CHAPTER 4658
DEPARTMENT OF HEALTH
NURSING HOMES

NOTE: Parts 4658.0010 to 4658.1365 are effective November 13, 1995.

LICENSING

4658.0010 DEFINITIONS.

Subpart 1. **Scope.** The terms used in parts 4658.0010 to 4658.1365 have the meanings given them in this part.

Subp. 2. **Convalescent and nursing care (C&NC) unit.** "Convalescent and nursing care (C&NC) unit" means a nursing home unit operated in conjunction with a hospital where there is a direct physical connection between the unit and the hospital which permits the movement of the residents and the provision of services without going outside the building or buildings involved. The units are subject to this chapter.

Subp. 3. **Department.** "Department" means the Minnesota Department of Health.

Subp. 4. **Existing facility.** "Existing facility" means a licensed nursing home or nursing home space that was in place before November 13, 1995. All existing facilities will be deemed to be in substantial compliance with the physical plant requirements for new construction, except as noted in this chapter and chapter 4660. Existing facilities must, at a minimum, maintain compliance with the rules applicable at the time of their construction.

Subp. 5. **Licensee.** "Licensee" means the person or governing body to whom the license is issued. The licensee is responsible for compliance with this chapter.

Subp. 6. **Nurse.** "Nurse" means a registered nurse or a licensed practical nurse licensed by the Minnesota Board of Nursing, or exempt from licensure and practicing in accordance with Minnesota Statutes, sections 148.171 to 148.285.

Subp. 7. **Nurse practitioner.** "Nurse practitioner" means a registered nurse who has graduated from a program of study designed to prepare a registered nurse for advanced practice as a nurse practitioner and who is certified through a national professional nursing organization listed in part 6330.0350.

Subp. 8. **Nursing assistant.** "Nursing assistant" means a nursing home employee who is assigned by the director of nursing services to provide or assist in the provision of nursing or nursing–related services under the supervision of a registered nurse. Nursing assistant includes nursing assistants employed by nursing pool companies but does not include a licensed health professional.

Subp. 9. **Nursing care.** "Nursing care" has the meaning given it in Minnesota Statutes, section 144A.01, subdivision 6.

Subp. 10. **Nursing home.** "Nursing home" has the meaning given it in Minnesota Statutes, section 144A.01, subdivision 5.

Subp. 11. **Nursing personnel.** "Nursing personnel" means registered nurses, licensed practical nurses, and nursing assistants.

Subp. 12. **Physician.** "Physician" means a person licensed by the Minnesota Board of Medical Practice, or exempt from licensure, and practicing in accordance with Minnesota Statutes, chapter 147.

Subp. 13. **Physician designee.** "Physician designee" means a nurse practitioner or physician assistant who has been authorized in writing by the physician to perform medical functions.

Subp. 14. **Resident.** "Resident" means an individual cared for in a nursing home.

Subp. 15. **Time periods.** "Time periods" means the minimum and maximum time allowed to complete an activity. For purposes of this chapter, time periods means:

A. "Weekly" means a time period which requires an activity to be completed at least 52 times a year within intervals ranging from six to eight days.

B. "Monthly" means a time period which requires an activity to be completed at least 12 times a year within intervals ranging from 27 to 33 days.

C. "Quarterly" means a time period which requires an activity to be performed at least four times a year within intervals ranging from 81 to 99 days.

Subp. 16. **Volunteer.** "Volunteer" means a person who, without monetary or other compensation, provides services to residents or to the nursing home.

Statutory Authority: *MS s 144A.04; 144A.08; 256B.431*

History: *20 SR 303*

4658.0015 COMPLIANCE WITH REGULATIONS AND STANDARDS.

A nursing home must operate and provide services in compliance with all applicable federal, state, and local laws, regulations, and codes, and with accepted professional standards and principles that apply to professionals providing services in a nursing home.

Statutory Authority: *MS s 144A.04; 144A.08; 256B.431*

History: *20 SR 303*

4658.0020 LICENSING IN GENERAL.

Subpart 1. **Required.** For the purpose of this chapter, a state license is required for a facility where nursing home care is provided for five or more aged or infirm persons who are not acutely ill.

Subp. 2. **License fees.** Each application for either an initial or renewal license to operate a nursing home must be accompanied by a fee based upon the formula as provided by Minnesota Statutes, section 144.122. A bed must be licensed if it is available for use by residents. If the number of licensed beds is increased during the term of the license, a full year's fee for each additional bed must be paid. There is no refund for a decrease in licensed beds.

Subp. 3. **License expiration date.** Initial and renewal licenses are issued for one year and expire on the anniversary date of issuance. A license renewal must be applied for on an annual basis.

Subp. 4. **License to be posted.** The license must be posted at the main entrance of a nursing home.

Subp. 5. **Separate licenses.** Separate licenses are required for institutions maintained on separate, noncontiguous premises even though operated under the same management. A separate license is not required for separate buildings maintained by the same owner on the same premises.

Statutory Authority: *MS s 144A.04; 144A.08; 256B.431*

History: *20 SR 303*

4658.0025 PROCEDURES FOR LICENSING NURSING HOMES.

Subpart 1. **Initial licensure.** For the purpose of this part, initial licensure applies to newly constructed facilities designed to operate as a nursing home and to other facilities not already licensed as a nursing home. Applicants for initial licensure must complete the license application form supplied by the department. An application for initial licensure must be submitted at least 90 days before the requested date for licensure and must be accompanied by a license fee based upon the formula as provided by Minnesota Statutes, section 144.122.

To be issued a license, an applicant must file with the department a current copy of the architectural and engineering plans and specifications of the facility as prepared and certified by an architect or engineer registered to practice in Minnesota.

If the applicant for licensure is a corporation, it must submit with the application a copy of its articles of incorporation and bylaws. A foreign corporation must also submit a copy of its certificate of authority to do business in Minnesota. The department will issue the initial license as of the date the department determines that the nursing home is in compliance with parts 4655.0090 to 4655.9342, 4658.0010 to 4658.1365, 4660.0090 to 4660.9940, and Minnesota Statutes, sections 144A.01 to 144A.16, unless the applicant requests a later date.

Subp. 2. **Renewed licenses.** An applicant for license renewal must complete the license application form supplied by the department. An application must be submitted at least 60 days before the expiration of the current license and must be accompanied by a license fee based upon the formula as provided by Minnesota Statutes, section 144.122. The department will issue a renewed license if a nursing home continues to satisfy the requirements of parts 4655.0090 to 4655.9342, 4658.0010 to 4658.1365, 4660.0100 to 4660.9940, and Minnesota Statutes, sections 144A.01 to 144A.16.

If the licensee is a corporation, it must submit any amendments to its articles of incorporation or bylaws with the renewal application.

If the renewal application specifies a different licensed capacity from that provided on the current license, the licensee must comply with subpart 6. If the changes are not approved

before the current license expires, the renewed license will be issued without reflecting the requested changes.

Subp. 3. **Transfer of interests; notice.** A controlling person, as defined in Minnesota Statutes, section 144A.01, subdivision 4, who transfers a beneficial interest in the nursing home must notify the department, in writing, at least 14 days before the date of the transfer. The written notice must contain the name and address of the transferor, the name and address of the transferee, the nature and amount of the transferred interests, and the date of the transfer.

Subp. 4. **Transfer of interest; expiration of license.** A transfer of a beneficial interest will result in the expiration of the nursing home's license:

A. if the transferred beneficial interest exceeds ten percent of the total beneficial interest in the licensee, in the structure in which the nursing home is located, or in the land upon which the nursing home is located, and if, as the result of the transfer, the transferee then possesses a beneficial interest in excess of 50 percent of the total beneficial interest in the licensee, in the structure in which the nursing home is located, or in the land upon which the nursing home is located; or

B. if the transferred beneficial interest exceeds 50 percent of the total beneficial interest in the licensee, the structure in which the nursing home is located, or in the land upon which the nursing home is located.

Under either of these conditions, the nursing home license expires at the time of relicensure, 90 days after the date of the transfer, or 90 days after the date when notice of transfer is received, whichever date is later. If the current license expires before the end of the 90–day period, the licensee must apply for a renewed license in accordance with subpart 2. The department must notify the licensee by certified mail at least 60 days before the license expires.

Subp. 5. **Transfer of interest; relicensure.** A controlling person may apply for relicensure by submitting the license application form at least 60 days before the license expiration date. Application for relicensure must be accompanied by a license fee based upon the formula as provided by Minnesota Statutes, section 144.122. Payment of any outstanding penalty assessments must be submitted before the application for relicensure may be acted upon by the department. If the applicant for relicensure is a corporation, it must submit a copy of its current articles of incorporation and bylaws with the license application. A foreign corporation must also submit a copy of its certificate of authority to do business in Minnesota. The department will relicense the nursing home as of the date the commissioner determines that the prospective licensee complies with parts 4655.0090 to 4655.9342, 4658.0010 to 4658.1365, 4660.0100 to 4660.9940, and Minnesota Statutes, sections 144A.01 to 144A.16, unless the applicant requests a later date. The former licensee remains responsible for the operation of the nursing home until the nursing home is relicensed.

Subp. 6. **Amendment to the license.** If the nursing home requests a change in its licensed capacity or in its license classification, it must submit the request on the application for amendments to the license. This application must be submitted at least 30 days before the requested date of change and if an increase in the number of licensed beds is requested, accompanied by a fee based upon the formula as provided by Minnesota Statutes, section 144.122. The department will amend the license as of the date the department determines that the nursing home is in compliance with parts 4655.0090 to 4655.9342, 4658.0010 to 4658.1365, 4600.0100 to 4660.9940, and Minnesota Statutes, sections 144A.01 to 144A.16, unless a later date is requested by the licensee. The amendment to a license is effective for the remainder of the nursing home's licensure year.

Subp. 7. **Issuing conditions or limitations on the license.** The department must attach to the license any conditions or limitations necessary according to subpart 8 to assure compliance with the laws and rules governing the operation of the nursing home or to protect the health, treatment, safety, comfort, and well–being of the nursing home residents. A condition or limitation may be attached to a license at any time.

Subp. 8. **Reasons for conditions or limitations.** In deciding to condition or limit a license the department must consider:

A. the nature and number of correction orders or penalty assessments issued to the nursing home or to other nursing homes having some or all of the same controlling persons;

B. the permitting, aiding, or abetting of the commission of any illegal act in the nursing home by any of the controlling persons or employees of the nursing home;

C. the performance of any acts contrary to the welfare of the residents in a nursing home by a controlling person or employee;

D. the condition of the physical plant or physical environment;

E. the existence of any outstanding variances or waivers; or

F. the number or types of residents the nursing home is able to provide for.

Subp. 9. **Types of conditions or limitations.** The department must impose one or more of the following conditions or limitations for reasons determined under subpart 8:

A. restrictions on the number or types of residents to be admitted or permitted to remain in the nursing home;

B. restrictions on the inclusion of specified individuals as controlling persons or managerial employees; or

C. imposition of schedules for the completion of specified activities.

Subp. 10. **Statement of conditions or limitations.** The department must notify the applicant or licensee, in writing, of its decision to issue a conditional or limited license. The department must inform the applicant or licensee of the reasons for the condition or limitation and of the right to appeal.

Unless otherwise specified, a condition or limitation remains valid as long as the licensee of the nursing home remains unchanged or as long as the reason for the condition or limitation exists. The licensee must notify the department when the reasons for the condition or limitation no longer exist. If the department determines that the condition or limitation is no longer required, it will be removed from the license.

The existence of a condition or limitation must be noted on the face of the license. If the condition or limitation is not fully stated on the license, the department's licensure letter containing the full text of the condition or limitation must be posted alongside the license in an accessible and visible location.

Subp. 11. **Effect of a condition or limitation.** A condition or limitation has the force of law. If a licensee fails to comply with a condition or limitation, the department may issue a correction order or assess a fine or it may suspend, revoke, or refuse to renew the license in accordance with Minnesota Statutes, section 144A.11.

If the department assesses a fine, the fine is $250. The fine accrues on a daily basis according to Minnesota Statutes, section 144A.10.

Subp. 12. **Appeal procedure.** The applicant or licensee may contest the issuance of a conditional or limited license by requesting a contested case proceeding under the Administrative Procedure Act, Minnesota Statutes, sections 14.57 to 14.69, within 15 days after receiving the notification described in subpart 10. The request for a hearing must set out in detail the reasons why the applicant contends that a conditional or limited license should not be issued.

Subp. 13. **License application forms.** The department will furnish the applicant or the licensee with the necessary forms to obtain initial or renewed licensure or to request relicensure of the nursing home after a transfer of interest. The license forms must require that the information described in subparts 14 to 16 be provided.

Subp. 14. **General information.** General information means:

A. the name, address, and telephone number of the nursing home;

B. the name of the county in which the nursing home is located;

C. the legal property description of the land upon which the nursing home is located;

D. the licensed bed capacity;

E. the designation of the classification of ownership, for example, state, county, city, city and county, hospital district, federal, corporation, nonprofit corporation, partnership, sole proprietorship, or other entity;

F. the name and address of the controlling person or managerial employee who will be responsible for communicating with the commissioner of health on all matters relating to

the nursing home license and on whom personal service of all notices and orders will be served; and

G. the location and square footage of the floor space constituting the facility.

Subp. 15. **Disclosure of controlling persons.** According to Minnesota Statutes, section 144A.03, the nursing home license application must identify the name and address of all controlling persons of the nursing home, as defined in Minnesota Statutes, section 144A.01, subdivision 4.

Subp. 16. **Disclosure of managerial employees.** A nursing home license application must identify the name and address of all administrators, assistant administrators, directors of nursing, medical directors, and all other managerial employees, as defined in Minnesota Statutes, section 144A.01, subdivision 8, and indicate their previous work experience in nursing homes during the past two years.

Statutory Authority: *MS s 144A.04; 144A.08; 256B.431*

History: *20 SR 303*

4658.0030 CAPACITY PRESCRIBED.

Each license must specify the maximum allowable number of residents to be cared for at any one time. No number of residents in excess of that number may reside in the nursing home. The maximum number of licensed beds is determined by the amount of space that is available in the facility as specified in chapter 4660.

Statutory Authority: *MS s 144A.04; 144A.08; 256B.431*

History: *20 SR 303*

4658.0035 EVALUATION.

A nursing home is subject to evaluation and approval by the department of the nursing home's physical plant and its operational aspects before a change in ownership, classification, capacity, or an addition of services which necessitates a change in the nursing home's physical plant.

Statutory Authority: *MS s 144A.04; 144A.08; 256B.431*

History: *20 SR 303*

4658.0040 VARIANCE AND WAIVER.

Subpart 1. **Request for variance or waiver.** A nursing home may request that the department grant a variance or waiver from the provisions of this chapter. A request for a variance or waiver must be submitted to the department in writing. Each request must contain:

A. the specific part or parts for which the variance or waiver is requested;

B. the reasons for the request;

C. the alternative measures that will be taken if a variance or waiver is granted;

D. the length of time for which the variance or waiver is requested; and

E. other relevant information necessary to properly evaluate the request for the variance or waiver.

Subp. 2. **Criteria for evaluation.** The decision to grant or deny a variance or waiver must be based on the department's evaluation of the following criteria:

A. whether the variance or waiver adversely affects the health, treatment, comfort, safety, or well–being of a resident;

B. whether the alternative measures to be taken, if any, are equivalent to or superior to those prescribed in this chapter; and

C. whether compliance with the part or parts would impose an undue burden upon the applicant.

Subp. 3. **Notification of variance.** The department must notify the applicant in writing of its decision. If a variance or waiver is granted, the notification must specify the period of time for which the variance or waiver is effective and the alternative measures or conditions, if any, to be met by the applicant.

Subp. 4. **Effect of alternative measures or conditions.** Alternative measures or conditions attached to a variance or waiver have the force and effect of this chapter and are subject

to the issuance of correction orders and penalty assessments in accordance with Minnesota Statutes, section 144A.10.

The amount of fines for a violation of this part is that specified for the particular rule for which the variance or waiver was requested.

Subp. 5. **Renewal.** A request for the renewal of a variance or waiver must be submitted in writing at least 45 days before its expiration date. Renewal requests must contain the information specified in subpart 1. A variance or waiver must be renewed by the department if the applicant continues to satisfy the criteria in subparts 2 and 3, and demonstrates compliance with the alternative measures or conditions imposed at the time the original variance or waiver was granted.

Subp. 6. **Denial, revocation, or refusal to renew.** The department must deny, revoke, or refuse to renew a variance or waiver if it is determined that the criteria in subparts 2 and 3 are not met. The applicant must be notified in writing of the reasons for the decision and informed of the right to appeal the decision.

Subp. 7. **Appeal procedure.** An applicant may contest the denial, revocation, or refusal to renew a variance or waiver by requesting a contested case hearing under Minnesota Statutes, chapter 14. The applicant must submit, within 15 days of the receipt of the department's decision, a written request for a hearing. The request for hearing must set forth in detail the reasons why the applicant contends the decision of the department should be reversed or modified. At the hearing, the applicant has the burden of proving that it satisfied the criteria specified in subparts 2 and 3, except in a proceeding challenging the revocation of a variance or waiver.

Statutory Authority: *MS s 144A.04; 144A.08; 256B.431*

History: *20 SR 303*

4658.0045 PENALTIES FOR LICENSING RULE VIOLATIONS.

Penalty assessments will be assessed on a daily basis for violations of parts 4658.0010 to 4658.0035 and are as follows:

A. part 4658.0020, subparts 1, 2, and 3, $250;

B. part 4658.0020, subparts 4 and 5, $50;

C. part 4658.0025, $250;

D. part 4658.0030, $100; and

E. part 4658.0035, $100.

Statutory Authority: *MS s 144A.04; 144A.08; 256B.431*

History: *20 SR 303*

ADMINISTRATION AND OPERATIONS

4658.0050 LICENSEE.

Subpart 1. **General duties.** The licensee of a nursing home is responsible for its management, control, and operation. A nursing home must be managed, controlled, and operated in a manner that enables it to use its resources effectively and efficiently to attain or maintain the highest practicable physical, mental, and psychosocial well–being of each resident.

Subp. 2. **Specific duties.** The licensee must develop written bylaws or policies for the management and operation of the nursing home and for the provision of resident care, which must be available to all members of the governing body, and must assume legal responsibility for matters under its control, for the quality of care rendered and for compliance with laws and rules relating to the safety and sanitation of nursing homes, or which otherwise relate directly to the health, welfare, and care of residents.

Subp. 3. **Responsibilities.** A licensee is responsible for:

A. Full disclosure of each person having an interest of ten percent or more of the ownership of the home to the department with any change reported in writing within 14 days after the licensee knew of or should have known of the transfer, whichever occurs first. In case of corporate ownership, the name and address of each officer and director must be specified. If the home is organized as a partnership, the name and address of each partner must be

furnished. In the case of a home operated by a lessee, the persons or business entities having an interest in the lessee organization must be reported and an executed copy of the lease agreement furnished. If the home is operated by the holder of a franchise, disclosure must be made as to the franchise holder who must also furnish an executed copy of the franchise agreement.

B. Appointment of a licensed nursing home administrator who is responsible for the operation of the home in accordance with law and established policies and whose authority to serve as administrator is delegated in writing.

C. Notification of the termination of service of the administrator and the appointment of a replacement within five working days in writing to the department. If a licensed nursing home administrator is not available to assume the position immediately, notification to the department must include the name of the person temporarily in charge of the home. The governing body of a nursing home must not employ an individual as the permanent administrator until it is determined that the individual qualifies for licensure as a nursing home administrator in Minnesota under Minnesota Statutes, section 144A.04. The governing body of the nursing home must not employ an individual as an acting administrator or person temporarily in charge for more than 30 days unless that individual has secured an acting administrator license, as required by Minnesota Statutes, section 144A.27.

D. Provision of an adequate and competent staff and maintenance of professional standards in the care of residents and operation of the nursing home.

E. Provision of facilities, equipment, and supplies for care consistent with the needs of the residents.

F. Provision of evidence of adequate financing, proper administration of funds, and the maintenance of required statistics. A nursing home must have financial resources at the time of initial licensure to permit full service operation of the nursing home for six months without regard to income from resident fees.

Statutory Authority: *MS s 144A.04; 144A.08; 256B.431*

History: *20 SR 303*

4658.0055 ADMINISTRATOR.

Subpart 1. **Designation.** A nursing home must designate a licensed nursing home administrator to be in immediate charge of the operation and administration of the nursing home, whether that individual is the licensee or a person designated by the licensee. The individual must have authority to carry out the provisions of this chapter and must be charged with the responsibility of doing so.

Subp. 2. **Serve only one nursing home.** The administrator must be full time, at least 35 hours per week, and serve only one nursing home and may not serve as the director of nursing services, except as permitted by Minnesota Statutes, section 144A.04. The administrator at a hospital with a convalescent and nursing care unit may serve both according to Minnesota Statutes, section 144A.04.

Subp. 3. **Administrator's absence; requirements.** The administrator must not leave the premises without delegating authority to a person who is at least 21 years of age and capable of acting in an emergency and without giving information as to where the administrator can be reached. At no time may a nursing home be left without competent supervision. The person left in charge must have the authority to act in an emergency.

Subp. 4. **Notice of person in charge.** The name of the person in charge at the time must be posted at the main entrance of the nursing home.

Statutory Authority: *MS s 144A.04; 144A.08; 256B.431*

History: *20 SR 303*

4658.0060 RESPONSIBILITIES OF ADMINISTRATOR.

The administrator is responsible for the:

A. maintenance, completion, and submission of reports and records as required by the department;

B. formulation of written policies, procedures, and programs for operation, management, and maintenance of the nursing home;

C. current personnel records for each employee according to part 4658.0130;

D. written job descriptions for all positions which define responsibilities, duties, and qualifications that are readily available for all employees;

E. work assignments consistent with qualifications and the work load;

F. maintenance of a weekly time schedule which shows each employee's name, job title, hours of work, and days off for each day of the week. The schedule must be dated and communicated to employees. The schedules and time cards, payroll records, or other written documentation of actual time worked and paid for must be kept on file in the home for three years;

G. orientation for new employees and volunteers and provision of a continuing in–service education program for all employees and volunteers to give assurance that they understand the proper method of carrying out all procedures;

H. establishment of a recognized accounting system; and

I. the development and maintenance of channels of communications with employees, including:

(1) distribution of written personnel policies to employees;

(2) regularly scheduled meetings of supervisory personnel;

(3) an employee suggestion system; and

(4) employee evaluation.

Statutory Authority: *MS s 144A.04; 144A.08; 256B.431*

History: *20 SR 303*

4658.0065 RESIDENT SAFETY AND DISASTER PLANNING.

Subpart 1. **Safety program.** A nursing home must develop and implement an organized safety program in accordance with a written safety plan. The written plan must be included in the orientation and in–service training programs of all employees and volunteers to ensure safety of residents at all times.

Subp. 2. **Security of physical plant.** A nursing home must have a method of ensuring the security of exit doors leading directly to the outside which are not under direct observation from the nurses' station.

Subp. 3. **Written disaster plan.** A nursing home must have a written disaster plan specific to the nursing home with procedures for the protection and evacuation of all persons in the case of fire or explosion or in the event of floods, tornadoes, or other emergencies. The plan must include information and procedures about the location of alarm signals and fire extinguishers, frequency of drills, assignments of specific tasks and responsibilities of the personnel on each shift, persons and local emergency departments to be notified, precautions and safety measures during tornado alerts, procedures for evacuation of all persons during fire or floods, planned evacuation routes from the various floor areas to safe areas within the building, or from the building when necessary, and arrangements for temporary emergency housing in the community in the event of total evacuation.

Subp. 4. **Availability of disaster plan.** Copies of the disaster plan containing the basic emergency procedures must be posted at all nurses' stations, kitchens, laundries, and boiler rooms. Complete copies of the detailed disaster plan must be available to all supervisory personnel.

Subp. 5. **Drills.** Residents do not need to be evacuated during a drill except when an evacuation drill is planned in advance.

Statutory Authority: *MS s 144A.04; 144A.08; 256B.431*

History: *20 SR 303*

4658.0070 QUALITY ASSESSMENT AND ASSURANCE COMMITTEE.

A nursing home must maintain a quality assessment and assurance committee consisting of the administrator, the director of nursing services, the medical director or other physician designated by the medical director, and at least three other members of the nursing home's staff, representing disciplines directly involved in resident care. The quality assessment and assurance committee must identify issues with respect to which quality assurance

activities are necessary and develop and implement appropriate plans of action to correct identified quality deficiencies. The committee must address, at a minimum, incident and accident reporting, infection control, and medications and pharmacy services.

Statutory Authority: *MS s 144A.04; 144A.08; 256B.431*

History: *20 SR 303*

4658.0075 OUTSIDE RESOURCES.

If a nursing home does not employ a qualified professional person to furnish a specific service to be provided by the nursing home, the nursing home must have that service furnished to residents under a written agreement with a person or agency outside the nursing home. The written agreement must specify that the service meets professional standards and principles that apply to professionals providing services in a nursing home, and that the service meets the same standards as required by this chapter.

Statutory Authority: *MS s 144A.04; 144A.08; 256B.431*

History: *20 SR 303*

4658.0085 NOTIFICATION OF CHANGE IN RESIDENT HEALTH STATUS.

A nursing home must develop and implement policies to guide staff decisions to consult physicians, physician assistants, and nurse practitioners, and if known, notify the resident's legal representative or an interested family member of a resident's acute illness, serious accident, or death. At a minimum, the director of nursing services, and the medical director or an attending physician must be involved in the development of these policies. The policies must have criteria which address at least the appropriate notification times for:

A. an accident involving the resident which results in injury and has the potential for requiring physician intervention;

B. a significant change in the resident's physical, mental, or psychosocial status, for example, a deterioration in health, mental, or psychosocial status in either life–threatening conditions or clinical complications;

C. a need to alter treatment significantly, for example, a need to discontinue an existing form of treatment due to adverse consequences, or to begin a new form of treatment;

D. a decision to transfer or discharge the resident from the nursing home; or

E. expected and unexpected resident deaths.

Statutory Authority: *MS s 144A.04; 144A.08; 256B.431*

History: *20 SR 303*

4658.0090 USE OF OXYGEN.

A nursing home must develop and implement policies and procedures for the safe storage and use of oxygen.

Statutory Authority: *MS s 144A.04; 144A.08; 256B.431*

History: *20 SR 303*

4658.0095 AVAILABILITY OF LICENSING RULES.

A copy of this chapter must be made available by a nursing home upon request for the use of all nursing home personnel, residents, and family members.

Statutory Authority: *MS s 144A.04; 144A.08; 256B.431*

History: *20 SR 303*

4658.0100 EMPLOYEE ORIENTATION AND IN–SERVICE EDUCATION.

Subpart 1. **Orientation and initial training.** All personnel must be instructed in the requirements of the law and the rules pertaining to their respective duties and the instruction must be documented. All personnel must be informed of the policies of the nursing home, and procedure manuals must be readily available to guide them in the performance of their duties.

Subp. 2. **In–service education.** A nursing home must provide in–service education. The in–service education must be sufficient to ensure the continuing competence of em-

ployees, must address areas identified by the quality assessment and assurance committee, and must address the special needs of residents as determined by the nursing home staff. A nursing home must provide an in–service training program in rehabilitation for all nursing personnel to promote ambulation; aid in activities of daily living; assist in activities, self–help, maintenance of range of motion, and proper chair and bed positioning; and in the prevention or reduction of incontinence.

Subp. 3. **Reference materials.** Textbooks, periodicals, dictionaries, and other reference materials must be available and kept current. A nursing home must review the currency of these reference materials at least annually.

Subp. 4. **Coordination of in–service education programs.** In a nursing home with over 90 beds, one person must be designated as responsible for coordination of all in–service education programs.

Statutory Authority: *MS s 144A.04; 144A.08; 256B.431*

History: *20 SR 303*

4658.0105 COMPETENCY.

A nursing home must ensure that direct care staff are able to demonstrate competency in skills and techniques necessary to care for residents' needs, as identified through the comprehensive resident assessments and described in the comprehensive plan of care, and are able to perform their assigned duties.

Statutory Authority: *MS s 144A.04; 144A.08; 256B.431*

History: *20 SR 303*

4658.0110 INCIDENT AND ACCIDENT REPORTING.

All persons providing services in a nursing home must report any accident or injury to a resident, and the nursing home must immediately complete a detailed incident report of the accident or injury and the action taken after learning of the accident or injury.

Statutory Authority: *MS s 144A.04; 144A.08; 256B.431*

History: *20 SR 303*

4658.0115 WORK PERIOD.

A nursing home must not schedule a person to duty for more than one consecutive work period except in a documented emergency. For purposes of this chapter, a documented emergency means situations where replacement staff are not able to report to duty for the next shift due to adverse weather conditions, natural disasters, illness, strike, or other documented situations where normally scheduled staff are no longer available. For purposes of this chapter, a normal work period must not exceed 12 hours. For purposes of this chapter, documentation of an emergency means a written record of the emergency. Documentation on the work schedule is one method of providing written record of the emergency.

Statutory Authority: *MS s 144A.04; 144A.08; 256B.431*

History: *20 SR 303*

4658.0120 EMPLOYEE POLICIES.

Subpart 1. **Keys.** The person in charge of a nursing home on each work shift must have the ability to open all doors and locks in the nursing home except the business office.

Subp. 2. **Requirements for staff.** A nursing home must have at least one responsible person awake, dressed, and on duty at all times. The person must be at least 21 years of age and capable of performing the required duties of evacuating the residents.

Subp. 3. **Identification of staff.** Each employee and volunteer must wear a badge which includes name and position.

Statutory Authority: *MS s 144A.04; 144A.08; 256B.431*

History: *20 SR 303*

4658.0125 PERSONAL BELONGINGS.

Personnel must not keep personal belongings in the food service or resident areas. Provision must be made elsewhere for storage.

Statutory Authority: *MS s 144A.04; 144A.08; 256B.431*

History: *20 SR 303*

4658.0130 EMPLOYEES' PERSONNEL RECORDS.

A current personnel record must be maintained for each employee and be stored in a confidential manner. The personnel records for at least the most recent three-year period must be maintained by the nursing home. The records must be available to representatives of the department and must contain:

A. the person's name, address, telephone number, gender, Minnesota license, certification, or registration number, if applicable, and similar identifying data;

B. a list of the individual's training, experience, and previous employment;

C. the date of employment, type of position currently held, hours of work, and attendance records; and

D. the date of resignation or discharge.

Employee health information, including the record of all accidents and those illnesses reportable under part 4605.7040, must be maintained and stored in a separate employee medical record.

Statutory Authority: *MS s 144A.04; 144A.08; 256B.431*

History: *20 SR 303*

4658.0135 POLICY RECORDS.

Subpart 1. **Availability of policies.** All policies and procedures directly related to resident care adopted by the home must be placed on file and be made available upon request to nursing home personnel, residents, legal representatives, and designated representatives.

Subp. 2. **Admission policies.** Admission policies must be made available upon request to prospective residents, family members, legal representatives, and designated representatives.

Statutory Authority: *MS s 144A.04; 144A.08; 256B.431*

History: *20 SR 303*

4658.0140 TYPE OF ADMISSIONS.

Subpart 1. **Selection of residents.** The administrator, in cooperation with the director of nursing services and the medical director, is responsible for the admission of residents to the home according to the admission policies of the nursing home.

Subp. 2. **Residents not accepted.** Unless otherwise provided by law, including laws against discrimination, residents must not be admitted or retained for whom care cannot be provided in keeping with their known physical, mental, or behavioral condition. Prospective residents who are denied admission must be informed of the reason for the denial of their admission.

Statutory Authority: *MS s 144A.04; 144A.08; 256B.431*

History: *20 SR 303*

4658.0145 AGREEMENT AS TO RATES AND CHARGES.

Subpart 1. **Written agreement.** At the time of admission, there must be a written agreement between the nursing home and the resident, the resident's agent, or the resident's guardian, which includes:

A. the base rate and what services and items are provided by the nursing home and are included in that base rate;

B. extra charges for care or services;

C. obligations concerning payment of the rates and charges; and

D. the refund policy of the home.

All residents' bills must be itemized for services rendered.

Subp. 2. **Notification of rates and charges.** Annually, and when there is any change, a nursing home must inform the resident of services available in the nursing home and of charges for those services, including any charges for services not covered under Medicare or Medicaid or by the nursing home's per diem rate. A nursing home must inform the resident or

the resident's agent or guardian before any change in the charges for services not covered under Medicare or Medicaid or by the nursing home's per diem rate.

Statutory Authority: *MS s 144A.04; 144A.08; 256B.431*

History: *20 SR 303*

4658.0150 INSPECTION BY DEPARTMENT.

All areas of a nursing home and all records related to the care and protection of residents including resident and employee records must be open for inspection by the department at all times for the purposes of enforcing this chapter.

Statutory Authority: *MS s 144A.04; 144A.08; 256B.431*

History: *20 SR 303*

4658.0155 REPORTS TO DEPARTMENT.

Reports regarding statistical data and services furnished must be submitted on forms furnished by the department. Copies must be retained by the nursing home.

Statutory Authority: *MS s 144A.04; 144A.08; 256B.431*

History: *20 SR 303*

4658.0190 PENALTIES FOR ADMINISTRATION AND OPERATIONS RULE VIOLATIONS.

Penalty assessments will be assessed on a daily basis for violations of parts 4658.0050 to 4658.0155 and are as follows:

A. part 4658.0050, subpart 1, $250;
B. part 4658.0050, subpart 2, $100;
C. part 4658.0050, subpart 3, item A, $250;
D. part 4658.0050, subpart 3, items B to F, $100;
E. part 4658.0055, subparts 1 to 3, $100;
F. part 4658.0055, subpart 4, $50;
G. part 4658.0060, items A, F, H, and I, $50;
H. part 4658.0060, items B, C, D, E, and G, $100;
I. part 4658.0065, $200;
J. part 4658.0070, $100;
K. part 4658.0075, $100;
L. part 4658.0085, $350;
M. part 4658.0090, $500;
N. part 4658.0095, $50;
O. part 4658.0100, subparts 1 and 2, $100;
P. part 4658.0100, subpart 3, $50;
Q. part 4658.0100, subpart 4, $300;
R. part 4658.0105, $300;
S. part 4658.0110, $100;
T. part 4658.0115, $100;
U. part 4658.0120, subpart 1, $100;
V. part 4658.0120, subpart 2, $500;
W. part 4658.0120, subpart 3, $50;
X. part 4658.0125, $50;
Y. part 4658.0130, $50;
Z. part 4658.0135, $50;
AA. part 4658.0140, subpart 1, $100;
BB. part 4658.0140, subpart 2, $250;
CC. part 4658.0145, subpart 1, $100;

DD. part 4658.0145, subpart 2, $100;
EE. part 4658.0150, $100; and
FF. part 4658.0155, $50.

Statutory Authority: *MS s 144A.04; 144A.08; 256B.431*

History: *20 SR 303*

4658.0300 USE OF RESTRAINTS.

Subpart 1. **Definitions.** For purposes of this part, the following terms have the meanings given.

A. "Physical restraints" 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 body. Physical restraints include, but are not limited to, leg restraints, arm restraints, hand mitts, soft ties or vests, and wheelchair safety bars. Physical restraints also include practices which meet the definition of a restraint, such as tucking in a sheet so tightly that a resident confined to bed cannot move; bed rails; chairs that prevent rising; or placing a resident in a wheelchair so close to a wall that the wall prevents the resident from rising. Bed rails are considered a restraint if they restrict freedom of movement. If the bed rail is used solely to assist the resident in turning or to help the resident get out of bed, then the bed rail is not used as a restraint. Wrist bands or devices on clothing that trigger electronic alarms to warn staff that a resident is leaving a room or area do not, in and of themselves, restrict freedom of movement and should not be considered restraints.

B. "Chemical restraints" means any psychopharmacologic drug that is used for discipline or convenience and is not required to treat medical symptoms.

C. "Discipline" means any action taken by the nursing home for the purpose of punishing or penalizing a resident.

D. "Convenience" means any action taken solely to control resident behavior or maintain a resident with a lesser amount of effort that is not in the resident's best interest.

E. "Emergency measures" means the immediate action necessary to alleviate an unexpected situation or sudden occurrence of a serious and urgent nature.

Subp. 2. **Freedom from restraints.** Residents must 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.

Subp. 3. **Emergency use of restraint.**

A. If a resident exhibits behavior which becomes a threat to the health or safety of the resident or others, the nurse or person in charge of the nursing home, if other than a nurse, must take temporary, emergency measures to protect the resident and other persons in the nursing home, and the physician must be called immediately.

B. If a restraint is needed, a physician's order must be obtained which specifies the duration and circumstances under which the restraint is to be used.

C. The resident's legal representative or interested family member must be notified when temporary emergency measures are taken.

Subp. 4. **Decision to apply restraint.** The decision to apply a restraint must be based on the comprehensive resident assessment. The least restrictive restraint must be used and incorporated into the comprehensive plan of care. The comprehensive plan of care must allow for progressive removal or the progressive use of less restrictive means. Nothing in this part requires a resident to be awakened during the resident's normal sleeping hours strictly for the purpose of releasing restraints. For a resident placed in a physical or chemical restraint, a nursing home must obtain an informed consent and obtain a written order from the attending physician. At a minimum, for a resident placed in a physical restraint, a nursing home must also:

A. check the resident at least every 30 minutes;

B. assist the resident as often as necessary for the resident's safety, comfort, exercise, and elimination needs;

C. provide an opportunity for motion, exercise, and elimination for not less than ten minutes during each two–hour period in which a restraint is employed;

D. release the resident from the restraint as quickly as possible; and

E. keep a record of restraint usage and checks.

Statutory Authority: *MS s 144A.04; 144A.08; 256B.431*

History: *20 SR 303*

4658.0350 PENALTIES FOR RESTRAINTS RULE VIOLATIONS.

Penalty assessments will be assessed on a daily basis for violations of part 4658.0300 and are as follows:

A. part 4658.0300, subpart 2, $500;

B. part 4658.0300, subpart 3, items A and B, $500;

C. part 4658.0300, subpart 3, item C, $50;

D. part 4658.0300, subpart 4, first paragraph, $250;

E. part 4658.0300, subpart 4, items A to D, $300; and

F. part 4658.0300, subpart 4, item E, $500.

Statutory Authority: *MS s 144A.04; 144A.08; 256B.431*

History: *20 SR 303*

4658.0400 COMPREHENSIVE RESIDENT ASSESSMENT.

Subpart 1. **Assessment.** A nursing home must conduct a comprehensive assessment of each resident's needs, which describes the resident's capability to perform daily life functions and significant impairments in functional capacity. A nursing assessment conducted according to Minnesota Statutes, section 148.171, paragraph (3), may be used as part of the comprehensive resident assessment. The results of the comprehensive resident assessment must be used to develop, review, and revise the resident's comprehensive plan of care as defined in part 4658.0405.

Subp. 2. **Information gathered.** The comprehensive resident assessment must include at least the following information:

A. medically defined conditions and prior medical history;

B. medical status measurement;

C. physical and mental functional status;

D. sensory and physical impairments;

E. nutritional status and requirements;

F. special treatments or procedures;

G. mental and psychosocial status;

H. discharge potential;

I. dental condition;

J. activities potential;

K. rehabilitation potential;

L. cognitive status;

M. drug therapy; and

N. resident preferences.

Subp. 3. **Frequency.** Comprehensive resident assessments must be conducted:

A. within 14 days after the date of admission;

B. within 14 days after a significant change in the resident's physical or mental condition; and

C. at least once every 12 months.

Subp. 4. **Review of assessments.** A nursing home must examine each resident at least quarterly and must revise the resident's comprehensive assessment to ensure the continued accuracy of the assessment.

Statutory Authority: *MS s 144A.04; 144A.08; 256B.431*

History: *20 SR 303*

4658.0405 COMPREHENSIVE PLAN OF CARE.

Subpart 1. **Development.** A nursing home must develop a comprehensive plan of care for each resident within seven days after the completion of the comprehensive resident assessment as defined in part 4658.0400. The comprehensive plan of care must be developed by an interdisciplinary team that includes the attending physician, a registered nurse with responsibility for the resident, and other appropriate staff in disciplines as determined by the resident's needs, and, to the extent practicable, with the participation of the resident, the resident's legal guardian or chosen representative.

Subp. 2. **Contents of plan of care.** The comprehensive plan of care must list measurable objectives and timetables to meet the resident's long- and short-term goals for medical, nursing, and mental and psychosocial needs that are identified in the comprehensive resident assessment. The comprehensive plan of care must include the individual abuse prevention plan required by Minnesota Statutes, section 626.557, subdivision 14, paragraph (b).

Subp. 3. **Use.** A comprehensive plan of care must be used by all personnel involved in the care of the resident.

Subp. 4. **Revision.** A comprehensive plan of care must be reviewed and revised by an interdisciplinary team that includes the attending physician, a registered nurse with responsibility for the resident, and other appropriate staff in disciplines as determined by the resident's needs, and, to the extent practicable, with the participation of the resident, the resident's legal guardian or chosen representative at least quarterly and within seven days of the revision of the comprehensive resident assessment required by part 4658.0400, subpart 3, item B.

Statutory Authority: *MS s 144A.04; 144A.08; 256B.431*

History: *20 SR 303*

4658.0420 PENALTIES FOR COMPREHENSIVE ASSESSMENT AND PLAN OF CARE RULE VIOLATIONS.

Penalty assessments will be assessed on a daily basis for violations of parts 4658.0400 and 4658.0405 and are as follows:

A. part 4658.0400, $300; and

B. part 4658.0405, $300.

Statutory Authority: *MS s 144A.04; 144A.08; 256B.431*

History: *20 SR 303*

CLINICAL RECORDS

4658.0430 HEALTH INFORMATION MANAGEMENT SERVICE.

Subpart 1. **Health information management.** A nursing home must maintain health information management services, including clinical records, in accordance with accepted professional standards and practices, federal regulations, and state statutes pertaining to the content of the clinical record, health care data, computerization, confidentiality, retention, and retrieval. For purposes of this part, "health information management" means the collection, analysis, and dissemination of data to support decisions related to: disease prevention and resident care; effectiveness of care; reimbursement and payment; planning, research, and policy analysis; and regulations.

Subp. 2. **Quality of health information.** A nursing home must develop and utilize a mechanism for auditing the quality of its health information management services.

Subp. 3. **Person responsible for health information management.** A nursing home must designate a person to be responsible for health information management.

Statutory Authority: *MS s 144A.04; 144A.08; 256B.431*

History: *20 SR 303*

4658.0435 CONFIDENTIALITY OF CLINICAL RECORDS AND INFORMATION.

Subpart 1. **Maintaining confidentiality of records.** Information in the clinical records, regardless of form or storage methods, must be kept confidential according to Minnesota

Statutes, chapter 13 and sections 144.335 and 144.651, and federal regulations. A resident's clinical information in a nursing home must be considered confidential but it must be made available to all persons in the nursing home who are responsible for the care of the resident. The clinical information must be open to inspection by representatives of the Department of Health and others legally authorized to obtain access.

Subp. 2. **Electronic transmission of health care data.** If a nursing home chooses to transmit or receive health care data by electronic means, the nursing home must develop and comply with policies and procedures to ensure the confidentiality, security, and verification of the transmission and receipt of information authorized to be transmitted by electronic means. A durable copy of the transmission must be placed in the resident's clinical record.

Statutory Authority: *MS s 144A.04; 144A.08; 256B.431*

History: *20 SR 303*

4658.0440 ABBREVIATIONS.

A nursing home must have an explanation key available for abbreviations or symbols used in documentation and the collection of data and information.

Statutory Authority: *MS s 144A.04; 144A.08; 256B.431*

History: *20 SR 303*

4658.0445 CLINICAL RECORD.

Subpart 1. **Unit record.** A resident's clinical record must be started at admission and incorporated into a central unit record system. The clinical record must contain sufficient information to identify the resident, contain a record of resident assessments, the comprehensive plan of care, progress notes on the implementation of the care plan, and a summary of the resident's condition at the time of discharge.

Subp. 2. **Form of entries and authentication.** Data collected must be timely, accurate, and complete. All entries must be entered, authenticated, and dated by the person making the entry. If a nursing home uses an electronic paperless means of storing the clinical record, the nursing home must comply with part 4658.0475. All entries must be made as soon as possible after the observation or treatment in order to keep the clinical record current. In cases where authentication is done electronically or by rubber stamp, safeguards to prevent unauthorized use must be in place, and a rubber stamp may be used only if allowed by the licensing rules for that health care professional. Nursing assistants may document in the nursing notes if allowed by nursing home policy.

Subp. 3. **Classification systems.** All diagnoses and procedures must be accurately and comprehensively coded to ensure accurate resident medical profiles.

Subp. 4. **Admission information.**

A. Identification information. Identification information must be collected and maintained for each resident upon admission and must include, at a minimum:

(1) the resident's legal name and preferred name;

(2) previous address;

(3) social security number;

(4) gender;

(5) marital status;

(6) date and place of birth;

(7) date and hour of admission;

(8) advanced directives, including Do Not Resuscitate (DNR) and Do Not Intubate (DNI) status, Health Care Power of Attorney, or living will, if any;

(9) name, address, and telephone number of designated relative or significant other, if any;

(10) name, address, and telephone number of person to be notified in an emergency;

(11) legal representative or designated representative, if any;

(12) religious affiliation, place of worship, and clergy member;

(13) hospital preference; and

(14) name of attending physician.

B. Physician and professional services. The clinical record must contain the recording requirements of parts 4658.0710 to 4658.0725.

C. Nursing services. The clinical record must contain the recording requirements of parts 4658.0515 to 4658.0530.

D. Dietary and food services. The clinical record must contain the recording requirements of parts 4658.0600 and 4658.0625.

E. Restraints. The clinical record must contain the recording requirements of part 4658.0300.

Statutory Authority: *MS s 144A.04; 144A.08; 256B.431*

History: *20 SR 303*

4658.0450 CLINICAL RECORD CONTENTS.

Each resident's clinical record, including nursing notes, must include:

A. the condition of the resident at the time of admission;

B. temperature, pulse, respiration, and blood pressure, according to part 4658.0520, subpart 2, item I;

C. the resident's height and weight, according to part 4658.0520, subpart 2, item J;

D. the resident's general condition, actions, and attitudes;

E. observations, assessments, and interventions provided by all disciplines responsible for care of the resident, with the exception of confidential communications with religious personnel;

F. significant observations on, for example, behavior, orientation, adjustment to the nursing home, judgment, or moods;

G. date, time, quantity of dosage, and method of administration of all medications, and the signature of the nurse or authorized persons who administered the medication;

H. a report of a tuberculin test within the three months prior to admission, as described in part 4658.0810;

I. reports of laboratory examinations;

J. dates and times of all treatments and dressings;

K. dates and times of visits by all licensed health care practitioners;

L. visits to clinics or hospitals;

M. any orders or instructions relative to the comprehensive plan of care;

N. any change in the resident's sleeping habits or appetite;

O. pertinent factors regarding changes in the resident's general conditions; and

P. results of the initial comprehensive resident assessment and all subsequent comprehensive assessments as described in part 4658.0400.

Statutory Authority: *MS s 144A.04; 144A.08; 256B.431*

History: *20 SR 303*

4658.0455 TELEPHONE AND ELECTRONIC ORDERS.

A. Orders received by telephone, facsimile machine, or other electronic means must be kept confidential according to Minnesota Statutes, sections 144.335, 144.651, and 144.652.

B. Orders received by telephone or other electronic means, not including facsimile machine, must be immediately recorded or placed in the resident's record by the person authorized by the nursing home and must be countersigned by the ordering health care practitioner authorized to prescribe at the time of the next visit, or within 60 days, whichever is sooner.

C. Orders received by facsimile machine must have been signed by the ordering health practitioner authorized to prescribe, and must be immediately recorded or a durable

copy must be placed in the resident's clinical record by the person authorized by the nursing home.

Statutory Authority: *MS s 144A.04; 144A.08; 256B.431*

History: *20 SR 303*

4658.0460 MASTER RESIDENT RECORD.

A permanent record must be kept listing at a minimum the full name of the resident, resident identification number, date of birth, date of admission, date of discharge, and discharge disposition. The master resident record must be kept in such a manner that total admissions, discharges, deaths, and resident days can be calculated, and an alphabetical listing of residents can be created.

Statutory Authority: *MS s 144A.04; 144A.08; 256B.431*

History: *20 SR 303*

4658.0465 TRANSFER, DISCHARGE, AND DEATH.

Subpart 1. **Discharge summary at death.** When a resident dies, the nursing home must compile a discharge summary that includes the date, time, and cause of death.

Subp. 2. **Other discharge.** When a resident is transferred or discharged for any reason other than death, the nursing home must compile a discharge summary that includes the date and time of transfer or discharge, reason for transfer or discharge, transfer or discharge diagnoses, and condition.

Subp. 3. **Transfer or discharge to another facility.** When a resident is transferred or discharged to another health care facility or program, the nursing home must send the discharge summary compiled according to subpart 2, and pertinent information about the resident's immediate care and sufficient information to ensure continuity of care prior to or at the time of the transfer or discharge to the other health care facility or program. Additional information not necessary for the resident's immediate care may be sent to the new health care facility or program at the time of or after the transfer or discharge.

Statutory Authority: *MS s 144A.04; 144A.08; 256B.431*

History: *20 SR 303*

4658.0470 RETENTION, STORAGE, AND RETRIEVAL.

Subpart 1. **Retention.** A resident's records must be preserved for a period of at least five years following discharge or death.

Subp. 2. **Storage.** Space must be provided for the safe and confidential storage of residents' clinical records. Records of current residents must be stored on site.

Subp. 3. **Retrieval.** If records of discharged residents are stored off site, policies and procedures must be developed and implemented by clinical record personnel and the nursing home administration for the confidentiality, retention, and timely retrieval of records within one working day. The policies and procedures must specify who is authorized to retrieve a record. Off–site archived copies of clinical databases must be protected against fire, flood, and other emergencies. The policies must address the location and retention of records if the nursing home discontinues operation.

Statutory Authority: *MS s 144A.04; 144A.08; 256B.431*

History: *20 SR 303*

4658.0475 COMPUTERIZATION.

If a nursing home is converting to an electronic paperless health information management system:

A. policies and procedures must be established and maintained that require password protection of the clinical database;

B. any outside contract for health information management services must include a provision that the company providing the services assumes responsibility for maintaining the confidentiality of all health information within its control;

C. audit trails must be developed for computer applications to determine the source and date of all entries and deletions;

D. backup systems must be implemented and maintained;

E. preventative maintenance must be implemented and maintained;

F. there must be a plan for preparing, securing, and retaining archived copies of computerized clinical databases;

G. procedures must be implemented for preparing and securing daily, weekly, and monthly archived copies of computerized clinical databases; and

H. there must be confidentiality and protection from unauthorized use of active and archived computerized clinical databases.

Statutory Authority: *MS s 144A.04; 144A.08; 256B.431*

History: *20 SR 303*

4658.0490 PENALTIES FOR CLINICAL RECORDS RULE VIOLATIONS.

Penalty assessments will be assessed on a daily basis for violations of parts 4658.0430 to 4658.0475 and are as follows:

A. part 4658.0430, $300;

B. part 4658.0435, $250;

C. part 4658.0440, $50;

D. part 4658.0445, subpart 1, $300;

E. part 4658.0445, subpart 2, $300;

F. part 4658.0445, subpart 3, $300;

G. part 4658.0445, subpart 4, $100;

H. part 4658.0450, $300;

I. part 4658.0455, item A, $250;

J. part 4658.0455, item B, $300;

K. part 4658.0455, item C, $300;

L. part 4658.0460, $50;

M. part 4658.0465, subpart 1, $50;

N. part 4658.0465, subpart 2, $100;

O. part 4658.0465, subpart 3, $300;

P. part 4658.0470, $100; and

Q. part 4658.0475, $300.

Statutory Authority: *MS s 144A.04; 144A.08; 256B.431*

History: *20 SR 303*

4658.0500 DIRECTOR OF NURSING SERVICES.

Subpart 1. **Qualifications and duties.** A nursing home must have a director of nursing services who is a registered nurse.

Subp. 2. **Requirement of full–time employment.** A director of nursing services must be employed full time, no less than 35 hours per week, and be assigned full time to the nursing services of the nursing home.

Subp. 3. **Assistant to director.** A nursing home must designate a nurse to be responsible for the duties of the director of nursing services related to the provision of resident services in the director's absence.

Subp. 4. **Education.** A person newly appointed to the position of the director of nursing services must have training in rehabilitation nursing, gerontology, nursing service administration, management, supervision, and psychiatric or geriatric nursing before or within the first 12 months after appointment as director of nursing services.

Statutory Authority: *MS s 144A.04; 144A.08; 256B.431*

History: *20 SR 303*

4658.0505 RESPONSIBILITIES; DIRECTOR OF NURSING SERVICES.

The written job description for the director of nursing services must include responsibility for:

A. the total nursing care of residents and the accuracy of the nursing care records;

B. establishing and implementing procedures for the provision of nursing care and delegated medical care, developing nursing policy and procedure manuals that must be available at each nurse's station, and developing written job descriptions for each category of nursing personnel;

C. planning and conducting orientation programs for new nursing personnel, volunteers, and temporary staff, and continuing in–service education for all nursing home staff in nursing homes under 90 beds, if no one is designated as responsible for all in–service education;

D. determining with the administrator the numbers and levels of nursing personnel to be employed;

E. participating in recruitment, selection, and termination of nursing personnel;

F. assigning, supervising, and evaluating the performance of all nursing personnel;

G. delegating and monitoring nonnursing responsibilities to other staff consistent with their training, experience, competence, and legal authorization, and with nursing home policy;

H. participating in the selection of prospective residents based on nursing care needed and nursing personnel competencies available;

I. assuring that a comprehensive plan of care is established and implemented for each resident and that the plan is reviewed at least quarterly and within seven days of the revision of the comprehensive resident assessment required by part 4658.0400, subpart 3, item B;

J. coordinating nursing services for the residents in the nursing home with other resident care services provided both within and outside the nursing home;

K. participating in planning, decision making, and budgeting for nursing care;

L. interacting with physicians to plan care for residents; and

M. assuring that discharge and transfer planning for residents is conducted.

Statutory Authority: *MS s 144A.04; 144A.08; 256B.431*

History: *20 SR 303*

4658.0510 NURSING PERSONNEL.

Subpart 1. **Staffing requirements.** A nursing home must have on duty at all times a sufficient number of qualified nursing personnel, including registered nurses, licensed practical nurses, and nursing assistants to meet the needs of the residents at all nurses' stations, on all floors, and in all buildings if more than one building is involved. This includes relief duty, weekends, and vacation replacements.

Subp. 2. **Minimum hour requirements.** The minimum number of hours of nursing personnel to be provided is:

A. For nursing homes not certified to participate in the medical assistance program, a minimum of two hours of nursing personnel per resident per 24 hours.

B. For nursing homes certified to participate in the medical assistance program, the nursing home is required to comply with Minnesota Statutes, section 144A.04, subdivision 7.

Subp. 3. **On–site coverage.** A nurse must be employed so that on–site nursing coverage is provided eight hours per day, seven days per week.

Subp. 4. **On call coverage.** A registered nurse must be on call during all hours when a registered nurse is not on duty.

Subp. 5. **Assignment of duties.** Nursing personnel must not perform duties for which they have not had proper and sufficient training. Duties assigned to nursing personnel must be consistent with their training, experience, competence, and credentialing.

Subp. 6. **Duties.** Nursing personnel must be employed and used for nursing duties only. A nursing home must provide sufficient additional staff for housekeeping, dietary, laundry, and maintenance duties and those persons must not provide nursing care.

Statutory Authority: *MS s 144A.04; 144A.08; 256B.431*

History: *20 SR 303*

4658.0515 FREQUENCY OF REPORTING.

Nursing notes must be recorded at least weekly on all residents and more often if indicated by their condition.

Statutory Authority: *MS s 144A.04; 144A.08; 256B.431*

History: *20 SR 303*

4658.0520 ADEQUATE AND PROPER NURSING CARE.

Subpart 1. **Care in general.** A resident must receive nursing care and treatment, personal and custodial care, and supervision based on individual needs and preferences as identified in the comprehensive resident assessment and plan of care as described in parts 4658.0400 and 4658.0405. A nursing home resident must be out of bed as much as possible unless there is a written order from the attending physician that the resident must remain in bed or the resident prefers to remain in bed.

Subp. 2. **Criteria for determining adequate and proper care.** The criteria for determining adequate and proper care include:

A. Evidence of adequate care and kind and considerate treatment at all times. Privacy must be respected and safeguarded.

B. Clean skin and freedom from offensive odors. A bathing plan must be part of each resident's plan of care. A resident whose condition requires that the resident remain in bed must be given a complete bath at least every other day and more often as indicated. An incontinent resident must be checked at least every two hours, and must receive perineal care following each episode of incontinence. Clean linens or clothing must be provided promptly each time the bed or clothing is soiled. Perineal care includes the washing and drying of the perineal area. Pads or diapers must be used to keep the bed dry and for the resident's comfort. Special attention must be given to the skin to prevent irritation. Rubber, plastic, or other types of protectors must be kept clean, be completely covered, and not come in direct contact with the resident. Soiled linen and clothing must be removed immediately from resident areas to prevent odors.

C. A shampoo at least weekly and assistance with daily hair grooming as needed.

D. Assistance with or supervision of shaving of all residents as necessary to keep them clean and well–groomed.

E. Assistance as needed with oral hygiene to keep the mouth, teeth, or dentures clean. Measures must be used to prevent dry, cracked lips.

F. Proper care and attention to hands and feet. Fingernails and toenails must be kept clean and trimmed.

G. Bed linen must be changed weekly, or more often as needed. Beds must be made daily and straightened as necessary.

H. Clean clothing and a neat appearance. Residents must be dressed during the day whenever possible.

I. Monitoring resident temperature, pulse, respiration, and blood pressure as often as indicated by the resident's condition but at least weekly.

J. Recording resident height and weight at the time of admission and weight at least monthly thereafter.

Statutory Authority: *MS s 144A.04; 144A.08; 256B.431*

History: *20 SR 303*

4658.0525 REHABILITATION NURSING CARE.

Subpart 1. **Program required.** A nursing home must have an active program of rehabilitation nursing care directed toward assisting each resident to achieve and maintain the highest practicable physical, mental, and psychosocial well–being according to the comprehensive resident assessment and plan of care described in parts 4658.0400 and 4658.0405. Continuous efforts must be made to encourage ambulation and purposeful activities.

Subp. 2. **Range of motion.** A supportive program that is directed toward prevention of deformities through positioning and range of motion must be implemented and maintained. Based on the comprehensive resident assessment, the director of nursing services must coordinate the development of a nursing care plan which provides that:

A. a resident who enters the nursing home without a limited range of motion does not experience reduction in range of motion unless the resident's clinical condition demonstrates that a reduction in range of motion is unavoidable; and

B. a resident with a limited range of motion receives appropriate treatment and services to increase range of motion and to prevent further decrease in range of motion.

Subp. 3. **Pressure sores.** Based on the comprehensive resident assessment, the director of nursing services must coordinate the development of a nursing care plan which provides that:

A. a resident who enters the nursing home without pressure sores does not develop pressure sores unless the individual's clinical condition demonstrates, and a physician authenticates, that they were unavoidable; and

B. a resident who has pressure sores receives necessary treatment and services to promote healing, prevent infection, and prevent new sores from developing.

Subp. 4. **Positioning.** Residents must be positioned in good body alignment. The position of residents unable to change their own position must be changed at least every two hours, including periods of time after the resident has been put to bed for the night, unless the physician has documented that repositioning every two hours during this time period is unnecessary or the physician has ordered a different interval.

Subp. 5. **Incontinence.** A nursing home must have a continuous program of bowel and bladder management to reduce incontinence and the unnecessary use of catheters. Based on the comprehensive resident assessment, a nursing home must ensure that:

A. a resident who enters a nursing home without an indwelling catheter is not catheterized unless the resident's clinical condition indicates that catheterization was necessary; and

B. a resident who is incontinent of bladder receives appropriate treatment and services to prevent urinary tract infections and to restore as much normal bladder function as possible.

Subp. 6. **Activities of daily living.** Based on the comprehensive resident assessment, a nursing home must ensure that:

A. a resident is given the appropriate treatments and services to maintain or improve abilities in activities of daily living unless deterioration is a normal or characteristic part of the resident's condition. For purposes of this part, activities of daily living includes the resident's ability to:

(1) bathe, dress, and groom;

(2) transfer and ambulate;

(3) use the toilet;

(4) eat; and

(5) use speech, language, or other functional communication systems; and

B. a resident who is unable to carry out activities of daily living receives the necessary services to maintain good nutrition, grooming, and personal and oral hygiene.

Subp. 7. **Nasogastric tubes, gastrostomy tubes, and feeding syringes.** Based on the comprehensive resident assessment, a nursing home must ensure that:

A. a resident who has been able to eat enough independently or with assistance is not fed by nasogastric tube or feeding syringe unless the resident's clinical condition demonstrates that use of a nasogastric tube or feeding syringe was unavoidable; and

B. a resident who is fed by a nasogastric or gastrostomy tube or feeding syringe receives the appropriate treatment and services to prevent aspiration pneumonia, diarrhea, vomiting, dehydration, metabolic abnormalities, and nasal–pharyngeal ulcers and to restore, if possible, normal feeding function.

Subp. 8. **Prosthetic devices.** A nursing home must assist residents to adjust to their disabilities and to use their prosthetic devices.

Subp. 9. **Hydration.** Residents must be offered and receive adequate water and other fluids to maintain proper hydration and health, unless fluids are restricted.

Statutory Authority: *MS s 144A.04; 144A.08; 256B.431*

History: *20 SR 303*

4658.0530 ASSISTANCE WITH EATING.

Subpart 1. **Nursing personnel.** Nursing personnel must determine that residents are served diets as prescribed. Residents needing help in eating must be promptly assisted upon receipt of the meals and the assistance must be unhurried and in a manner that maintains or enhances each resident's dignity and respect. Adaptive self–help devices must be provided to contribute to the resident's independence in eating. Food and fluid intake of residents must be observed and deviations from normal reported to the nurse responsible for the resident's care during the work period the observation of a deviation was made. Persistent unresolved problems must be reported to the attending physician.

Subp. 2. **Volunteers.** Volunteers may assist residents with eating if the following conditions are met:

A. the nursing home has a policy allowing that assistance. The policy must specify whether family members are allowed to assist their immediate relatives with eating and, if allowed, what training is required for family members;

B. the resident has been assessed and a determination made that the resident may be safely fed by a volunteer, and that is documented in the comprehensive plan of care;

C. the resident has agreed, or an immediate family member, the legal guardian, or designated representative has agreed for the resident, to be fed by a volunteer;

D. the volunteer has completed a training program on assisting residents with eating, which, at a minimum, meets the training and competency standards for eating assistance contained in the nursing assistant training curriculum;

E. the director of nursing services must be responsible for the monitoring of all persons, including family members, performing this activity; and

F. there are mechanisms in place to ensure appropriate reporting to nursing personnel of observations made by the volunteer during meal time.

Subp. 3. **Risk of choking.** A resident identified in the comprehensive resident assessment, and as addressed in the comprehensive plan of care, as being at risk of choking on food must be continuously monitored by nursing personnel when the resident is eating so that timely emergency intervention can occur if necessary.

Statutory Authority: *MS s 144A.04; 144A.08; 256B.431*

History: *20 SR 303*

4658.0580 PENALTIES FOR NURSING SERVICES RULE VIOLATIONS.

Penalty assessments will be assessed on a daily basis for violations of parts 4658.0500 to 4658.0530 and are as follows:

A. part 4658.0500, subpart 1, $300;
B. part 4658.0500, subpart 2, $300;
C. part 4658.0500, subpart 3, $100;
D. part 4658.0500, subpart 4, $300;
E. part 4658.0505, items A to C, $300;
F. part 4658.0505, items D to F, $100;
G. part 4658.0505, item G, $300;
H. part 4658.0505, item H, $100;
I. part 4658.0505, item I, $300;
J. part 4658.0505, items J to M, $100;
K. part 4658.0510, subpart 1, $300;
L. part 4658.0510, subparts 2 to 5, $500;
M. part 4658.0510, subpart 6, $300;
N. part 4658.0515, $300;
O. part 4658.0520, subpart 1, $350;
P. part 4658.0520, subpart 2, items A to H, $350;
Q. part 4658.0520, subpart 2, items I to J, $300;
R. part 4658.0525, $350; and

S. part 4658.0530, $350.

Statutory Authority: *MS s 144A.04; 144A.08; 256B.431*

History: *20 SR 303*

4658.0600 DIETARY SERVICE.

Subpart 1. **Food quality.** Food must have taste, aroma, and appearance that encourages resident consumption of food.

Subp. 2. **Nutritional status.** The nursing home must ensure that a resident is offered a diet which supplies the caloric and nutrient needs as determined by the comprehensive resident assessment. Substitutes of similar nutritive value must be offered to residents who refuse food served.

Subp. 3. **Availability of diet manuals.** The most recent edition of diet manuals must be readily available in the dietary department.

Statutory Authority: *MS s 144A.04; 144A.08; 256B.431*

History: *19 SR 1803*

4658.0605 DIRECTION OF DIETARY DEPARTMENT.

Subpart 1. **Dietitian.** The nursing home must employ a qualified dietitian either full time, part time, or on a consultant basis. For purposes of this chapter, a "qualified dietitian" means a person who:

A. is registered by the Commission on Dietetic Registration of the American Dietetic Association;

B. is licensed under Minnesota Statutes, section 148.624; or

C. has a bachelor's degree in dietetics, food and nutrition, or food service management plus experience in long–term care and ongoing continuing education in identification of dietary needs, and planning and implementation of dietary programs.

Subp. 2. **Director of dietary service.** If a qualified dietitian is not employed full time, the administrator must designate a director of dietary service who is enrolled in or has completed, at a minimum, a dietary manager course, and who receives frequently scheduled consultation from a qualified dietitian. The number of hours of consultation must be based upon the needs of the nursing home. Directors of dietary service hired before May 28, 1995, are not required to complete a dietary manager course.

Statutory Authority: *MS s 144A.04; 144A.08; 256B.431*

History: *19 SR 1803*

4658.0610 DIETARY STAFF REQUIREMENTS.

Subpart 1. **Sufficient personnel.** The nursing home must employ sufficient personnel competent to carry out the functions of the dietary service. "Sufficient personnel" means enough staff to plan, prepare, and serve palatable, attractive, and nutritionally adequate meals at proper temperatures and appropriate times.

Subp. 2. **Health.** The dietary staff must be free from symptoms of communicable disease and from open, infected wounds.

Subp. 3. **Grooming.** Dietary staff must wear clean outer garments. Hairnets or other hair restraints must be worn to prevent the contamination of food, utensils, and equipment. Hair spray is not an acceptable hair restraint.

Subp. 4. **Hygiene.** Dietary staff must thoroughly wash their hands and the exposed portions of their arms with soap and warm water in a handwashing facility before starting work, during work as often as is necessary to keep them clean, and after smoking, eating, drinking, using the toilet, or handling soiled equipment or utensils. Dietary staff must keep their fingernails clean and trimmed.

Subp. 5. **Tobacco use.** Employees must not use tobacco in any form while on duty to handle, prepare, or serve food, or clean utensils and equipment.

Subp. 6. **Eating.** All employees must consume food only in areas designated for employee dining. An employee dining area must not be designated if consuming food in that location could cause contamination of other food, equipment, or utensils. This subpart does

not apply to cooks or other persons designated by the cook who test the food for flavor and palatability.

Subp. 7. **Sanitary conditions.** Sanitary procedures and conditions must be maintained in the operation of the dietary department at all times.

Subp. 8. **Food handling guide.** A current copy of the department's food handling guide entitled "Information for Food Service Personnel in Hospitals and Related Care Facilities" must be readily available for reference by all dietary personnel.

Statutory Authority: *MS s 144A.04; 144A.08; 256B.431*

History: *19 SR 1803*

4658.0615 FOOD TEMPERATURES.

Potentially hazardous food must be maintained at 40 degrees Fahrenheit (four degrees centigrade) or below, or 150 degrees Fahrenheit (66 degrees centigrade) or above, including periods when it is being transported. "Potentially hazardous food" means any food subject to continuous time and temperature controls in order to prevent the rapid and progressive growth of infectious or toxigenic microorganisms.

Statutory Authority: *MS s 144A.04; 144A.08; 256B.431*

History: *19 SR 1803*

4658.0620 FREQUENCY OF MEALS.

Subpart 1. **Time of meals.** The nursing home must provide at least three meals daily at regular times. There must be no more than 14 hours between a substantial evening meal and breakfast the following day. A "substantial evening meal" means an offering of three or more menu items at one time, one of which is a high–quality protein such as meat, fish, eggs, or cheese.

Subp. 2. **Snacks.** The nursing home must offer evening snacks daily. "Offer" means having snacks available and making the resident aware of that availability.

Subp. 3. **Time between meals.** Up to 16 hours may elapse between a substantial evening meal and breakfast the following day if a resident group, such as the resident council, agrees to this meal span and a nourishing snack is provided.

Subp. 4. **Dining room.** Meals are to be served in a specified dining area consistent with the resident's choice and plan of care.

Statutory Authority: *MS s 144A.04; 144A.08; 256B.431*

History: *19 SR 1803*

4658.0625 MENUS.

Subpart 1. **Menu planning.** All menus must be planned in advance, dated, and followed. Any changes in the meals actually served must be of equal nutritional value. The general menu for a seven–day period must be posted prior to the start of that seven–day period at a location readily accessible to residents, and any changes to the general menu must be noted on that posted menu. All menus and any changes for the current and following seven–day periods must be posted in the dietary area. Records of menus and of foods purchased must be filed for six months. A variety of foods must be provided. A file of tested recipes adjusted to a yield appropriate for the size of the home must be maintained.

Subp. 2. **Food habits and customs.** There must be adjustment to the food habits, customs, likes, and appetites of individual residents including condiments, seasonings, and salad dressings. There must be resident involvement in menu planning.

Statutory Authority: *MS s 144A.04; 144A.08; 256B.431*

History: *19 SR 1803*

4658.0630 RETURNED FOOD.

Returned portions of food and beverages from individual servings may be reused if the food or beverage is served in a sealed wrapper or container which has not been unwrapped or opened and is not potentially hazardous.

Statutory Authority: *MS s 144A.04; 144A.08; 256B.431*

History: *19 SR 1803*

4658.0635 CONDIMENTS.

Condiments, seasonings, and salad dressing for resident use must be provided in individual packages or from dispensers.

Statutory Authority: *MS s 144A.04; 144A.08; 256B.431*

History: *19 SR 1803*

4658.0640 MILK.

Fluid milk and fluid milk products used must be pasteurized and must meet Grade A quality standards in Minnesota Statutes, chapter 32. The milk must be dispensed directly from the original container in which it was packaged, shipped, and received. This container may be individual portions, mechanically refrigerated bulk milk dispenser, or a commercially filled container of not more than one gallon capacity. Dry milk may not be reconstituted and served as fluid milk. Dry milk may be added to fluid milk and other foods to increase nutrient density. Dry milk, dry milk products, and commercial nondairy products may be used in instant dessert and whipped products or for cooking and baking.

Statutory Authority: *MS s 144A.04; 144A.08; 256B.431*

History: *19 SR 1803*

4658.0645 ICE.

Ice must be stored and handled in a sanitary manner. Stored ice must be kept in an enclosed container. If the container is not mechanically cooled, it must be cleaned at least daily and more often if needed. If an ice scoop is used, the scoop must be stored separately to prevent the handle from contact with the ice.

Statutory Authority: *MS s 144A.04; 144A.08; 256B.431*

History: *19 SR 1803*

4658.0650 FOOD SUPPLIES.

Subpart 1. **Food.** All food must be clean, wholesome, free from spoilage, free from adulteration and misbranding, and safe for human consumption. Canned or preserved food which has been processed in a place other than a commercial food–processing establishment is prohibited for use by nursing homes.

Subp. 2. **Food brought into nursing home.** Nonprohibited food items from noncommercial sources such as fresh produce, game, and fish may be brought into the nursing home in accordance with nursing home policy.

Subp. 3. **Food containers.** Food, whether raw or prepared, if removed from the container or package in which it was obtained, must be stored in a clean, covered container. The container need not be covered during necessary periods of preparation or service.

Subp. 4. **Storage of nonperishable food.** Containers of nonperishable food must be stored a minimum of six inches above the floor in a manner that protects the food from splash and other contamination, and that permits easy cleaning of the storage area. Containers may be stored on equipment such as dollies, racks, or pallets, provided the equipment is easily movable and constructed to allow for easy cleaning. Nonperishable food and containers of nonperishable food must not be stored under exposed or unprotected sewer lines or similar sources of potential contamination. The storage of nonperishable food in toilet rooms or vestibules is prohibited.

Subp. 5. **Storage of perishable food.** All perishable food must be stored off the floor on washable, corrosion–resistant shelving under sanitary conditions, and at temperatures which will protect against spoilage.

Subp. 6. **Prohibited storage.** The storage of detergents, cleaners, pesticides, and other nonfood items not related to the operation of the dietary service, including employees' personal items, is prohibited in food storage areas. The nursing home may store dry goods and paper products related to the dietary service in the food storage area.

Subp. 7. **Vending machines.** Storage and dispensing of food and beverages in vending machines must be in accordance with parts 1550.5000 to 1550.5130, and in accordance with any applicable local ordinances.

Statutory Authority: *MS s 144A.04; 144A.08; 256B.431*

History: *19 SR 1803*

4658.0655 TRANSPORT OF FOOD.

The food service system must be capable of keeping food hot or cold until served. A dumbwaiter or conveyor, which cab or carrier is used for the transport of food and soiled dishes, must be sanitized immediately after the transportation of soiled dishes is complete, and prior to the transporting of food. The dumbwaiter or conveyor, which cab or carrier is used for the transport of soiled linens, may not be used for the transport of food or soiled dishes.

Statutory Authority: *MS s 144A.04; 144A.08; 256B.431*

History: *19 SR 1803*

4658.0660 FLOOR CLEANING AND TRASH.

Subpart 1. **Cleaning during food preparation.** There must be no sweeping or mopping in the food preparation or service areas of the kitchen during the time of food preparation or service, except when necessary to prevent accidents.

Subp. 2. **Nondietary activity trash, restrictions.** Trash or refuse unrelated to dietary activities must not be transported through food preparation areas or food storage areas for disposal or incineration.

Statutory Authority: *MS s 144A.04; 144A.08; 256B.431*

History: *19 SR 1803*

4658.0665 DISHES AND UTENSILS REQUIREMENTS.

The requirements in items A to E apply to the use of dishes and utensils.

A. Only dishes and utensils with the original smooth finishes may be used. Cracked, chipped, scratched, or permanently stained dishes, cups, or glasses or damaged, corroded, or open seamed utensils or cookware must not be used. All tableware and cooking utensils must be kept in closed storage compartments.

B. Accessories for food appliances must be provided with protective covers unless in enclosed storage.

C. Enclosed lowerators for dishes are acceptable.

D. Clean spoons, knives, and forks must be touched only by their handles. Clean cups, glasses, bowls, plates, and similar items must be handled without contact with inside surfaces or surfaces that contact the user's mouth.

E. Dishes or plate settings must not be set out on the tables more than two hours before serving time.

Statutory Authority: *MS s 144A.04; 144A.08; 256B.431*

History: *19 SR 1803*

4658.0670 DISHWASHING.

Subpart 1. **Requirements.** The dishwashing operation must provide separation in the handling of soiled and clean dishes and utensils, and must conform with either part 4658.0675 or 4658.0680 for washing, rinsing, sanitizing, and drying.

Subp. 2. **Sanitization; storage.** All utensils and equipment must be thoroughly cleaned, and food–contact surfaces of utensils and equipment must be given sanitization treatment and must be stored in such a manner as to be protected from contamination. Cleaned and sanitized equipment and utensils must be handled in a way that protects them from contamination.

Statutory Authority: *MS s 144A.04; 144A.08; 256B.431*

History: *19 SR 1803*

4658.0675 MECHANICAL CLEANING AND SANITIZING.

Subpart 1. **Generally.** Mechanical cleaning and sanitizing must be done in the manner described by subparts 2 to 8.

Subp. 2. **Cleaning and sanitizing.** Cleaning and sanitizing may be done by spray–type or immersion utensil washing machines or by any other type of machine or device if it is demonstrated that it thoroughly cleans, sanitizes equipment and utensils, and meets the require-

ments of Standard No. 3, spray–type dishwashing machines, issued by NSF International, June 1982. This standard is incorporated by reference. It is available through the Minitex interlibrary loan system. It is not subject to frequent change. These machines and devices must be properly installed and maintained in good repair. Machines and devices must be operated according to manufacturers' instructions, which must be posted nearby. Utensils and equipment placed in the machine must be exposed to all washing cycles. Automatic detergent dispensers, wetting agent dispensers, and liquid sanitizer injectors must be properly installed and maintained.

Subp. 3. **Drainboards.** Drainboards must be provided and be of adequate size for the proper handling of soiled utensils before washing and for cleaned utensils following sanitization, and must be located and constructed so as not to interfere with the proper use of the dishwashing facilities. This does not preclude the use of easily movable dish tables for the storage of soiled utensils or the use of easily movable dish tables for the storage of clean utensils following sanitization.

Subp. 4. **Preparing to clean.** Equipment and utensils must be flushed or scraped and, when necessary, soaked to remove gross food particles and soil before being washed in a dishwashing machine unless a prewash cycle is a part of the dishwashing machine operation. Equipment and utensils must be placed in racks, trays, or baskets, or on conveyors, in a way that food–contact surfaces are exposed to the unobstructed application of detergent wash and clean rinse water and that permits free draining.

Subp. 5. **Chemical sanitization.** Single–tank machines, stationary–rack machines, door–type machines, and spray–type glass washers using chemicals for sanitization may be used, provided that:

A. wash water temperatures, addition of chemicals, rinse water temperatures, and chemical sanitizers used are in conformance with NSF International Standard No. 3, incorporated by reference in subpart 2, and Standard No. 29, Detergent and Chemical Feeders for Commercial Spray–Type Dishwashing Machines, issued by NSF International, November 1992. These standards are incorporated by reference. They are available through the Minitex interlibrary loan system. They are not subject to frequent change;

B. a test kit or other device that accurately measures the parts per million concentration of the sanitizing solution must be available and be used, and a log of the test results must be maintained for the previous three months;

C. containers for storing the sanitizing agent must be installed in such a manner as to ensure that operators maintain an adequate supply of sanitizing compound; and

D. a visual or audible warning device must be provided for the operator to easily verify when the sanitizing agent is depleted.

Subp. 6. **Hot water sanitization.** Machines using hot water for sanitizing may be used provided that wash water and pumped rinse water are kept clean and water is maintained at not less than the temperature specified by NSF International Standard No. 3, incorporated by reference in subpart 2, under which the machine is evaluated. A pressure gauge must be installed with a valve immediately adjacent to the supply side of the control valve in the final rinse line provided that this requirement does not pertain to a dishwashing machine with a pumped final rinse.

Subp. 7. **Air drying.** Dishes and utensils must be air dried before being stored or must be stored in a self–draining position. Properly racked sanitized dishes and utensils may complete air drying in proper storage places, if available.

Subp. 8. **Cleaning of dishwashing machines.** Dishwashing machines must be cleaned at least once a day, or more frequently if required, in accordance with the manufacturer's recommendation.

Statutory Authority: *MS s 144A.04; 144A.08; 256B.431*

History: *19 SR 1803*

4658.0680 MANUAL CLEANING AND SANITIZING.

Subpart 1. **Generally.** Manual cleaning and sanitizing must be done in the manner described in subparts 2 to 9.

Subp. 2. **Three compartment sink.** For manual washing, rinsing, and sanitizing of utensils and equipment, a sink with at least three compartments must be provided and be

used. Sink compartments must accommodate food preparation equipment and utensils, and each compartment of the sink must be supplied with hot and cold potable running water. Fixed equipment and utensils and equipment too large to be cleaned in sink compartments must be washed manually or cleaned through pressure spray methods.

Subp. 3. **Drainboards.** Drainboards must be provided at each end for proper handling of soiled utensils before washing and for cleaned utensils following sanitizing and must be located so as not to interfere with the proper use of the utensil washing facilities.

Subp. 4. **Preparing to clean.** Equipment and utensils must be preflushed or prescraped and, when necessary, presoaked to remove gross food particles and soil.

Subp. 5. **Manual dishwashing process.** Except for fixed equipment and utensils too large to be cleaned in sink compartments, manual washing, rinsing, and sanitizing must be conducted in the following manner:

A. sinks must be cleaned before use;

B. equipment and utensils must be thoroughly washed in the first compartment with a detergent in accordance with the detergent manufacturer's instructions;

C. equipment and utensils must be rinsed free of detergent and abrasives with clean water in the second compartment;

D. equipment and utensils must be sanitized in the third compartment according to subpart 6.

Subp. 6. **Sanitization methods.** The food–contact surfaces of all equipment and utensils must be sanitized by one of the following methods:

A. immersion for at least one–half minute in clean, hot water at a temperature of at least 170 degrees Fahrenheit (77 degrees centigrade);

B. immersion for at least one minute in a clean solution containing at least 50 parts per million, but no more than 200 parts per million, of available chlorine as a hypochlorite and at a temperature of at least 75 degrees Fahrenheit (24 degrees centigrade);

C. immersion for at least one minute in a clean solution containing at least 12.5 parts per million, but not more than 25 parts per million, of available iodine and having a pH range which the manufacturer has demonstrated to be effective and at a temperature of at least 75 degrees Fahrenheit (24 degrees centigrade);

D. immersion in a clean solution containing any other chemical sanitizing agent allowed under Code of Federal Regulations, title 21, section 178.1010, that will provide at least the equivalent bactericidal effect of a solution containing 50 parts per million of available chlorine as a hypochlorite at a temperature of at least 75 degrees Fahrenheit (24 degrees centigrade) for one minute; or

E. for equipment too large to sanitize by immersion, but in which steam can be confined, treatment with steam free from materials or additives other than those specified in Code of Federal Regulations, title 21, section 173.310.

Equipment too large to sanitize by immersion must be rinsed, sprayed, or swabbed with a sanitizing solution of at least twice the required strength for that particular sanitizing solution.

Subp. 7. **Hot water sanitization.** When hot water is used for sanitizing, the following equipment must be provided and used:

A. an integral heating device or fixture installed in, on, or under the sanitizing compartment of the sink capable of maintaining the water at a temperature of at least 170 degrees Fahrenheit (77 degrees centigrade);

B. a numerically scaled indicating thermometer, accurate to plus or minus three degrees Fahrenheit (plus or minus two degrees centigrade) convenient to the sink for frequent checks of water temperature; and

C. dish baskets or other equipment of such size and design to permit complete immersion of the tableware, kitchenware, and equipment in the hot water.

Subp. 8. **Chemical sanitization.** When chemicals are used for sanitization, they must not have concentrations higher than the maximum permitted under Code of Federal Regulations, title 21, section 178.1010, and a test kit or other device that accurately measures the parts per million concentration of the solution must be provided and used, and a log of the test results must be maintained for the previous three months.

Subp. 9. **Air drying.** All dishes and utensils must be air dried before being stored or must be stored in a self–draining position. Properly racked sanitized dishes and utensils may complete air drying in proper storage places, if available.

Statutory Authority: *MS s 144A.04; 144A.08; 256B.431*

History: *19 SR 1803*

4658.0685 PENALTIES FOR DIETARY AND FOOD SERVICES AND SANITATION RULE VIOLATIONS.

Penalty assessments for violations of parts 4658.0600 to 4658.0680 are as follows:

A. part 4658.0600, subpart 1, $350;
B. part 4658.0600, subpart 2, $350;
C. part 4658.0600, subpart 3, $100;
D. part 4658.0605, subpart 1, $350;
E. part 4658.0605, subpart 2, $300;
F. part 4658.0610, subpart 1, $300;
G. part 4658.0610, subpart 2, $350;
H. part 4658.0610, subpart 3, $350;
I. part 4658.0610, subpart 4, $350;
J. part 4658.0610, subpart 5, $350;
K. part 4658.0610, subpart 6, $50;
L. part 4658.0610, subpart 7, $350;
M. part 4658.0610, subpart 8, $350;
N. part 4658.0615, $350;
O. part 4658.0620, subpart 1, $350;
P. part 4658.0620, subpart 2, $350;
Q. part 4658.0620, subpart 3, $350;
R. part 4658.0620, subpart 4, $100;
S. part 4658.0625, subpart 1, $300;
T. part 4658.0625, subpart 2, $300;
U. part 4658.0630, $350;
V. part 4658.0635, $350;
W. part 4658.0640, $350;
X. part 4658.0645, $350;
Y. part 4658.0650, subpart 1, $350;
Z. part 4658.0650, subpart 2, $350;
AA. part 4658.0650, subpart 3, $350;
BB. part 4658.0650, subpart 4, $350;
CC. part 4658.0650, subpart 5, $350;
DD. part 4658.0650, subpart 6, $350;
EE. part 4658.0650, subpart 7, $350;
FF. part 4658.0655, $350;
GG. part 4658.0660, subpart 1, $300;
HH. part 4658.0660, subpart 2, $300;
II. part 4658.0665, $300; and
JJ. parts 4658.0670 to 4658.0680, $300.

Statutory Authority: *MS s 144A.04; 144A.08; 256B.431*

History: *19 SR 1803*

4658.0700 MEDICAL DIRECTOR.

Subpart 1. **Designation.** A nursing home must designate a physician to serve as medical director.

Subp. 2. **Duties.** The medical director, in conjunction with the administrator and the director of nursing services, must be responsible for:

A. the development of resident care policies and procedures that are to be approved by the licensee;

B. implementation of resident care policies;

C. the development of standards of practice for medical care to provide guidance to attending physicians;

D. the medical direction and coordination of medical care in the nursing home, including serving as liaison with attending physicians, and periodic evaluation of the adequacy and appropriateness of health professional and supportive staff and services to meet the medical needs of residents;

E. surveillance of the health status of the nursing home's employees as it relates to the performance of their assigned duties;

F. periodic advisement to the director of nursing services to ensure a quality level of delegated medical care provided to residents; and

G. participation, or designation of another physician for participation, on the quality assessment and assurance committee as required by part 4658.0070.

Statutory Authority: *MS s 144A.04; 144A.08; 256B.431*

History: *20 SR 303*

4658.0705 MEDICAL CARE AND TREATMENT.

Subpart 1. **Physician supervision.** A nursing home must ensure that each resident has a physician designated to authorize and supervise the medical care and treatment of the resident during the resident's stay in the nursing home, and must ensure that another physician is available to supervise the resident's medical care when the attending physician is unavailable.

Subp. 2. **Availability of physicians for emergency and advisory care.**

A. A nursing home must provide or arrange for the provision of physician services 24 hours a day, in case of an emergency, and to act in an advisory capacity.

B. The name and telephone number of the emergency physician must be readily available at all times.

C. A nursing home must develop and maintain policies and procedures regarding obtaining medical intervention when the resident's attending physician or the emergency physician does not respond to a request for medical care or is not available in a timely manner.

Statutory Authority: *MS s 144A.04; 144A.08; 256B.431*

History: *20 SR 303*

4658.0710 ADMISSION ORDERS AND PHYSICIAN EVALUATIONS.

Subpart 1. **Physical examination.** A resident must have a current admission medical history and complete physical examination performed and recorded by a physician, physician assistant, or nurse practitioner within five days before or within seven days after admission.

Subp. 2. **Admission orders.** A nursing home must have physician orders for a resident's admission and immediate care at the time of admission.

Subp. 3. **Frequency of physician evaluations.**

A. A resident must be evaluated by a physician at least once every 30 days for the first 90 days after admission, and then whenever medically necessary. A physician visit is considered timely if it occurs within ten days after the date the visit was required.

B. Except as provided in this item, all required physician visits must be made by the physician personally. At the option of the physician, required visits after the initial visit may alternate between personal visits by the physician and visits by a physician assistant or nurse practitioner according to parts 5600.2600 to 5600.2670, chapters 6330 and 6340, and Minnesota Statutes, sections 147.34 and 148.235.

Subp. 4. **Physician visits.** At each visit, a physician or physician's designee must:

A. review the resident's comprehensive plan of care, including medications and treatments, and progress notes;

B. write, sign, and date physician progress notes; and

C. sign and date all orders.

Statutory Authority: *MS s 144A.04; 144A.08; 256B.431*

History: *20 SR 303*

4658.0715 MEDICAL INFORMATION FOR CLINICAL RECORD.

A physician or physician designee must provide the following information for the clinical record:

A. the report of the admission history and physical examination;

B. the admitting diagnosis;

C. a description of the general medical condition, including disabilities and limitations;

D. a report of subsequent physical examinations;

E. instructions relative to the resident's total program of care;

F. written orders for all medications with stop dates, treatments, rehabilitations, and any medically prescribed special diets;

G. progress notes;

H. any advanced directives; and

I. condition on discharge or transfer, or cause of death.

Statutory Authority: *MS s 144A.04; 144A.08; 256B.431*

History: *20 SR 303*

4658.0720 PROVIDING DAILY ORAL CARE.

Subpart 1. **Daily oral care plan.** A nursing home must establish a daily oral care plan for each resident consistent with the results of the comprehensive resident assessment.

A. A resident's daily oral care plan must indicate whether or not the resident has natural teeth or wears removable dentures or partials. It must also indicate whether the resident is able to maintain oral hygiene independently, needs supervision, or is dependent on others.

B. A nursing home must provide a resident with the supplies and assistance necessary to carry out the resident's daily oral care plan. The supplies must include at a minimum: toothbrushes, fluoride toothpaste, mouth rinses, dental floss, denture cups, denture brushes, denture cleaning products, and denture adhesive products.

C. A nursing home must make the daily oral care plan available to the attending dentist before each checkup, and must modify the plan according to the dentist's, dental hygienist's, or other dental practitioner's directions.

Subp. 2. **Labeling dentures.** A nursing home must label full and partial dentures with the resident's name or other identifiers within seven days of admission.

Statutory Authority: *MS s 144A.04; 144A.08; 256B.431*

History: *20 SR 303*

4658.0725 PROVIDING ROUTINE AND EMERGENCY ORAL HEALTH SERVICES.

Subpart 1. **Routine dental services.** A nursing home must provide, or obtain from an outside resource, routine dental services to meet the needs of each resident. Routine dental services include dental examinations and cleanings, fillings and crowns, root canals, periodontal care, oral surgery, bridges and removable dentures, orthodontic procedures, and adjunctive services that are provided for similar dental patients in the community at large, as limited by third party reimbursement policies.

Subp. 2. **Annual dental visit.**

A. Within 90 days after admission, a resident must be referred for an initial dental examination unless the resident has received a dental examination within the six months before admission.

B. After the initial dental examination, a nursing home must ask the resident if the resident wants to see a dentist and then provide any necessary help to make the appointment, on at least an annual basis. This opportunity for an annual dental checkup must be provided within one year from the date of the initial dental examination or within one year from the date of the examination done within the six months before admission.

Subp. 3. **Emergency dental services.**

A. A nursing home must provide, or obtain from an outside resource, emergency dental services to meet the needs of each resident. Emergency dental services include services needed to treat: an episode of acute pain in teeth, gums, or palate; broken or otherwise damaged teeth; or any other problem of the oral cavity, appropriately treated by a dentist, that requires immediate attention.

B. When emergency dental problems arise, a nursing home must contact a dentist within 24 hours, describe the dental problem, and document and implement the dentist's plans and orders.

Subp. 4. **Dental records.** For each dental visit, the clinical record must include the name of the dentist or dental hygienist, date of the service, specific dental services provided, medications administered, medical or dental consultations, and follow–up orders.

Statutory Authority: *MS s 144A.04; 144A.08; 256B.431*

History: *20 SR 303*

4658.0730 NURSING HOME REQUIREMENTS.

Subpart 1. **Training.** Nursing home staff providing daily oral care must be trained and competent to provide daily oral care for residents.

Subp. 2. **Written agreement.** A nursing home must maintain a written dental provider agreement with at least one dentist, licensed by the Board of Dentistry, who agrees to provide:

A. routine and emergency dental care for the nursing home's residents;

B. consultation on the nursing home's oral health policies and procedures; and

C. oral health training for nursing home staff.

Subp. 3. **Making appointments.** A nursing home must assist residents in making dental appointments and arranging for transportation to and from the dentist's office.

Subp. 4. **On–site services.** A nursing home must arrange for on–site dental services for residents who cannot travel, if those services are available in the community.

Subp. 5. **List of dentists.** A nursing home must maintain a list of dentists in the service area willing and able to provide routine or emergency dental services for the nursing home's residents. Copies of the list must be readily accessible to nursing personnel.

Statutory Authority: *MS s 144A.04; 144A.08; 256B.431*

History: *20 SR 303*

4658.0750 PENALTIES FOR PHYSICIAN AND DENTAL SERVICES RULE VIOLATIONS.

Penalty assessment will be assessed on a daily basis for violations of parts 4658.0700 to 4658.0730 and are as follows:

A. part 4658.0700, subpart 1, $100;

B. part 4658.0700, subpart 2, items A to F, $300;

C. part 4658.0700, subpart 2, item G, $100;

D. part 4658.0705, subpart 1, $300;

E. part 4658.0705, subpart 2, item A, $300;

F. part 4658.0705, subpart 2, item B, $100;

G. part 4658.0705, subpart 2, item C, $300;

H. part 4658.0710, subpart 1, $350;

I. part 4658.0710, subpart 2, $300;

J. part 4658.0710, subpart 3, item A, $350;

K. part 4658.0710, subpart 3, item B, $300;
L. part 4658.0710, subpart 4, $100;
M. part 4658.0715, $350;
N. part 4658.0720, subpart 1, $300;
O. part 4658.0720, subpart 2, $100;
P. part 4658.0725, subpart 1, $350;
Q. part 4658.0725, subparts 2 and 3, $300;
R. part 4658.0725, subpart 4, $100;
S. part 4658.0730, subparts 1 to 4, $300; and
T. part 4658.0730, subpart 5, $100.

Statutory Authority: *MS s 144A.04; 144A.08; 256B.431*

History: *20 SR 303*

4658.0800 INFECTION CONTROL.

Subpart 1. **Infection control program.** A nursing home must establish and maintain an infection control program designed to provide a safe and sanitary environment.

Subp. 2. **Direction of program.** A nursing home must assign one person, either a registered nurse or a physician, the responsibility of directing infection control activities in the nursing home.

Subp. 3. **Staff assistance with infection control.** Personnel must be assigned to assist with the infection control program, based on the needs of the residents and nursing home, to implement the policies and procedures of the infection control program.

Subp. 4. **Policies and procedures.** The infection control program must include policies and procedures which provide for the following:

A. surveillance based on systematic data collection to identify nosocomial infections in residents;

B. a system for detection, investigation, and control of outbreaks of infectious diseases;

C. isolation and precautions systems to reduce risk of transmission of infectious agents;

D. in-service education in infection prevention and control;

E. a resident health program including an immunization program, a tuberculosis program as defined in part 4658.0810, and policies and procedures of resident care practices to assist in the prevention and treatment of infections;

F. the development and implementation of employee health policies and infection control practices, including a tuberculosis program as defined in part 4658.0815;

G. a system for reviewing antibiotic use;

H. a system for review and evaluation of products which affect infection control, such as disinfectants, antiseptics, gloves, and incontinence products; and

I. methods for maintaining awareness of current standards of practice in infection control.

Statutory Authority: *MS s 144A.04; 144A.08; 256B.431*

History: *20 SR 303*

4658.0805 PERSONS PROVIDING SERVICES.

All persons providing services, including volunteers, with a communicable disease as listed in part 4605.7040 or with infected skin lesions must not be permitted to work in the nursing home unless it is determined that the person's condition will permit the person to work without endangering the health and safety of residents and other staff. The employee health policies required in part 4658.0800, subpart 4, item F, must address grounds for excluding persons from work and for reinstating persons to work due to a communicable disease or infected skin lesions.

Statutory Authority: *MS s 144A.04; 144A.08; 256B.431*

History: *20 SR 303*

4658.0810 RESIDENT TUBERCULOSIS PROGRAM.

Subpart 1. **Tuberculosis test at admission.** A resident's clinical record must contain a report of a tuberculin test within the three months prior to admission or within 72 hours after admission, administered in conformance with the general guidelines for surveillance and diagnosis as found in Morbidity and Mortality Weekly Report (MMWR), Recommendations and Reports, July 13, 1990, Vol. 39, No. RR–10; "Prevention and Control of Tuberculosis in Facilities Providing Long–Term Care to the Elderly; Recommendations of the Advisory Committee for Elimination of Tuberculosis," as issued by the Centers for Disease Control and Prevention. This guideline is incorporated by reference. It is available through the Minitex interlibrary loan system. It is not subject to frequent change.

Subp. 2. **Identification; evaluation; treatment.** A nursing home must develop and implement policies and procedures addressing the identification, evaluation, and initiation of treatment for residents who may have active tuberculosis in accordance with Morbidity and Morality Weekly Report (MMWR), October 28, 1994, Vol. 43, No. RR–13; section II.C. of the "Guidelines for Preventing the Transmission of Mycobacterium Tuberculosis in Health–Care Facilities, 1994," issued by the Centers for Disease Control and Prevention, October 28, 1994. This guideline is incorporated by reference. It is available through the Minitex interlibrary loan system. It is not subject to frequent change.

Statutory Authority: *MS s 144A.04; 144A.08; 256B.431*

History: *20 SR 303*

4658.0815 EMPLOYEE TUBERCULOSIS PROGRAM.

Subpart 1. **Responsibility of nursing home.** A nursing home must ensure that all employees, prior to employment and as otherwise indicated in this part, show freedom from active tuberculosis according to this part. A nursing home must establish a tuberculosis counseling, screening, and prevention program for all employees, in accordance with Morbidity and Mortality Weekly Report (MMWR), October 28, 1994, Vol. 43, No. RR–13; section II.J. of the "Guidelines for Preventing the Transmission of Mycobacterium Tuberculosis in Health–Care Facilities, 1994," issued by the Centers for Disease Control and Prevention. This guideline is incorporated by reference. It is available through the Minitex interlibrary loan system. It is not subject to frequent change.

Subp. 2. **Tuberculin test.** All employees, unless certified in writing by a physician to have had a positive reaction or other medical contraindication to a standard intradermal tuberculin test, must have an intradermal tuberculin test with purified protein derivative (Mantoux) within three months prior to employment.

Subp. 3. **Written documentation of compliance.** Reports or copies of reports of the tuberculin test or chest X–ray must be maintained by the nursing home.

Subp. 4. **Evaluation of symptoms.** All employees exhibiting symptoms consistent with tuberculosis must be evaluated within 72 hours.

Statutory Authority: *MS s 144A.04; 144A.08; 256B.431*

History: *20 SR 303*

4658.0820 FOOD POISONING AND DISEASE REPORTING.

Any occurrence of food poisoning or reportable disease as listed in part 4605.7040 must be reported immediately to the Minnesota Department of Health, Acute Disease Epidemiology Division, 717 Delaware Street SE, Minneapolis, Minnesota 55414 (612–623–5414).

Statutory Authority: *MS s 144A.04; 144A.08; 256B.431*

History: *20 SR 303*

4658.0850 PENALTIES FOR INFECTION CONTROL RULE VIOLATIONS.

Penalty assessments will be assessed on a daily basis for violations of parts 4658.0800 to 4658.0820 and are as follows:

A. part 4658.0800, $300;

B. part 4658.0805, $300;

C. part 4658.0810, $200;

D. part 4658.0815, subparts 1 and 2, $200;
E. part 4658.0815, subpart 3, $50;
F. part 4658.0815, subpart 4, $300; and
G. part 4658.0820, $100.

Statutory Authority: *MS s 144A.04; 144A.08; 256B.431*

History: *20 SR 303*

4658.1300 MEDICATIONS AND PHARMACY SERVICES; DEFINITIONS.

Subpart 1. **Controlled substances.** "Controlled substances" has the meaning given in Minnesota Statutes, section 152.01, subdivision 4.

Subp. 2. **Schedule II drugs.** "Schedule II drugs" means drugs with a high potential for abuse that have established medical uses as defined in Minnesota Statutes, section 152.02, subdivision 3.

Subp. 3. **Pharmacy services.** "Pharmacy services" means services to ensure the accurate acquiring, receiving, and administering of all drugs to meet the needs of each resident.

Subp. 4. **Drug regimen.** "Drug regimen" means all prescribed and over–the–counter medications a resident is taking.

Statutory Authority: *MS s 144A.04; 144A.08; 256B.431*

History: *20 SR 303*

4658.1305 PHARMACIST SERVICE CONSULTATION.

A nursing home must employ or obtain the services of a pharmacist currently licensed by the Board of Pharmacy who:

A. provides consultation on all aspects of the provision of pharmacy services in the nursing home;

B. establishes a system of records of receipt and disposition of all controlled drugs in sufficient detail to enable an accurate reconciliation; and

C. determines that drug records are accurately maintained and that an account of all controlled drugs is maintained.

Statutory Authority: *MS s 144A.04; 144A.08; 256B.431*

History: *20 SR 303*

4658.1310 DRUG REGIMEN REVIEW.

A. The drug regimen of each resident must be reviewed at least monthly by a pharmacist currently licensed by the Board of Pharmacy. This review must be done in accordance with Appendix N of the State Operations Manual, Surveyor Procedures for Pharmaceutical Service Requirements in Long–Term Care, published by the Department of Health and Human Services, Health Care Financing Administration, April 1992. This standard is incorporated by reference. It is available through the Minitex interlibrary loan system. It is not subject to frequent change.

B. The pharmacist must report any irregularities to the director of nursing services and the attending physician, and these reports must be acted upon by the time of the next physician visit, or sooner, if indicated by the pharmacist. For purposes of this part, "acted upon" means the acceptance or rejection of the report and the signing or initialing by the director of nursing services and the attending physician.

C. If the attending physician does not concur with the pharmacist's recommendation, or does not provide adequate justification, and the pharmacist believes the resident's quality of life is being adversely affected, the pharmacist must refer the matter to the medical director for review if the medical director is not the attending physician. If the medical director determines that the attending physician does not have adequate justification for the order and if the attending physician does not change the order, the matter must be referred for review to the quality assessment and assurance committee required by part 4658.0070. If the attending physician is the medical director, the consulting pharmacist must refer the matter directly to the quality assessment and assurance committee.

Statutory Authority: *MS s 144A.04; 144A.08; 256B.431*

History: *20 SR 303*

4658.1315 UNNECESSARY DRUG USAGE.

Subpart 1. **General.** A resident's drug regimen must be free from unnecessary drugs. An unnecessary drug is any drug when used:

A. in excessive dose, including duplicate drug therapy;

B. for excessive duration;

C. without adequate indications for its use; or

D. in the presence of adverse consequences which indicate the dose should be reduced or discontinued.

In addition to the drug regimen review required in part 4658.1310, the nursing home must comply with provisions in the Interpretive Guidelines for Code of Federal Regulations, title 42, section 483.25(1)(1) found in Appendix P of the State Operations Manual, Guidance to Surveyors for Long–Term Care Facilities, published by the Department of Health and Human Services, Health Care Financing Administration, April 1992. This standard is incorporated by reference. It is available through the Minitex interlibrary loan system and the state law library. It is not subject to frequent change.

Subp. 2. **Monitoring.** A nursing home must monitor each resident's drug regimen for unnecessary drug usage, based on the nursing home's policies and procedures, and the pharmacist must report any irregularity to the resident's attending physician. If the attending physician does not concur with the nursing home's recommendation, or does not provide adequate justification, and the pharmacist believes the resident's quality of life is being adversely affected, the pharmacist must refer the matter to the medical director for review if the medical director is not the attending physician. If the medical director determines that the attending physician does not have adequate justification for the order and if the attending physician does not change the order, the matter must be referred for review to the Quality Assurance and Assessment (QAA) committee required by part 4658.0070. If the attending physician is the medical director, the consulting pharmacist shall refer the matter directly to the QAA.

Statutory Authority: *MS s 144A.04; 144A.08; 256B.431*

History: *20 SR 303*

4658.1320 MEDICATION ERRORS.

A nursing home must ensure that:

A. Its medication error rate is less than five percent as described in the Interpretive Guidelines for Code of Federal Regulations, title 42, section 483.25(m), found in Appendix P of the State Operations Manual, Guidance to Surveyors for Long–Term Care Facilities, which is incorporated by reference in part 4658.1315. For purposes of this part, a medication error means:

(1) a discrepancy between what was prescribed and what medications are actually administered to residents in the nursing home; or

(2) the administration of expired medications.

B. It is free of any significant medication error. A significant medication error is:

(1) an error which causes the resident discomfort or jeopardizes the resident's health or safety; or

(2) medication from a category that usually requires the medication in the resident's blood to be titrated to a specific blood level and a single medication error could alter that level and precipitate a reoccurrence of symptoms or toxicity.

C. All medications are administered as prescribed. An incident report or medication error report must be filed for any medication error that occurs. Any significant medication errors or resident reactions must be reported to the physician or the physician's designee and the resident or the resident's legal guardian or designated representative and an explanation must be made in the resident's clinical record.

Statutory Authority: *MS s 144A.04; 144A.08; 256B.431*

History: *20 SR 303*

4658.1325 ADMINISTRATION OF MEDICATIONS.

Subpart 1. **Pharmacy services.** A nursing home must arrange for the provision of pharmacy services.

Subp. 2. **Staff designated to administer medications.** A nurse or unlicensed nursing personnel, as described in part 4658.1360, must be designated as responsible for the administration of medications during each work period.

Subp. 3. **List of staff to administer medications.** A list of staff authorized to administer medications must be available at each nursing station.

Subp. 4. **Self–administration.** A resident may self–administer medications if the comprehensive resident assessment and comprehensive plan of care as required in parts 4658.0400 and 4658.0405 indicate this practice is safe and there is a written order from the attending physician.

Subp. 5. **Medications administered by injection.** Medications for injection may be given only by a physician, physician's assistant, registered nurse, nurse practitioner, or licensed practical nurse, or may be self–administered by a resident in accordance with subpart 4.

Subp. 6. **Medications added to food.** Adding medication to a resident's food must be prescribed by the resident's physician and the resident, or the resident's legal guardian or designated representative, must consent to having medication added to food. This subpart does not apply to adding medication to food if the sole purpose is for resident ease in swallowing.

Subp. 7. **Administration requirements.** The administration of medications must include the complete procedure of checking the resident's record, transferring individual doses of the medication from the resident's prescription container, and distributing the medication to the resident.

Subp. 8. **Documentation of administration.** The name, date, time, quantity of dosage, and method of administration of all medications, and the signature of the nurse or authorized person who administered and observed the same must be recorded in the resident's clinical record. Documentation of the administration must take place following the administration of the medication. If administration of the medication was not completed as prescribed, the documentation must include the reason the administration was not completed, and the follow–up that was provided, such as notification of a registered nurse or the resident's attending physician.

Statutory Authority: *MS s 144A.04; 144A.08; 256B.431*

History: *20 SR 303*

4658.1330 WRITTEN AUTHORIZATION FOR ADMINISTERING DRUGS.

All medications, including those brought into a nursing home by a resident, must be administered only in accordance with a written order signed by a health care practitioner licensed to prescribe in Minnesota except that order may be given by telephone provided that the order is done according to part 4658.0455.

Statutory Authority: *MS s 144A.04; 144A.08; 256B.431*

History: *20 SR 303*

4658.1335 STOCK MEDICATIONS.

Subpart 1. **Stock supply medications.** Only medications obtainable without prescription may be retained in general stock supply and must be kept in the original labeled container.

Subp. 2. **Emergency medication supply.** A nursing home may have an emergency medication supply which must be approved by the QAA committee. The contents, maintenance, and use of the emergency medication supply must comply with part 6800.6700.

Subp. 3. **Prohibitions.** No prescription drug supply for one resident may be used or saved for the use of another resident in the nursing home.

Statutory Authority: *MS s 144A.04; 144A.08; 256B.431*

History: *20 SR 303*

4658.1340 MEDICINE CABINET AND PREPARATION AREA.

Subpart 1. **Storage of drugs.** A nursing home must store all drugs in locked compartments under proper temperature controls, and permit only authorized nursing personnel to have access to the keys.

Subp. 2. **Storage of Schedule II drugs.** A nursing home must provide separately locked compartments, permanently affixed to the physical plant or medication cart for storage of controlled drugs listed in Minnesota Statutes, section 152.02, subdivision 3.

Statutory Authority: *MS s 144A.04; 144A.08; 256B.431*

History: *20 SR 303*

4658.1345 LABELING OF DRUGS.

Drugs used in the nursing home must be labeled in accordance with part 6800.6300.

Statutory Authority: *MS s 144A.04; 144A.08; 256B.431*

History: *20 SR 303*

4658.1350 DISPOSITION OF MEDICATIONS.

Subpart 1. **Drugs given to discharged residents.** Current medications, except controlled substances listed in Minnesota Statutes, section 152.02, subdivision 3, belonging to a resident must be given to the resident, or the resident's legal guardian or designated representative, when discharged or transferred and must be recorded on the clinical record.

Subp. 2. **Destruction of medications.**

A. Unused portions of controlled substances remaining in the nursing home after death or discharge of a resident for whom they were prescribed, or any controlled substance discontinued permanently must be destroyed in a manner recommended by the Board of Pharmacy or the consultant pharmacist. The board or the pharmacist must furnish the necessary instructions and forms, a copy of which must be kept on file in the nursing home for two years.

B. Unused portions of other prescription drugs remaining in the nursing home after the death or discharge of the resident for whom they were prescribed or any prescriptions discontinued permanently, must be destroyed according to part 6800.6500, subpart 3, or must be returned to the pharmacy according to part 6800.2700, subpart 2. A notation of the destruction listing the date, quantity, name of medication, prescription number, signature of the person destroying the drugs, and signature of the witness to the destruction must be recorded on the clinical record.

Subp. 3. **Loss or spillage.** When a loss or spillage of a prescribed Schedule II drug occurs, an explanatory notation must be made in a Schedule II record. The notation must be signed by the person responsible for the loss or spillage and by one witness who must also observe the destruction of any remaining contaminated drug by flushing into the sewer system or wiping up the spill.

Subp. 4. **Returned to pharmacy.** Drugs and prescribed medications used in nursing homes may be returned to the dispensing pharmacy according to part 6800.2700, subpart 2.

Statutory Authority: *MS s 144A.04; 144A.08; 256B.431*

History: *20 SR 303*

4658.1355 MEDICATION REFERENCE BOOK.

A nursing home must maintain at least one current medication reference book. For the purposes of this part, "current" means material published within the previous two years.

Statutory Authority: *MS s 144A.04; 144A.08; 256B.431*

History: *20 SR 303*

4658.1360 ADMINISTRATION OF MEDICATIONS BY UNLICENSED PERSONNEL.

Subpart 1. **Authorization.** The director of nursing services may delegate medication administration to unlicensed personnel according to Minnesota Statutes, sections 148.171, subdivision 3, and 148.262, subdivision 7.

Subp. 2. **Training.** Unlicensed nursing personnel who administer medications in a nursing home must:

A. have completed a nursing assistant training program approved by the department; and

B. have completed a standardized medication administration training program for unlicensed personnel in nursing homes which is offered through a Minnesota postsecondary educational institution that includes, at a minimum, instruction on the following:

(1) the complete procedure of checking the resident's medication record;

(2) preparation of the medication for administration;

(3) administration of the medication to the resident;

(4) assisting residents with self–administration as necessary;

(5) documentation after administration of the date, time, dosage, and method of administration of all medications, or the reason for not administering the medication as ordered, and the signature of the nurse or authorized person who administered and observed the same; and

(6) the type of information regarding medication administration reportable to a nurse.

Subp. 3. **Documentation of training course.** A nursing home must keep written documentation verifying completion of the required course by all unlicensed nursing personnel administering medications.

Subp. 4. **Medication administration.** A person who completes the required training course, and has been delegated the responsibility, may administer medication, whether oral, suppository, eye drops, ear drops, inhalant, or topical, if:

A. the medications are regularly scheduled; and

B. in the case of pro re nata (PRN) medications, the administration of the medication is authorized by a nurse or reported to a nurse within a time period that is specified by nursing home policy prior to the administration.

Statutory Authority: *MS s 144A.04; 144A.08; 256B.431*

History: *20 SR 303*

4658.1365 PENALTIES FOR MEDICATIONS AND PHARMACY SERVICES RULE VIOLATIONS.

Penalty assessments will be assessed for violations of parts 4658.1300 to 4658.1360 and are as follows:

A. part 4658.1305, $300;
B. part 4658.1310, $300;
C. part 4658.1315, $300;
D. part 4658.1320, $500;
E. part 4658.1325, subpart 1, $500;
F. part 4658.1325, subpart 2, $300;
G. part 4658.1325, subpart 3, $50;
H. part 4658.1325, subpart 4, $250;
I. part 4658.1325, subpart 5, $500;
J. part 4658.1325, subpart 6, $250;
K. part 4658.1325, subpart 7, $350;
L. part 4658.1325, subpart 8, $300;
M. part 4658.1330, $350;
N. part 4658.1335, $300;
O. part 4658.1340, $300;
P. part 4658.1345, $300;
Q. part 4658.1350, $300;
R. part 4658.1355, $100;
S. part 4658.1360, subpart 1, $350;
T. part 4658.1360, subpart 2, $300;
U. part 4658.1360, subpart 3, $50; and
V. part 4658.1360, subpart 4, $350.

Statutory Authority: *MS s 144A.04; 144A.08; 256B.431*

History: *20 SR 303*