §§ 32.1-12 and 32.1-127 of the Code of Virginia.</p> <p>INTENT: The intent of this proposed change is to align the terminology used with the defined terms in Section 10.</p> <p>RATIONALE: The rationale behind this proposed change is that use of undefined terms is disfavored when a defined term is available.</p> <p>LIKELY IMPACT: The likely impact of these proposed changes is reduced confusion for licensees.</p>
180	N/A	<p>12VAC5-371-180. Infection control.</p> <p>A. The nursing facility shall establish and maintain an infection control program designed to provide a safe, sanitary, and comfortable environment and to prevent the development and transmission of disease and infection.</p> <p>B. The infection control program shall encompass the entire physical plant and all services.</p> <p>C. The infection control program addressing the surveillance, prevention and control of facility wide infections shall include:</p>	<p>CHANGE: The Board is proposing the following changes:</p> <p>12VAC5-371-180. Infection control.</p> <p>A. The nursing facility shall establish and maintain an infection control program designed to provide a safe, sanitary, and comfortable environment and to prevent the development and transmission of disease and infection.</p> <p>B. The infection control program shall encompass the entire physical plant and all services.</p>

	<p>1. Procedures to isolate the infecting organism; 2. Access to handwashing equipment for staff; 3. Training of staff in proper handwashing techniques, according to accepted professional standards, to prevent cross contamination; 4. Implementation of universal precautions by direct resident care staff; 5. Prohibiting employees with communicable diseases or infections from direct contact with residents or their food, if direct contact will transmit disease; 6. Monitoring staff performance of infection control practices; 7. Handling, storing, processing and transporting linens, supplies and equipment in a manner that prevents the spread of infection; 8. Handling, storing, processing and transporting regulated medical waste in accordance with applicable regulations; 9. Maintaining an effective pest control program; and 10. Staff education regarding infection risk-reduction behavior.</p> <p>D. The nursing facility shall report promptly to its local health department diseases designated as "reportable" according to 12VAC5-90-80 when such cases are admitted to or are diagnosed in the facility and shall report any outbreak of infectious disease as required by 12VAC5-90. An outbreak is defined as an increase in incidence of any infectious disease above the usual incidence at the facility.</p> <p>Statutory Authority §§ 32.1-12 and 32.1-127 of the Code of Virginia.</p>	<p>C. The infection control program addressing the surveillance, prevention and control of <u>facility-wide</u> infections in <u>the nursing facility</u> shall include:</p> <p>1. Procedures to isolate the infecting organism; 2. Access to handwashing equipment for staff; 3. Training of staff in proper handwashing techniques, according to accepted professional standards, to prevent cross contamination; 4. Implementation of universal precautions by direct resident care staff; 5. Prohibiting employees with communicable diseases or infections from direct contact with residents or their food, if direct contact will transmit disease; 6. Monitoring staff performance of infection control practices; 7. Handling, storing, processing and transporting linens, supplies and equipment in a manner that prevents the spread of infection; 8. Handling, storing, processing and transporting regulated medical waste in accordance with applicable regulations; 9. Maintaining an effective pest control program; and 10. Staff education regarding infection risk-reduction behavior.</p> <p>D. The nursing facility shall report promptly to its local health department diseases designated as "reportable" according to 12VAC5-90-80 when such cases are admitted to or are diagnosed in the <u>nursing</u> facility and shall report any outbreak of infectious disease as required by 12VAC5-90. An outbreak is defined as an increase in incidence of any infectious disease above the usual incidence at the <u>nursing</u> facility.</p> <p>Statutory Authority §§ 32.1-12 and 32.1-127 of the Code of Virginia.</p>
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190	N/A	<p>12VAC5-371-190. Safety and emergency procedures.</p> <p>A. A written emergency preparedness plan shall be developed, reviewed, and implemented when needed. The plan shall address responses to natural disasters, as well as fire or other emergency which disrupts the normal course of operations. The plan shall address provisions for relocating residents and also address staff responsibilities for:</p> <ol style="list-style-type: none"> 1. Alerting emergency personnel and sounding alarms; 2. Implementing evacuation procedures including the evacuation of residents with special needs; 3. Using, maintaining and operating emergency equipment; 4. Accessing resident emergency medical information; and 5. Utilizing community support services. <p>B. All staff shall participate in periodic emergency preparedness training.</p> <p>C. Staff shall have documented knowledge of, and be prepared to implement, the emergency preparedness plan in the event of an emergency.</p> <p>D. At least one telephone shall be available in each area to which residents are admitted and additional telephones or extensions as are necessary to ensure availability in case of need.</p> <p>E. In the event of a disaster, fire, emergency or any other health condition that may jeopardize the health, safety and</p>	<p>CHANGE: The Board is proposing the following changes:</p> <p>12VAC5-371-190. Safety and emergency procedures.</p> <p>A. A written emergency preparedness plan shall be developed, reviewed, and implemented when needed. The plan shall address responses to natural disasters, as well as fire or other emergency which disrupts the normal course of operations. The plan shall address provisions for relocating residents and also address staff responsibilities for:</p> <ol style="list-style-type: none"> 1. Alerting emergency personnel and sounding alarms; 2. Implementing evacuation procedures including the evacuation of residents with special needs; 3. Using, maintaining and operating emergency equipment; 4. Accessing resident emergency medical information; and 5. Utilizing community support services. <p>B. All staff shall participate in periodic emergency preparedness training.</p> <p>C. Staff shall have documented knowledge of, and be prepared to implement, the emergency preparedness plan in the event of an emergency.</p> <p>D. At least one telephone shall be available in each area to which residents are admitted and additional telephones or extensions as are necessary to ensure availability in case of need.</p>

		<p>well-being of residents, the organization shall notify the OLC of the conditions and status of the residents and the licensed facility as soon as possible.</p> <p>F. The nursing facility shall have a policy on smoking.</p> <p>Statutory Authority §§ 32.1-12 and 32.1-127 of the Code of Virginia.</p>	<p>E. In the event of a disaster, fire, emergency or any other condition that may jeopardize the health, safety and well-being of residents, the organization <u>nursing facility</u> shall notify the OLC of the conditions and status of the residents and the licensed facility <u>physical plant</u> as soon as possible.</p> <p>F. The nursing facility shall have a policy on smoking.</p> <p>Statutory Authority §§ 32.1-12 and 32.1-127 of the Code of Virginia.</p> <p>INTENT: The intent of this proposed change is to align the terminology used with the defined terms in Section 10.</p> <p>RATIONALE: The rationale behind this proposed change is that use of undefined terms is disfavored when a defined term is available.</p> <p>LIKELY IMPACT: The likely impact of these proposed changes is reduced confusion for licensees.</p>
191	N/A	<p>12VAC5-371-191. Electronic monitoring in resident rooms.</p> <p>A. All requests for electronic monitoring shall be made in writing and signed by the resident or the resident's responsible party if the resident has been properly assessed incapable of requesting and authorizing the monitoring.</p> <p>B. Only electronic monitoring in accordance with this section is permitted.</p> <p>C. A facility shall not refuse to admit an individual and shall not discharge or transfer a resident due to a request to conduct authorized electronic monitoring.</p> <p>D. Family members cannot obtain electronic monitoring over the objections of the resident, the resident's roommate, or the resident's responsible party. No equipment may be installed pursuant to subsection Q of this section over the objections of the resident, or if the resident is incapable, the resident's responsible party. Facilities shall not use monitoring equipment in violation of the</p>	<p>CHANGE: The Board is proposing the following changes:</p> <p>12VAC5-371-191. Electronic monitoring in resident rooms.</p> <p>A. All requests for electronic monitoring shall be made in writing and signed by the resident or the resident's responsible party <u>legal representative</u> if the resident has been properly assessed incapable of requesting and authorizing the monitoring.</p> <p>B. Only electronic monitoring in accordance with this section is permitted.</p> <p>C. A <u>nursing facility</u> shall not refuse to admit an individual and shall not discharge or transfer a resident due to a request to conduct authorized electronic monitoring.</p> <p>D. Family members cannot obtain electronic monitoring over the objections of the resident, the resident's roommate, or the resident's responsible party <u>legal representative</u>. No equipment may be installed pursuant to subsection Q of this section over the objections of the resident, or if the resident is incapable,</p>

	<p>law based solely on a family member's request or approval.</p> <p>E. Consent for electronic monitoring shall be kept in the resident's medical record.</p> <p>F. Facilities shall designate one staff person to be responsible for managing the electronic monitoring program.</p> <p>G. Facilities may designate custodial ownership of any recordings from monitoring devices to the resident or the resident's responsible party. Facility retained recordings shall be considered part of the resident's medical record and shall be retained for no less than two years or as required by state and federal laws.</p> <p>H. If a facility chooses to retain ownership of recordings, the facility shall not permit viewings of recordings without consent of the resident or the resident's responsible party except to the extent that disclosure is required by law through a court order or pursuant to a lawful subpoena duces tecum. Should a resident or a resident's responsible party approve viewing, the facility shall accommodate viewing of any recordings in a timely manner, including providing:</p> <ol style="list-style-type: none"> 1. Appropriate playing or viewing equipment; 2. Privacy during viewing; and 3. Viewing times convenient to the resident or the resident's responsible party. <p>If unauthorized viewing is discovered, the facility shall report any such violation to the Office of Long-Term Care Ombudsman and to OLC.</p> <p>I. A facility shall require its staff to report any incidents regarding safety or quality of care discovered as a result of viewing a recording immediately to the facility administrator and to the OLC. Facilities shall instruct the resident or the resident's responsible party of this reporting requirement and shall provide the resident or the resident's responsible party with the OLC's complaint hotline telephone number.</p> <p>J. A facility shall have no obligation to seek access to a recording in its possession or to have knowledge of a recording's content, unless the facility is aware of a recorded incident of suspected abuse, neglect, accident, or</p>	<p>the resident's responsible party or legal representative. <u>Facilities Nursing facilities</u> shall not use monitoring equipment in violation of the law based solely on a family member's request or approval.</p> <p>E. Consent for electronic monitoring shall be kept in the resident's medical record.</p> <p>F. Facilities <u>Nursing facilities</u> shall designate one staff person to be responsible for managing the electronic monitoring program.</p> <p>G. Facilities <u>Nursing facilities</u> may designate custodial ownership of any recordings from monitoring devices to the resident or the resident's responsible party <u>legal representative.</u> <u>Facility Nursing facility</u> retained recordings shall be considered part of the resident's medical record and shall be retained for no less than two years or as required by state and federal laws.</p> <p>H. If a <u>nursing</u> facility chooses to retain ownership of recordings, the <u>nursing</u> facility shall not permit viewings of recordings without consent of the resident or the resident's responsible party <u>legal representative</u> except to the extent that disclosure is required by law through a court order or pursuant to a lawful subpoena duces tecum. Should a <u>the</u> resident or a resident's responsible party <u>legal representative</u> approve viewing, the <u>nursing</u> facility shall accommodate viewing of any recordings in a timely manner, including providing:</p> <ol style="list-style-type: none"> 1. Appropriate playing or viewing equipment; 2. Privacy during viewing; and 3. Viewing times convenient to the resident or the resident's responsible <u>party legal representative.</u> <p>If unauthorized viewing is discovered, the <u>nursing</u> facility shall report any such violation to the Office of Long-Term Care Ombudsman and to OLC.</p> <p>I. A <u>nursing</u> facility shall require its staff to report any incidents regarding safety or quality of care discovered as a result of viewing a recording immediately to the facility administrator and to the OLC. Facilities <u>Nursing facilities</u> shall instruct the resident or the</p>
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	<p>injury, or the resident, the resident's responsible party, or a government agency seeks to use a recording. Facilities shall immediately report suspected abuse and neglect discovered as a result of using monitoring devices, as required by law.</p> <p>K. A facility may require the resident or the resident's responsible party to be responsible for all aspects of the operation of the monitoring equipment, including the removal and replacement of recordings; adherence to local, state, and federal privacy laws; and for firewall protections to prevent images that would violate obscenity laws from being inadvertently shown on the Internet.</p> <p>L. A facility shall prohibit assigned staff from refusing to enter a resident's room solely because of electronic monitoring.</p> <p>M. Any electronic monitoring equipment shall be installed in a manner that is safe for residents, employees, or visitors who may be moving about the resident's room.</p> <p>N. A facility shall make reasonable physical accommodation for monitoring equipment, including:</p> <ol style="list-style-type: none"> 1. Providing a reasonably secure place to mount the device; and 2. Providing access to power sources for the device. <p>O. A facility may require a resident or a resident's responsible party to pay for all costs, other than the cost of electricity, associated with installing electronic monitoring equipment. Such costs shall be reasonable and may include equipment, recording media and installation, compliance with life safety and building and electrical codes, maintenance or removal of the equipment, posting and removal of any public notices, or structural repairs to the building resulting from the removal of the equipment. Facilities shall give 45 days' notice of an increase in monthly monitoring fees.</p> <p>P. Any equipment installed for the purpose of monitoring a resident's room shall be fixed and unable to rotate.</p> <p>Q. The informed consent of all residents, or if a resident is incapable, a resident's responsible party, assigned to</p>	<p>resident's responsible party <u>legal representative</u> of this reporting requirement and shall provide the resident or the resident's responsible party <u>legal representative</u> with the OLC's complaint hotline telephone number.</p> <p>J. A <u>nursing</u> facility shall have no obligation to seek access to a recording in its possession or to have knowledge of a recording's content, unless the <u>nursing</u> facility is aware of a recorded incident of suspected abuse, neglect, accident, or injury, or the resident, the resident's responsible party <u>legal representative</u>, or a government agency seeks to use a recording. Facilities <u>Nursing facilities</u> shall immediately report suspected abuse and neglect discovered as a result of using monitoring devices, as required by law.</p> <p>K. A <u>nursing</u> facility may require the resident or the resident's responsible party <u>legal representative</u> to be responsible for all aspects of the operation of the monitoring equipment, including the removal and replacement of recordings; adherence to local, state, and federal privacy laws; and for firewall protections to prevent images that would violate obscenity laws from being inadvertently shown on the Internet.</p> <p>L. A <u>nursing</u> facility shall prohibit assigned staff from refusing to enter a resident's room solely because of electronic monitoring.</p> <p>M. Any electronic monitoring equipment shall be installed in a manner that is safe for residents, employees, or visitors who may be moving about the resident's room.</p> <p>N. A <u>nursing</u> facility shall make reasonable physical accommodation for monitoring equipment, including:</p> <ol style="list-style-type: none"> 1. Providing a reasonably secure place to mount the device; and 2. Providing access to power sources for the device. <p>O. A <u>nursing</u> facility may require a resident or a resident's responsible party <u>legal representative</u> to pay for all costs, other than the cost of electricity, associated with installing electronic monitoring equipment. Such costs shall be reasonable and may include equipment, recording media and</p>
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	<p>the monitored room shall be obtained prior to any electronic monitoring equipment being installed.</p> <p>R. A copy of any signed consent form shall be kept in the resident's medical record as well as on file with the facility's designated electronic monitoring coordinator.</p> <p>S. Any resident or the resident's responsible party of a monitored room may condition consent for use of monitoring devices. Such conditions may include pointing the camera away or limiting or prohibiting the use of certain devices. If conditions are placed on consent, then electronic monitoring shall be conducted according to those conditions.</p> <p>T. The facility shall conspicuously post and maintain a notice at the entrance to the resident's room stating that an electronic monitoring device is in operation.</p> <p>U. Facilities shall notify all staff and their OLC Long-Term Care Supervisor that electronic monitoring is in use.</p> <p>V. A facility shall prohibit staff from covert monitoring in violation of this chapter. Facilities shall instruct the resident or the resident's responsible party of this prohibition and shall provide the resident or the resident's responsible party with the OLC's complaint hotline telephone number.</p> <p>W. If covert monitoring is discovered, the facility shall report any such violation to the Office of Long-Term Care Ombudsman and OLC, and the facility may require a resident or a resident's responsible party to meet all the requirements for authorized monitoring, if permitted by the facility.</p> <p>X. Each nursing facility, including those that choose not to offer electronic monitoring, shall adopt policies and procedures for electronic monitoring. These policies and procedures shall address all the elements of this section.</p> <p>Y. A facility shall prohibit staff from tampering with electronic monitoring in violation of this chapter. Facilities shall instruct the resident or the resident's responsible party of this prohibition and shall provide the resident or the resident's responsible party with the</p>	<p>installation, compliance with life safety and building and electrical codes, maintenance or removal of the equipment, posting and removal of any public notices, or structural repairs to the building resulting from the removal of the equipment. Facilities <u>Nursing facilities</u> shall give 45 days' notice of an increase in monthly monitoring fees.</p> <p>P. Any equipment installed for the purpose of monitoring a resident's room shall be fixed and unable to rotate.</p> <p>Q. The informed consent of all residents, or if a resident is incapable, a resident's responsible party, or residents' legal representatives assigned to the monitored room shall be obtained prior to any electronic monitoring equipment being installed.</p> <p>R. A copy of any signed consent form shall be kept in the resident's medical record as well as on file with the <u>nursing</u> facility's designated electronic monitoring coordinator.</p> <p>S. Any resident or the resident's responsible party <u>legal representative of a resident</u> of a monitored room may condition consent for use of monitoring devices. Such conditions may include pointing the camera away or limiting or prohibiting the use of certain devices. If conditions are placed on consent, then electronic monitoring shall be conducted according to those conditions.</p> <p>T. The <u>nursing</u> facility shall conspicuously post and maintain a notice at the entrance to the resident's room stating that an electronic monitoring device is in operation.</p> <p>U. Facilities <u>Nursing facilities</u> shall notify all staff and their <u>the long-term care division of the OLC Long-Term Care Supervisor</u> that electronic monitoring is in use.</p> <p>V. A <u>nursing</u> facility shall prohibit staff from covert monitoring in violation of this chapter. Facilities <u>Nursing facilities</u> shall instruct the resident or the resident's responsible party <u>legal representative</u> of this prohibition and shall provide the resident or the resident's responsible party <u>legal representative</u> with the OLC's complaint hotline telephone number.</p> <p>W. If covert monitoring is discovered, the <u>nursing</u> facility shall</p>
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		<p>OLC's complaint hotline telephone number.</p> <p>Statutory Authority §§ 32.1-12 and 32.1-127 of the Code of Virginia.</p>	<p>report any such violation to the Office of Long-Term Care Ombudsman and OLC, and the <u>nursing</u> facility may require a resident or a resident's responsible party <u>legal representative</u> to meet all the requirements for authorized monitoring, if permitted by the <u>nursing</u> facility.</p> <p>X. Each nursing facility, including those that choose not to offer electronic monitoring, shall adopt policies and procedures for electronic monitoring. These policies and procedures shall address all the elements of this section.</p> <p>Y. A <u>nursing</u> facility shall prohibit staff from tampering with electronic monitoring in violation of this chapter. Facilities <u>Nursing facilities</u> shall instruct the resident or the resident's responsible party <u>legal representative</u> of this prohibition and shall provide the resident or the resident's responsible party <u>legal representative</u> with the OLC's complaint hotline telephone number.</p> <p>Statutory Authority §§ 32.1-12 and 32.1-127 of the Code of Virginia.</p> <p>INTENT: The intent of this proposed change is to align the terminology used with the defined terms in Section 10.</p> <p>RATIONALE: The rationale behind this proposed change is that use of undefined terms is disfavored when a defined term is available.</p> <p>LIKELY IMPACT: The likely impact of these proposed changes is reduced confusion for licensees.</p>
210	N/A	<p>12VAC5-371-210. Nurse staffing.</p> <p>A. A nursing supervisor, designated by the director of nursing, shall be responsible for all nursing activities in the facility, or in the section to which assigned, including:</p> <ol style="list-style-type: none"> 1. Making daily visits to determine resident physical, mental, and emotional status and implementing any required nursing intervention; 2. Reviewing medication records for completeness, accuracy in the transcription of physician orders, and 	<p>CHANGE: The Board is proposing the following changes:</p> <p>12VAC5-371-210. Nurse staffing.</p> <p>A. A nursing supervisor, designated by the director of nursing, shall be responsible for all nursing activities in the <u>nursing</u> facility, or in the section to which assigned, including:</p> <ol style="list-style-type: none"> 1. Making daily visits to determine resident physical, mental, and emotional status and implementing any required nursing intervention;

	<p>adherence to stop-order policies;</p> <ol style="list-style-type: none"> 3. Reviewing resident plans of care for appropriate goals and approaches, and making revisions based on individual needs; 4. Assigning to the nursing staff responsibility for nursing care; 5. Supervising and evaluating performance of all nursing personnel on the unit; and 6. Keeping the director of nursing services, or director of nursing designee, informed of the status of residents and other related matters. <p>B. The nursing facility shall provide qualified nurses and certified nurse aides on all shifts, seven days per week, in sufficient number to meet the assessed nursing care needs of all residents.</p> <p>C. Nursing personnel, including registered nurses, licensed practical nurses, and certified nurse aides shall be assigned duties consistent with their education, training and experience.</p> <p>D. Weekly time schedules shall be maintained and shall indicate the number and classification of nursing personnel who worked on each unit for each shift. Schedules shall be retained for one year.</p> <p>E. All nursing services shall be directly provided by an appropriately qualified registered nurse or licensed practical nurse, except for those nursing tasks that may be delegated by a registered nurse according to 18VAC90-20-420 through 18VAC90-20-460 of the regulation of the Virginia Board of Nursing and with a plan developed and implemented by the facility.</p> <p>F. Before allowing a nurse aide to perform resident care duties, the nursing facility shall verify that the individual is:</p> <ol style="list-style-type: none"> 1. A certified nurse aide in good standing; 2. Enrolled full-time in a nurse aide education program approved by the Virginia Board of Nursing; or 3. Has completed a nurse aide education program or competency testing, but has not 	<ol style="list-style-type: none"> 2. Reviewing medication records for completeness, accuracy in the transcription of physician orders, and adherence to stop-order policies; 3. Reviewing resident plans of care for appropriate goals and approaches, and making revisions based on individual needs; 4. Assigning to the nursing staff responsibility for nursing care; 5. Supervising and evaluating performance of all nursing personnel on the unit; and 6. Keeping the director of nursing services, or director of nursing designee, informed of the status of residents and other related matters. <p>B. The nursing facility shall provide qualified nurses and certified nurse aides on all shifts, seven days per week, in sufficient number to meet the assessed nursing care needs of all residents.</p> <p>C. Nursing personnel, including registered nurses, licensed practical nurses, and certified nurse aides shall be assigned duties consistent with their education, training and experience.</p> <p>D. Weekly time schedules shall be maintained and shall indicate the number and classification of nursing personnel who worked on each unit for each shift. Schedules shall be retained for one year.</p> <p>E. All nursing services shall be directly provided by an appropriately qualified registered nurse or licensed practical nurse, except for those nursing tasks that may be delegated by a registered nurse according to 18VAC90-20-420 through 18VAC90-20-460 of the regulation of the Virginia Board of Nursing and with a plan developed and implemented by the <u>nursing</u> facility.</p> <p>F. Before allowing a nurse aide to perform resident care duties, the nursing facility shall verify that the individual is:</p> <ol style="list-style-type: none"> 1. A certified nurse aide in good standing; 2. Enrolled full-time in a nurse aide education program
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		<p>yet been placed on the nurse aide registry.</p> <p>G. Any person employed to perform the duties of a nurse aide on a permanent full-time, part-time, hourly, or contractual basis must be registered as a certified nurse aide within 120 days of employment.</p> <p>H. Nurse aides employed or provided by a temporary personnel agency shall be certified to deliver nurse aide services.</p> <p>I. The services provided or arranged with a temporary personnel agency shall meet professional standards of practice and be provided by qualified staff according to each resident's comprehensive plan of care.</p> <p>Statutory Authority §§ 32.1-12 and 32.1-127 of the Code of Virginia.</p>	<p>approved by the Virginia Board of Nursing; or</p> <p>3. Has completed a nurse aide education program or competency testing, but has not yet been placed on the nurse aide registry.</p> <p>G. Any person employed to perform the duties of a nurse aide on a permanent full-time, part-time, hourly, or contractual basis must be registered as a certified nurse aide within 120 days of employment.</p> <p>H. Nurse aides employed or provided by a temporary personnel agency shall be certified to deliver nurse aide services.</p> <p>I. The services provided or arranged with a temporary personnel agency shall meet professional standards of practice and be provided by qualified staff according to each resident's comprehensive plan of care.</p> <p>Statutory Authority §§ 32.1-12 and 32.1-127 of the Code of Virginia.</p> <p>INTENT: The intent of this proposed change is to align the terminology used with the defined terms in Section 10.</p> <p>RATIONALE: The rationale behind this proposed change is that use of undefined terms is disfavored when a defined term is available.</p> <p>LIKELY IMPACT: The likely impact of these proposed changes is reduced confusion for licensees.</p>
260	N/A	<p>12VAC5-371-260. Staff development and inservice training.</p> <p>A. All full-time, part-time and temporary personnel shall receive orientation to the facility commensurate with their function or job-specific responsibilities.</p> <p>B. All resident care staff shall receive annual inservice training commensurate with their function or job-specific responsibilities in at least the following:</p> <ol style="list-style-type: none"> 1. Special needs of residents as determined by the facility staff; 	<p>CHANGE: The Board is proposing the following changes:</p> <p>12VAC5-371-260. Staff development and inservice training.</p> <p>A. All full-time, part-time and temporary personnel shall receive orientation to the <u>nursing</u> facility commensurate with their function or job-specific responsibilities.</p> <p>B. All resident care staff shall receive annual inservice training commensurate with their function or job-specific responsibilities in at least the following:</p>

	<p>2. Prevention and control of infections; 3. Fire prevention or control and emergency preparedness; 4. Safety and accident prevention; 5. Restraint use, including alternatives to physical and chemical restraints; 6. Confidentiality of resident information; 7. Understanding the needs of the aged and disabled; 8. Resident rights, including personal rights, property rights and the protection of privacy, and procedures for handling complaints; 9. Care of the cognitively impaired; 10. Basic principles of cardiopulmonary resuscitation for licensed nursing staff and the Heimlich maneuver for nurse aides; and 11. Prevention and treatment of pressure sores.</p> <p>C. The nursing facility shall have an ongoing training program that is planned and conducted for the development and improvement of skills of all personnel.</p> <p>D. The nursing facility shall maintain written records indicating the content of and attendance at each orientation and inservice training program.</p> <p>E. The nursing facility shall provide inservice programs, based on the outcome of annual performance evaluations, for nurse aides.</p> <p>F. Nurse aide inservice training shall consist of at least 12 hours per anniversary year.</p> <p>G. The nursing facility shall provide training on the requirements for reporting adult abuse, neglect, or exploitation and the consequences for failing to make such a required report to all its employees who are licensed to practice medicine or any of the healing arts, serving as a hospital resident or intern, engaged in the nursing profession, working as a social worker, mental health professional or law-enforcement officer and any other individual working with residents of the nursing facility.</p>	<p>1. Special needs of residents as determined by the <u>nursing</u> facility staff; 2. Prevention and control of infections; 3. Fire prevention or control and emergency preparedness; 4. Safety and accident prevention; 5. Restraint use, including alternatives to physical and chemical restraints; 6. Confidentiality of resident information; 7. Understanding the needs of the aged and disabled; 8. Resident rights, including personal rights, property rights and the protection of privacy, and procedures for handling complaints; 9. Care of the cognitively impaired; 10. Basic principles of cardiopulmonary resuscitation for licensed nursing staff and the Heimlich maneuver for nurse aides; and 11. Prevention and treatment of pressure sores.</p> <p>C. The nursing facility shall have an ongoing training program that is planned and conducted for the development and improvement of skills of all personnel.</p> <p>D. The nursing facility shall maintain written records indicating the content of and attendance at each orientation and inservice training program.</p> <p>E. The nursing facility shall provide inservice programs, based on the outcome of annual performance evaluations, for nurse aides.</p> <p>F. Nurse aide inservice training shall consist of at least 12 hours per anniversary year.</p> <p>G. The nursing facility shall provide training on the requirements for reporting adult abuse, neglect, or exploitation and the consequences for failing to make such a required report to all its employees who are licensed to practice medicine or any of the healing arts, serving as a hospital resident or intern, engaged in the nursing profession, working as a social worker, mental health professional or law-</p>
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		<p>Statutory Authority §§ 32.1-12 and 32.1-127 of the Code of Virginia.</p>	<p>enforcement officer and any other individual working with residents of the nursing facility.</p> <p>Statutory Authority §§ 32.1-12 and 32.1-127 of the Code of Virginia.</p> <p>INTENT: The intent of this proposed change is to align the terminology used with the defined terms in Section 10.</p> <p>RATIONALE: The rationale behind this proposed change is that use of undefined terms is disfavored when a defined term is available.</p> <p>LIKELY IMPACT: The likely impact of these proposed changes is reduced confusion for licensees.</p>
300	N/A	<p>12VAC5-371-300. Pharmaceutical services.</p> <p>A. Provision shall be made for the procurement, storage, dispensing, and accounting of drugs and other pharmacy products in compliance with 18VAC110-20. This may be by arrangement with an off-site pharmacy, but must include provisions for 24-hour emergency service.</p> <p>B. Each nursing facility shall develop and implement policies and procedures for the handling of drugs and biologicals, including procurement, storage, administration, self-administration and disposal of drugs.</p> <p>C. Each nursing facility shall have a written agreement with a qualified pharmacist to provide consultation on all aspects of the provision of pharmacy services in the facility.</p> <p>D. The consultant pharmacist shall make regularly scheduled visits, at least monthly, to the nursing facility for a sufficient number of hours to carry out the function of the agreement.</p> <p>E. No drug or medication shall be administered to any resident without a valid verbal order or a written, dated and signed order from a physician, dentist or podiatrist, nurse practitioner or physician assistant, licensed in Virginia.</p> <p>F. Verbal orders for drugs or medications shall only be given to a licensed nurse, pharmacist or physician.</p>	<p>CHANGE: The Board is proposing the following changes:</p> <p>12VAC5-371-300. Pharmaceutical services.</p> <p>A. Provision shall be made for the procurement, storage, dispensing, and accounting of drugs and other pharmacy products in compliance with 18VAC110-20. This may be by arrangement with an off-site pharmacy, but must include provisions for 24-hour emergency service.</p> <p>B. Each nursing facility shall develop and implement policies and procedures for the handling of drugs and biologicals, including procurement, storage, administration, self-administration and disposal of drugs.</p> <p>C. Each nursing facility shall have a written agreement with a qualified pharmacist to provide consultation on all aspects of the provision of pharmacy services in the <u>nursing</u> facility.</p> <p>D. The consultant pharmacist shall make regularly scheduled visits, at least monthly, to the nursing facility for a sufficient number of hours to carry out the function of the agreement.</p> <p>E. No drug or medication shall be administered to any resident without a valid verbal order or a written, dated and signed order from a physician, dentist or podiatrist, nurse practitioner or physician assistant, licensed in Virginia.</p>

	<p>G. Drugs and medications not limited as to time or number of doses when ordered shall be automatically stopped, according to the written policies of the nursing facility, and the attending physician shall be notified.</p> <p>H. Each resident's medication regimen shall be reviewed by a pharmacist licensed by the Virginia Board of Pharmacy. Any irregularities identified by the pharmacist shall be reported to the physician and the director of nursing, and their response documented.</p> <p>I. Medication orders shall be reviewed at least every 60 days by the attending physician, nurse practitioner, or physician's assistant.</p> <p>J. Prescription and nonprescription drugs and medications may be brought into the nursing facility by a resident's family, friend or other person provided:</p> <ol style="list-style-type: none"> 1. The individual delivering the drugs and medications assures timely delivery, in accordance with the nursing facility's written policies, so that the resident's prescribed treatment plan is not disrupted; 2. Each drug or medication is in an individual container; and 3. Delivery is not allowed directly to an individual resident. <p>In addition, prescription medications shall be obtained and labeled as required by law.</p> <p>Statutory Authority §§ 32.1-12 and 32.1-127 of the Code of Virginia.</p>	<p>F. Verbal orders for drugs or medications shall only be given to a licensed nurse, pharmacist or physician.</p> <p>G. Drugs and medications not limited as to time or number of doses when ordered shall be automatically stopped, according to the written policies of the nursing facility, and the attending physician shall be notified.</p> <p>H. Each resident's medication regimen shall be reviewed by a pharmacist licensed by the Virginia Board of Pharmacy. Any irregularities identified by the pharmacist shall be reported to the physician and the director of nursing, and their response documented.</p> <p>I. Medication orders shall be reviewed at least every 60 days by the attending physician, nurse practitioner, or physician's assistant.</p> <p>J. Prescription and nonprescription drugs and medications may be brought into the nursing facility by a resident's family, friend or other person provided:</p> <ol style="list-style-type: none"> 1. The individual delivering the drugs and medications assures timely delivery, in accordance with the nursing facility's written policies, so that the resident's prescribed treatment plan is not disrupted; 2. Each drug or medication is in an individual container; and 3. Delivery is not allowed directly to an individual resident. <p>In addition, prescription medications shall be obtained and labeled as required by law.</p> <p>Statutory Authority §§ 32.1-12 and 32.1-127 of the Code of Virginia.</p> <p>INTENT: The intent of this proposed change is to align the terminology used with the defined terms in Section 10.</p> <p>RATIONALE: The rationale behind this proposed change is that use of undefined terms is disfavored when a defined term is available.</p> <p>LIKELY IMPACT: The likely impact of these proposed changes is reduced confusion for licensees.</p>
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<p>330</p>	<p>N/A</p>	<p>12VAC5-371-330. Restraint usage. A. A resident shall be free from any physical or chemical restraints imposed for purposes of discipline or convenience, and not required to treat the resident's medical symptoms. B. Restraints shall only be used: 1. In accordance with the comprehensive assessment and plan of care, which includes a schedule or plan of rehabilitation training enabling the progressive removal or the progressive use of less restrictive restraints when appropriate; and 2. As a last resort, after completing, implementing, and evaluating the resident's comprehensive assessment and plan of care, when the nursing facility has determined that less restrictive means have failed. C. If a restraint is used in a nonemergency, the nursing facility shall: 1. Explain the use of the restraint, including potential negative outcomes of restraint use, to the resident or his legal representative, as appropriate; 2. Explain the resident's right to refuse the restraint; 3. Obtain written consent of the resident. If the resident has been legally declared incompetent, obtain written consent from the legal representative; and 4. Include the use of restraint in the plan of care. D. Restraints shall not be ordered on a standing or PRN basis. E. Restraints shall be applied only by staff trained in their use. F. At a minimum, for a resident placed in a restraint, the nursing facility shall: 1. Check the resident at least every 30 minutes; 2. Provide an opportunity for motion, exercise and elimination for not less than 10 minutes each hour in which a restraint is administered; and</p>	<p>CHANGE: The Board is proposing the following changes: 12VAC5-371-330. Restraint usage. A. A resident shall be free from any physical or chemical restraints imposed for purposes of discipline or convenience, and not required to treat the resident's medical symptoms. B. Restraints shall only be used: 1. In accordance with the comprehensive assessment and plan of care, which includes a schedule or plan of rehabilitation training enabling the progressive removal or the progressive use of less restrictive restraints when appropriate; and 2. As a last resort, after completing, implementing, and evaluating the resident's comprehensive assessment and plan of care, when the nursing facility has determined that less restrictive means have failed. C. If a restraint is used in a nonemergency, the nursing facility shall: 1. Explain the use of the restraint, including potential negative outcomes of restraint use, to the resident or his legal representative, as appropriate; 2. Explain the resident's right to refuse the restraint; 3. Obtain written consent of the resident. If the resident has been legally declared incompetent, obtain written consent from the legal representative; and 4. Include the use of restraint in the plan of care. D. Restraints shall not be ordered on a standing or PRN basis. E. Restraints shall be applied only by staff trained in their use. F. At a minimum, for a resident placed in a restraint, the nursing facility shall: 1. Check the resident at least every 30 minutes; 2. Provide an opportunity for motion, exercise and elimination</p>
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	<p>3. Document restraint usage, including outcomes, in accordance with facility policy.</p> <p>G. Emergency orders for restraints shall not be in effect for longer than 24 hours and must be confirmed by a physician within one hour of administration. Each application of emergency restraint shall be considered a single event and shall require a separate physician's order.</p> <p>H. Temporary restraints may be used for a brief period to allow a medical or surgical procedure, but shall not be used to impose a medical or surgical procedure which the resident has previously refused.</p> <p>I. The nursing facility shall notify a resident's legal representative, if any, or designated family member as soon as practicable, but no later than 12 hours after administration of a restraint.</p> <p>J. Chemical restraint shall only be ordered in an emergency situation when necessary to ensure the physical safety of the resident or other individuals.</p> <p>K. Orders for chemical restraint shall be in writing, signed by a physician, specifying the dose, frequency, duration and circumstances under which the chemical restraint is to be used. Verbal orders for chemical restraints shall be implemented when an emergency necessitates parenteral administration of psychopharmacologic drugs, but only until a written order can reasonably be obtained.</p> <p>L. Emergency orders for chemical restraints shall:</p> <ol style="list-style-type: none"> 1. Not be in effect for more than 24 hours; and 2. Be administered only if the resident is monitored continually for the first 15 minutes after each parenteral administration (or 30 minutes for nonparenteral administration) and every 15 minutes thereafter, for the first hour, and hourly for the next eight hours to ensure that any adverse side effects will be noticed and appropriate action taken as soon as possible. <p>Statutory Authority</p>	<p>for not less than 10 minutes each hour in which a restraint is administered; and</p> <p>3. Document restraint usage, including outcomes, in accordance with <u>nursing</u> facility policy.</p> <p>G. Emergency orders for restraints shall not be in effect for longer than 24 hours and must be confirmed by a physician within one hour of administration. Each application of emergency restraint shall be considered a single event and shall require a separate physician's order.</p> <p>H. Temporary restraints may be used for a brief period to allow a medical or surgical procedure, but shall not be used to impose a medical or surgical procedure which the resident has previously refused.</p> <p>I. The nursing facility shall notify a resident's legal representative, if any, or designated family member as soon as practicable, but no later than 12 hours after administration of a restraint.</p> <p>J. Chemical restraint shall only be ordered in an emergency situation when necessary to ensure the physical safety of the resident or other individuals.</p> <p>K. Orders for chemical restraint shall be in writing, signed by a physician, specifying the dose, frequency, duration and circumstances under which the chemical restraint is to be used. Verbal orders for chemical restraints shall be implemented when an emergency necessitates parenteral administration of psychopharmacologic drugs, but only until a written order can reasonably be obtained.</p> <p>L. Emergency orders for chemical restraints shall:</p> <ol style="list-style-type: none"> 1. Not be in effect for more than 24 hours; and 2. Be administered only if the resident is monitored continually for the first 15 minutes after each parenteral administration (or 30 minutes for nonparenteral administration) and every 15 minutes thereafter, for the first hour, and hourly for the next eight hours to ensure that any adverse side effects will be
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		<p>§§ 32.1-12 and 32.1-127 of the Code of Virginia.</p>	<p>noticed and appropriate action taken as soon as possible.</p> <p>Statutory Authority §§ 32.1-12 and 32.1-127 of the Code of Virginia.</p> <p>INTENT: The intent of this proposed change is to align the terminology used with the defined terms in Section 10.</p> <p>RATIONALE: The rationale behind this proposed change is that use of undefined terms is disfavored when a defined term is available.</p> <p>LIKELY IMPACT: The likely impact of these proposed changes is reduced confusion for licensees.</p>
360	N/A	<p>12VAC5-371-360. Clinical records.</p> <p>A. The nursing facility shall maintain an organized clinical record system in accordance with recognized professional practices. Written policies and procedures shall be established specifying content and completion of clinical records.</p> <p>B. Clinical records shall be confidential. Only authorized personnel shall have access as specified in §§ 8.01-413 and 32.1-127.1:03 of the Code of Virginia.</p> <p>C. Records shall be safeguarded against destruction, fire, loss or unauthorized use.</p> <p>D. Overall supervisory responsibility for assuring that clinical records are maintained, completed and preserved shall be assigned to an employee of the nursing facility. The individual shall have work experience or training which is consistent with the nature and complexity of the record system and be capable of effectively carrying out the functions of the job.</p> <p>E. An accurate and complete clinical record shall be maintained for each resident and shall include, but not be limited to:</p> <ol style="list-style-type: none"> 1. Resident identification; 2. Designation of attending physician; 3. Admitting information, including resident medical 	<p>CHANGE: The Board is proposing the following changes:</p> <p>12VAC5-371-360. Clinical records.</p> <p>A. The nursing facility shall maintain an organized clinical record system in accordance with recognized professional practices. Written policies and procedures shall be established specifying content and completion of clinical records.</p> <p>B. Clinical records shall be confidential. Only authorized personnel shall have access as specified in §§ 8.01-413 and 32.1-127.1:03 of the Code of Virginia.</p> <p>C. Records shall be safeguarded against destruction, fire, loss or unauthorized use.</p> <p>D. Overall supervisory responsibility for assuring that clinical records are maintained, completed and preserved shall be assigned to an employee of the nursing facility. The individual shall have work experience or training which is consistent with the nature and complexity of the record system and be capable of effectively carrying out the functions of the job.</p> <p>E. An accurate and complete clinical record shall be maintained for each resident and shall include, but not be limited to:</p> <ol style="list-style-type: none"> 1. Resident identification; 2. Designation of attending physician;

	<p>history, physical examination and diagnosis;</p> <p>4. Physician orders, including all medications, treatments, diets, restorative and special medical procedures required;</p> <p>5. Progress notes written at the time of each visit;</p> <p>6. Documented evidence of assessment of resident's needs, establishment of an appropriate treatment plan, and interdisciplinary plan of care;</p> <p>7. Nurse's notes written in chronological order and signed by the individual making the entry;</p> <p>8. All symptoms and other indications of illness or injury, including date, time, and action taken on each shift;</p> <p>9. Medication and treatment record, including all medications, treatments and special procedures performed;</p> <p>10. Copies of radiology, laboratory and other consultant reports; and</p> <p>11. Discharge summary.</p> <p>F. Verbal orders shall be immediately documented in the clinical record by the individual authorized to accept the orders, and shall be countersigned.</p> <p>G. Clinical records of discharged residents shall be completed within 30 days of discharge.</p> <p>H. Clinical records shall be kept for a minimum of five years after discharge or death, unless otherwise specified by state or federal law.</p> <p>I. Permanent information kept on each resident shall include:</p> <ol style="list-style-type: none"> 1. Name; 2. Social security number; 3. Date of birth; 4. Date of admission and discharge; and 5. Name and address of guardian, if any. <p>J. Clinical records shall be available to residents and legal representatives, if they wish to see them.</p> <p>K. When a nursing facility closes, the owners shall make provisions for the</p>	<p>3. Admitting information, including resident medical history, physical examination and diagnosis;</p> <p>4. Physician orders, including all medications, treatments, diets, restorative and special medical procedures required;</p> <p>5. Progress notes written at the time of each visit;</p> <p>6. Documented evidence of assessment of resident's needs, establishment of an appropriate treatment plan, and interdisciplinary plan of care;</p> <p>7. Nurse's notes written in chronological order and signed by the individual making the entry;</p> <p>8. All symptoms and other indications of illness or injury, including date, time, and action taken on each shift;</p> <p>9. Medication and treatment record, including all medications, treatments and special procedures performed;</p> <p>10. Copies of radiology, laboratory and other consultant reports; and</p> <p>11. Discharge summary.</p> <p>F. Verbal orders shall be immediately documented in the clinical record by the individual authorized to accept the orders, and shall be countersigned.</p> <p>G. Clinical records of discharged residents shall be completed within 30 days of discharge.</p> <p>H. Clinical records shall be kept for a minimum of five years after discharge or death, unless otherwise specified by state or federal law.</p> <p>I. Permanent information kept on each resident shall include:</p> <ol style="list-style-type: none"> 1. Name; 2. Social security number; 3. Date of birth; 4. Date of admission and discharge; and 5. Name and address of <u>guardian legal representative</u>, if any. <p>J. Clinical records shall be available to residents and legal representatives, if they wish to see them.</p>
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		<p>safekeeping and confidentiality of all clinical records.</p> <p>Statutory Authority §§ 32.1-12 and 32.1-127 of the Code of Virginia.</p>	<p>K. When a nursing facility closes, the owners shall make provisions for the safekeeping and confidentiality of all clinical records.</p> <p>Statutory Authority §§ 32.1-12 and 32.1-127 of the Code of Virginia.</p> <p>INTENT: The intent of this proposed change is to align the terminology used with the defined terms in Section 10.</p> <p>RATIONALE: The rationale behind this proposed change is that use of undefined terms is disfavored when a defined term is available.</p> <p>LIKELY IMPACT: The likely impact of these proposed changes is reduced confusion for licensees.</p>
380	N/A	<p>12VAC5-371-380. Laundry services.</p> <p>A. A quantity of linens shall be available at all times to provide for proper care and comfort of residents.</p> <p>B. Linens and other laundry must be handled, stored and processed to control the spread of infection.</p> <p>C. Clean linen shall be stored in a clean and dry area accessible to the nursing unit.</p> <p>D. Soiled linen shall be stored in covered containers in separate, well ventilated areas and shall not accumulate in the facility.</p> <p>E. Soiled linen shall not be sorted, laundered, rinsed or stored in bathrooms, resident rooms, kitchens or food storage areas.</p> <p>F. Soiled linen shall not be placed on the floor.</p> <p>G. Arrangement for laundering resident's personal clothing shall be provided. If laundry facilities are not provided on premises, commercial laundry services shall be utilized.</p> <p>Statutory Authority §§ 32.1-12 and 32.1-127 of the Code of Virginia.</p>	<p>CHANGE: The Board is proposing the following changes:</p> <p>12VAC5-371-380. Laundry services.</p> <p>A. A quantity of linens shall be available at all times to provide for proper care and comfort of residents.</p> <p>B. Linens and other laundry must be handled, stored and processed to control the spread of infection.</p> <p>C. Clean linen shall be stored in a clean and dry area accessible to the nursing unit.</p> <p>D. Soiled linen shall be stored in covered containers in separate, well ventilated areas and shall not accumulate in the <u>nursing</u> facility.</p> <p>E. Soiled linen shall not be sorted, laundered, rinsed or stored in bathrooms, resident rooms, kitchens or food storage areas.</p> <p>F. Soiled linen shall not be placed on the floor.</p> <p>G. Arrangement for laundering resident's personal clothing shall be provided. If laundry facilities are not provided on premises, commercial laundry services shall be utilized.</p> <p>Statutory Authority §§ 32.1-12 and 32.1-127 of the Code of Virginia.</p>

			<p>INTENT: The intent of this proposed change is to align the terminology used with the defined terms in Section 10.</p> <p>RATIONALE: The rationale behind this proposed change is that use of undefined terms is disfavored when a defined term is available.</p> <p>LIKELY IMPACT: The likely impact of these proposed changes is reduced confusion for licensees.</p>
390	N/A	<p>12VAC5-371-390. Transportation.</p> <p>A. Provisions shall be made to obtain appropriate transportation in cases of emergency.</p> <p>B. The nursing facility shall assist in obtaining transportation when it is necessary to obtain medical, psychiatric, dental, diagnostic or other services outside the facility.</p> <p>Statutory Authority §§ 32.1-12 and 32.1-127 of the Code of Virginia.</p>	<p>CHANGE: The Board is proposing the following changes:</p> <p>12VAC5-371-390. Transportation.</p> <p>A. Provisions shall be made to obtain appropriate transportation in cases of emergency.</p> <p>B. The nursing facility shall assist in obtaining transportation when it is necessary to obtain medical, psychiatric, dental, diagnostic or other services outside the <u>nursing</u> facility.</p> <p>Statutory Authority §§ 32.1-12 and 32.1-127 of the Code of Virginia.</p> <p>INTENT: The intent of this proposed change is to align the terminology used with the defined terms in Section 10.</p> <p>RATIONALE: The rationale behind this proposed change is that use of undefined terms is disfavored when a defined term is available.</p> <p>LIKELY IMPACT: The likely impact of these proposed changes is reduced confusion for licensees.</p>
400	N/A	<p>12VAC5-371-400. Unique design solutions.</p> <p>A. All unique design solutions shall be described with outcome measures. This shall be reviewed in cooperation with the OLC.</p> <p>B. The description and outcome measures shall be a part of the material used to review the design solution at the time of the facility survey.</p> <p>C. All unique design solutions, unless specifically excluded by contract, shall comply with Parts II (12VAC5-371-</p>	<p>CHANGE: The Board is proposing to repeal this section in its entirety:</p> <p>12VAC5-371-400. Unique design solutions. (Repealed.)</p> <p>A. All unique design solutions shall be described with outcome measures. This shall be reviewed in cooperation with the OLC.</p> <p>B. The description and outcome measures shall be a part of the material used to review the design solution at the time of the facility survey.</p>

		<p>110 et seq.) and III (12VAC5-371-200 et seq.) of this chapter.</p> <p>Statutory Authority §§ 32.1-12 and 32.1-127 of the Code of Virginia.</p>	<p>C. All unique design solutions, unless specifically excluded by contract, shall comply with Parts II (12VAC5-371-110 et seq.) and III (12VAC5-371-200 et seq.) of this chapter.</p> <p>Statutory Authority §§ 32.1-12 and 32.1-127 of the Code of Virginia.</p> <p>INTENT: The intent of this proposed change is to eliminate irrelevant requirements.</p> <p>RATIONALE: The rationale behind this proposed change is that nursing facilities are already required to design and construct according to the Uniform Statewide Building Code, local zoning and building ordinances, and the guidelines issued by the Facilities Guidelines Institute (formerly the American Institute of Architects).</p> <p>LIKELY IMPACT: The likely impact of these proposed changes is reduced confusion for licensees.</p>
DIBR	N/A	<p>DOCUMENTS INCORPORATED BY REFERENCE (12VAC5-371)</p> <p>Guidelines for Design and Construction of Health Care Facilities, Facilities Guideline Institute (formerly of the American Institute of Architects Academy of Architecture), 2010 Edition.</p> <p>Guidelines for Preventing Health Care-Associated Pneumonia, 2003, MMWR 53 (RR03), Advisory Committee on Immunization Practices, Centers for Disease Control and Prevention.</p> <p>Prevention and Control of Influenza, MMWR 53 (RR06), Advisory Committee on Immunization Practices, Centers for Disease Control and Prevention.</p>	<p>CHANGE: The Board is proposing the following changes:</p> <p>DOCUMENTS INCORPORATED BY REFERENCE (12VAC5-371)</p> <p>Guidelines for Design and Construction of Health Care Facilities, Facilities Guideline Institute (formerly of the American Institute of Architects Academy of Architecture), 2010 Edition.</p> <p>Guidelines for Preventing Health Care-Associated Pneumonia, 2003, MMWR 53 (RR03), Advisory Committee on Immunization Practices, Centers for Disease Control and Prevention.</p> <p><u>Guidelines for Preventing Health-Care-Associated Pneumonia, 2003, MMWR 53 (RR-3), Advisory Committee on Immunization Practices, Centers for Disease Control and Prevention.</u></p> <p>Prevention and Control of Influenza, MMWR 53 (RR06), Advisory Committee on Immunization Practices, Centers for Disease Control and Prevention.</p> <p><u>Prevention and Control of Seasonal Influenza with Vaccines: Recommendations of the Advisory</u></p>

			<p><u>Committee on Immunization Practices — United States, 2020–21 Influenza Season, 2020, MMWR 69 (RR-8), Centers for Disease Control and Prevention.</u></p> <p>INTENT: The intent of these proposed changes is to keep documents incorporated by reference current and accurate.</p> <p>RATIONALE: The rationale behind these proposed changes is that nursing facilities should be held to current standards and guidelines.</p> <p>LIKELY IMPACT: The likely impact of these proposed changes is improved resident health and safety at nursing facilities.</p>
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