

This rule was filed as 7 NMAC 26.2

TITLE 7 HEALTH
CHAPTER 26 DEVELOPMENTAL DISABILITIES
PART 2 REQUIREMENTS FOR INTERMEDIATE CARE FACILITIES FOR THE MENTALLY
RETARDED

7.26.2.1 ISSUING AGENCY: Department of Health, Public Health Division, Health Facility Licensing and Certification Bureau
[10/31/96; Recompiled 10/31/01]

7.26.2.2 SCOPE: These regulations apply to any facility providing services as outlined by these regulations and any facility which by federal regulation must be licensed by the state of New Mexico to obtain or maintain full or partial permanent or temporary federal funding as an intermediate care facility for the mentally retarded (ICF/MR). All facilities licensed after the effective date of these regulations shall be limited to a capacity of no greater than four (4) clients, except as provided herein in section 21.3.1 [now Subsection C of 7.26.2.21 NMAC].
[10/11/90, 11/30/99; Recompiled 10/31/01]

7.26.2.3 STATUTORY AUTHORITY: The regulations set forth herein are promulgated by the secretary of the New Mexico department of health, pursuant to the general authority granted under Section 9-7-6 (E) of the Department of Health Act, NMSA 1978, as amended; and the authority granted under Sections 24-1-2 (D), 24-1-3 (I) and 24-1-5 of the Public Health Act, NMSA 1978, as amended.
[11/1/50, 1/1/54, 7/1/64, 3/25/69, 10/11/90, 10/31/96; Recompiled 10/31/01]

7.26.2.4 DURATION: Permanent
[10/31/96; Recompiled 10/31/01]

7.26.2.5 EFFECTIVE DATE: October 31, 1996 unless a different date is cited at the end of a Section or Paragraph.
[10/31/96; Recompiled 10/31/01]
[Compiler's note: The words *or paragraph*, above, are no longer applicable. Later dates are now cited only at the end of sections, in the history notes appearing in brackets.]

7.26.2.6 OBJECTIVE: The purpose of these regulations is to:

- A.** Establish professional minimum standards for ICF/MR facilities in the state of New Mexico which were formerly licensed under regulations governing long term care facilities.
- B.** Monitor ICF/MR facilities with these regulations through surveys to identify any areas which could be dangerous or harmful to the clients or staff.
- C.** Encourage the maintenance of ICF/MR facilities that provide quality services which maintain or improve the health and quality of life to the clients.
- D.** Expand the availability of ICF/MR programs to assure timely placement for persons who need residential services.
- E.** Assure integrated active treatment programs, homelike living arrangements, and consumer protections for ICF/MR clients.
- F.** Promote access and availability statewide.
- G.** Recognize specialized ICF/MR programs to serve individuals with intense needs.

[7/1/64, 10/11/90, 11/30/99; Recompiled 10/31/01]

7.26.2.7 GENERAL DEFINITIONS: For purposes of these regulations the following shall apply:

- A.** **“Active treatment”** means the consistent, aggressive, accountable, and continuous application of competent interactions between caregivers and persons with developmental disabilities whom they serve in structured and unstructured settings alike, directed toward each individual's developmental progress through the life cycle.

- B.** “**Applicant**” means the individual who, or organization which, applies for a license. If the applicant is an organization, then the individual signing the application on behalf of the organization, must have authority from the organization. The applicant must be the owner.
- C.** “**Client**” means an individual living in and receiving services from an ICF/MR licensed pursuant to these regulations.
- D.** “**Community supports**” means community services such as recreational activities, social clubs, religious services, employment services, and transportation, as well as other supportive services that are available to the general population and not designated to serve only persons with disabilities.
- E.** “**Department**” means the New Mexico department of health.
- F.** “**Dietitian**” means a person eligible or required to be licensed under the New Mexico Nutrition and Dietetics Practice Act, Sections 61-7A-1 through 61-7A-15 NMSA 1978, effective July 1, 1989.
- G.** “**Facility**” means a building or buildings in which clients live and ICF/MR services are provided and is licensed or required to be licensed pursuant to these regulations.
- H.** “**Governing body**” means the governing authority of a facility which has the ultimate responsibility for all planning, direction, control and management of the activities and functions of a facility licensed pursuant to these regulations.
- I.** “**ICF/MR**” means an intermediate care facility that provides food, shelter, health or rehabilitative and active treatment for the mentally retarded or persons with related conditions.
- J.** “**License**” means the document issued by the licensing authority pursuant to these regulations granting the legal right to operate for a specified period of time, not to exceed one (1) year.
- K.** “**Licensee**” means the person(s) who, or organization which, has an ownership, leasehold or similar interest in the ICF/MR facility and in whose name a license has been issued and who is legally responsible for compliance with these regulations.
- L.** “**Licensing authority**” means the New Mexico department of health.
- M.** “**NMSA**” means the New Mexico Statutes Annotated 1978 compilation and all the revisions and compilations thereof.
- N.** “**Nurse**” is an individual who is currently licensed/registered in the state of New Mexico.
- O.** “**Occupational therapist**” is an individual who is eligible for certification by the American occupational therapy association or another comparable body.
- P.** “**Physical therapist**” is an individual who is eligible for certification as a physical therapist by the American physical therapy association or another comparable body.
- Q.** “**Plan of correction**” means the plan submitted by the licensee or representative of the licensee addressing how and when deficiencies identified at time of a survey will be corrected.
- R.** “**Policy**” means a statement of principle that guides and determines present and future decisions and actions.
- S.** “**Premises**” means all parts of buildings, grounds, and equipment of a facility.
- T.** “**Procedure**” means the action(s) that must be taken in order to implement a policy.
- U.** “**Psychologist**” is an individual who has at least a master's degree in psychology from an accredited school.
- V.** “**Social worker**” means a person required to be licensed under the Social Work Practice Act Sections 61-31-1 through 61-31-25 NMSA 1978.
- W.** “**Speech language pathologist or audiologist**” is an individual who is eligible for a certificate of clinical competence in speech-language pathology or audiology granted by the American speech-language hearing association or another comparable body or who meets the educational requirements for certification and is in the process of accumulating the supervised experience required for certification.
- X.** “**U/L approved**” means approved for safety by the national underwriters laboratory.
- Y.** “**Training and habilitation services**” means the training and services which are provided to a client intended to aid the intellectual, sensorimotor, and emotional development of that client.
- Z.** “**Variance**” means an act on the part of the licensing authority to refrain from pressing or enforcing compliance with a portion or portions of these regulations for an unspecified period of time where the granting of a variance will not create a danger to the health, safety, or welfare of clients or staff of a facility, and is at the sole discretion of the licensing authority.

AA. “Waive/waiver” means to refrain from pressing or enforcing compliance with a portion or portions of these regulations for a limited period of time provided the health, safety, or welfare of the clients and staff are not in danger. Waivers are issued at the sole discretion of the licensing authority.
[11/1/50, 1/1/54, 7/1/64, 10/11/90, 10/31/96, 11-30-99; Recompiled 10/31/01]

7.26.2.8 STANDARD OF COMPLIANCE: The degree of compliance required throughout these regulations is designated by the use of the words “shall” or “must” or “may”. “Shall” or “must” means mandatory. “May” means permissive. The use of the words “adequate”, “proper”, and other similar words means the degree of compliance that is generally accepted throughout the professional field by those who provide ICF/MR services to the public in facilities governed by these regulations.
[10/11/90; Recompiled 10/31/01]

7.26.2.9 ICF/MR FACILITY AND SCOPE OF SERVICES PROVIDED: The ICF/MR provides active treatment in the least restrictive setting and includes all needed services for mentally retarded individuals or persons with related conditions whose mental or physical condition require services on a regular basis that are above the level of a residential or room and board setting and can only be provided in a facility which is equipped and staffed to provide the appropriate services.
[11/1/50, 1/1/54, 3/25/69, 10/11/90; Recompiled 10/31/01]

7.26.2.10 [RESERVED]
[10/11/90, 10/31/96; R 11/30/99; Recompiled 10/31/01]

7.26.2.11 INITIAL LICENSURE PROCEDURES: The following procedures must be followed by the applicant for initial licensure of an ICF/MR facility.

A. Initial phase: These regulations should be thoroughly understood by the applicant and used as a reference for design of a new building or renovation or addition to an existing building for licensure as an ICF/MR facility pursuant to these regulations. Prior to starting construction, renovations, or additions to an existing building the applicant of the proposed facility shall:

- (1) advise the licensing authority of intention to open a ICF/MR facility pursuant to these regulations.
- (2) submit a complete set of construction documents (blueprints) for the total building
- (3) blueprints will be reviewed by the licensing authority for compliance with current licensing regulations, building and fire codes.
- (4) if blue prints or plans are approved the licensing authority will advise the applicant that construction may begin.

B. Construction phase: During the construction of a new building or renovations or additions to an existing building, the applicant must coordinate with the licensing authority and submit any changes to the blueprints or plans for approval before making such changes.

C. Licensing phase: Prior to completion of construction, renovation or addition to an existing building the applicant will submit to the licensing authority the following:

- (1) Application form:
 - (a) will be provided by the licensing authority.
 - (b) all information requested on the application must be provided.
 - (c) will be printed or typed.
 - (d) will be dated and signed.
 - (e) will be notarized.
- (2) Fees: All applications for licensure must be accompanied by the required fee.
 - (a) Fees must be in the form of a certified check, money order, personal or business check made payable to the state of New Mexico.
 - (b) Fees are non-refundable.
- (3) Zoning and building approval:
 - (a) All initial applications must be accompanied with written zoning approval from the appropriate authority (city, county, or municipality).
 - (b) All initial applications must be accompanied with written building approval (certificate of occupancy) from the appropriate authority (city, county, or municipality).

(4) Fire authority approval: All initial applications must be accompanied with written approval of the fire authority having jurisdiction.

(5) New Mexico environment department approval: All initial applications must be accompanied by written approval of the environmental improvement division for the following:

- (a) private water supply, if applicable;
- (b) private waste or sewage disposal, if applicable;
- (c) kitchen approval.

(d) Exception: Facilities utilizing the kitchen as a training site for clients to develop personal skills in meal planning and preparation may be exempt from this requirement if the New Mexico environment department waives the requirement and a letter of exemption is on file in the facility.

(6) Copy of appropriate drug permit issued by the state board of pharmacy.

(7) Initial survey: Upon receipt of a properly completed application with all supporting documentation as outlined above an initial survey of the proposed facility shall be scheduled by the licensing authority.

(8) Issuance of license: Upon completion of the initial survey and determination that the facility is in compliance with these regulations the licensing authority shall issue a license.

[11/1/50, 1/1/54, 7/1/64, 3/25/69, 10/11/90, 10/31/96, 11/30/99; Recompiled 10/31/01]

7.26.2.12 LICENSES:

A. Annual license: An annual license is issued for a one (1) year period to an ICF/MR facility which has met all requirements of these regulations.

B. Temporary license: The licensing authority may, at its sole discretion, issue a temporary license prior to the initial survey or when the licensing authority finds partial compliance with these regulations.

(1) A temporary license shall cover a period of time, not to exceed one hundred twenty (120) days, during which the facility must correct all specified deficiencies.

(2) In accordance with Section 24-1-5 (D) NMSA 1978, no more than two (2) consecutive temporary licenses shall be issued.

C. Amended license: A licensee must apply to the licensing authority for an amended license when there is a change of administrator/director, or when there is a change of name for the facility

(1) Application must be on a form provided by the licensing authority.

(2) Application must be accompanied by the required fee for amended license.

(3) Application must be submitted within ten (10) working days of the change.

[11/1/50, 1/1/54, 7/1/64, 10/11/90, 10/31/96; Recompiled 10/31/01]

7.26.2.13 LICENSE RENEWAL:

A. Licensee must submit a renewal application on forms provided by the licensing authority, along with the required fee at least thirty (30) days prior to expiration of the current license.

B. Upon receipt of renewal application and required fee prior to expiration of current license the licensing authority will issue a new license effective the day following the date of expiration of the current license if the facility is in substantial compliance with these regulations.

C. If a licensee fails to submit a renewal application with the required fee and the current license expires the facility shall cease operations until it obtains a new license through the initial licensure procedures.

Section 24-1-5 (A) NMSA 1978 as amended, provides that no health facility shall be operated without a license.

[11/1/50, 1/1/54, 7/1/64, 10/11/90, 10/31/96; Recompiled 10/31/01]

7.26.2.14 POSTING OF LICENSE: The facility's license must be posted in a conspicuous place on the licensed premises in an area visible to the public.

[11/1/50, 7/1/64, 10/11/90; Recompiled 10/31/01]

7.26.2.15 NON-TRANSFERABLE RESTRICTION ON LICENSE: A license shall not be transferred by assignment or otherwise to other persons or locations. The license shall be void and must be returned to the licensing authority when any one of the following situations occur:

A. ownership of the facility changes;

B. the facility changes location;

C. licensee of the facility changes;

D. The facility discontinues operation.

E. A facility wishing to continue operation as a licensed ICF/MR facility under circumstances 15.1 through 15.4 [now Subsections A through D of 7.26.2.15 NMAC] above must submit an application for initial licensure in accordance with Section 11 [now 7.26.2.11 NMAC] of these regulations at least thirty (30) days prior to the anticipated change.

[11/1/50, 7/1/64, 10/11/90, 10/31/96; Recompiled 10/31/01]

7.26.2.16 AUTOMATIC EXPIRATION OF LICENSE: A license will automatically expire at midnight on the day indicated on the license as the expiration date, unless sooner renewed suspended or revoked or:

A. on the day a facility discontinues operation;

B. on the day a facility is sold, leased, or otherwise changes ownership and/or licensee;

C. on the day a facility changes location.

[11/1/50, 7/1/64, 10/11/90, 10/31/96; Recompiled 10/31/01]

7.26.2.17 SUSPENSION OF LICENSE WITHOUT PRIOR HEARING: In accordance with 24-1-5 (H) NMSA 1978, if immediate action is required to protect human health and safety, the licensing authority may suspend a license pending a hearing, provided such hearing is held within five (5) working days of the suspension, unless waived by the licensee.

[7/1/64, 10/11/90; Recompiled 10/31/01]

7.26.2.18 GROUNDS FOR REVOCATION OR SUSPENSION OF LICENSE, DENIAL OF INITIAL OR RENEWAL APPLICATION FOR LICENSE, OR IMPOSITION OF INTERMEDIATE SANCTIONS OR CIVIL MONETARY PENALTIES: A license may be revoked or suspended, an initial or renewal application may be denied, or intermediate sanctions or civil monetary penalties may be imposed after notice and opportunity for a hearing, for any of the following reasons:

A. failure to comply with any material provision of these regulations;

B. failure to allow survey by authorized representatives of the licensing authority;

C. any person active in the operation of a facility licensed pursuant to these regulations shall not be under the influence of alcohol or narcotics or convicted of a felony;

D. misrepresentation or falsification of any information on application forms or other documents provided to the licensing authority;

E. discovery of repeat violations of these regulations during surveys;

F. failure to provide the required care and services as outlined by these regulations for the clients receiving care at the facility.

[11/1/50, 7/1/64, 10/11/90, 10/31/96; Recompiled 10/31/01]

7.26.2.19 HEARING PROCEDURES:

A. Hearing procedures for adverse action taken by the licensing authority against a facility license as outlined in Section 17 and 18 [now Sections 17 and 18 of 7.26.2 NMAC] above will be held in accordance with Adjudicatory Hearings, New Mexico department of health, 7 NMAC 1.2 (2-1-96) [now 7.1.2 NMAC].

B. A copy of the above regulations may be requested at any time by contacting the licensing authority.

[11/1/50, 7/1/64, 10/11/90, 10/31/96; Recompiled 10/31/01]

7.26.2.20 CURRENTLY LICENSED FACILITIES: Any facility currently licensed on the date these regulations are promulgated and which provides the services prescribed under these regulations, but which fails to meet all building requirements may continue to be licensed as an ICF/MR.

A. Variance may be granted for those building requirements the facility cannot meet provided the variances granted will not create a hazard to the health, safety and welfare of the clients and staff, and;

B. The building requirements for which variances are granted cannot be corrected without an unreasonable expense to the facility, and

C. Variances granted will be recorded and made a permanent part of the facility file.

D. Facilities currently licensed for more than four (4) clients may not increase their capacity.

[11/1/50, 7/1/64, 10/11/90, 11/30/99; Recompiled 10/31/01]

7.26.2.21 NEW FACILITY: A new facility may be opened in an existing building or a newly constructed building.

A. If opened in an existing building a variance may be granted for those building requirements the facility cannot meet under the same criteria outlined in Sections 20.1, 20.2 and 20.3 [now Subsections A, B and C of 7.26.2.20 NMAC] of these regulations, if not in conflict with existing building and fire codes. This is at the sole discretion of the licensing authority.

B. A new facility opened in a newly constructed building must meet all requirements of these regulations.

C. A new facility may not be licensed for more than four (4) clients. Exception: ICF/MR facilities may be licensed for a maximum capacity of six (6) clients based upon a written plan that must be submitted to the licensing authority prior to the facility's licensure. Approval of the plan is in the discretion of the licensing authority. The plan must demonstrate the following:

(1) The anticipated facility service benefits to the client population.

(2) How the facility's services will promote, independence, active treatment and community supports.

(3) How the facility's services will address the needs and protections of the proposed clients.

[10/11/90, 11/30/99; Recompiled 10/31/01]

7.26.2.22 FACILITY SURVEYS:

A. Application for licensure, whether initial or renewal shall constitute permission for entry into and survey of a facility by authorized licensing authority representatives at reasonable times during the pendency of the application and, if licensed, during the licensure period.

B. Surveys may be announced or unannounced at the sole discretion of the licensing authority.

C. Upon receipt of a notice of deficiency from the licensing authority the licensee or his/her representative will be required to submit a plan of correction to the licensing authority within ten (10) working days stating how the facility intends to correct each violation noted and the expected date of completion.

D. The licensing authority may at its sole discretion accept the plan of correction as written or require modifications of the plan by the licensee.

E. The licensing authority may impose intermediate supervisory and management requirements, including the administrative costs therefore, and civil monetary penalties pursuant to Section 24-1-5.2 NMSA 1978. [11/1/50, 7/1/64, 10/11/90, 10/31/96; Recompiled 10/31/01]

7.26.2.23 REPORTING OF INCIDENTS: All facilities licensed pursuant to these regulations must report to the licensing authority any serious incident or unusual occurrence which has, or could threaten the health, safety, and welfare of the clients or staff, such as but not limited to:

A. Fire, flood, or other natural disaster which creates structural damages to the facility or poses health hazards;

B. Any serious outbreak of contagious diseases dangerous to the public health;

C. Any serious human errors by staff members of the facility which has resulted in the death, serious illness, or physical impairment of a client.

D. In accordance with the 'Resident Abuse and Neglect Act', NMSA 1978, any incident of abuse, neglect or exploitation of a client, patient, or resident of a health facility must be reported to the department of health and adult protective services.

E. Any incidents of abuse, neglect, exploitation, death or other reportable incidents must be reported in accordance with department of health incident management policies.

[11/1/50, 3/25/69, 10/11/90, 10/31/96, 11/30/99; Recompiled 10/31/01]

7.26.2.24 QUALITY ASSURANCE: All facilities licensed pursuant to these regulations must have an on-going, comprehensive self-assessment of the services provided by the facility. The assessment must include the total operation of the facility.

A. To be considered comprehensive the assessment for quality assurance must include, but is not limited to the following:

(1) condition of clients and services rendered;

(2) completeness of client records;

(3) organization of the facility;

(4) administration;

- (5) staff utilization and training;
- (6) policies and procedures.

B. Where problems (or potential problems) are identified the facility must act as soon as possible to avoid any risks to clients by taking corrective steps such as, but not limited to, the following:

- (1) changes in policies and procedures;
- (2) staffing and assignment changes;
- (3) additional educational training for the staff;
- (4) changes in equipment or physical plant;
- (5) deletion or addition of services.

C. The governing body of the facility shall ensure that the effectiveness of the quality assurance program is evaluated by professional and administrative staff at least once a year. If the evaluation is not done all at once, no more than a year must lapse between evaluation of the same parts.

D. Documentation of the quality assurance program must be maintained by the facility.
[10/11/90; Recompiled 10/31/01]

7.26.2.25 CLIENT RECORDS: The facility must develop and maintain a record keeping system that includes a separate record for each client which documents the client's health care, active treatment, social information, and protection of the client's rights. As a minimum the client's record must contain:

A. Personal information:

- (1) Full name.
- (2) Date of birth.
- (3) Social security number.
- (4) Height.
- (5) Weight.
- (6) Color of hair.
- (7) Color of eyes.
- (8) Identifying marks and recent photograph.
- (9) Full name of parents and their dates of birth.
- (10) Language(s) spoken and understood and language used in the natural home.
- (11) Information relevant to religious preference.
- (12) Legal documentation relevant to commitment and/or guardianship status.
- (13) Name, address, and telephone number of next-of-kin, other person or agency to contact in case

of an emergency.

B. Medical information:

- (1) Reports of previous histories, evaluations or observations.
- (2) Age at onset of disability.
- (3) Name, address and telephone number of physician or health facility providing medical care.
- (4) Medication history, including present medication dosage and schedule.
- (5) Reports of all treatments, etc.

C. Individual habilitation plan: Each client must have an individual habilitation plan which specifies goals and objectives.

D. Admission agreement:

[11/1/50, 3/25/69, 10/11/90; Recompiled 10/31/01]

7.26.2.26 REPORTS AND RECORDS REQUIRED TO BE ON FILE IN THE FACILITY: Each facility licensed pursuant to these regulations must keep the following reports and records on file and make them available for review upon request of the licensing authority.

- A.** a copy of the latest fire inspection report by the fire authority having jurisdiction;
- B.** a copy of the last survey conducted by the licensing authority and variances granted;
- C.** record of fire and emergency evacuation drills conducted by the facility;
- D.** Licensing regulations: A copy of these regulations: Requirements for Intermediate Care Facilities for the Mentally Retarded, New Mexico department of health, 7 NMAC 26.2 (10-31-96) [now 7.26.2 NMAC];
- E.** health certificates of staff;
- F.** a copy of the current license, registration or certificate, of each staff member for which a license, registration, or certification is required by the state of New Mexico;

- G. valid drug permit as required by the state board of pharmacy;
 - H. latest inspection by the state board of pharmacy;
 - I. New Mexico environment department approval of private water system, if applicable;
 - J. New Mexico environment department approval of private waste or sewage disposal, if applicable;
 - K. New Mexico environment department approval of the kitchen. NOTE: An approval of kitchen is not required if preparing meals is part of the training program of the clients of the facility and the facility has a letter of exemption on file from the New Mexico environment department;
 - L. documentation of fire equipment and fire systems inspections;
 - M. reports of client abuse and incidents involving clients.
- [11/1/50, 10/11/90, 10/31/96; Recompiled 10/31/01]

7.26.2.27 CLIENT RIGHTS: Any facility licensed pursuant to these regulations must support, protect, and enhance the rights of clients as listed below:

A. Information: Each client or legal guardian must be fully informed before or at time of admission, of their rights and responsibilities and of all rules governing clients conduct.

(1) If a facility amends its policies on client rights and responsibilities and its rules governing conduct the clients must be immediately informed.

(2) Each client and or legal guardian must acknowledge, in writing, that they have been informed of these rights.

(3) Each client and or legal guardian must be fully informed, in writing, of all services available in the facility and of the charges for these services. If charges change the client must be immediately informed.

B. Medical condition and treatment: Each client must be fully informed by a physician of his/her health and medical condition unless the physician decides that informing the client is medically contraindicated.

(1) Each client must be given the opportunity to participate in planning their total care and medical treatment.

(2) Each client must be given the opportunity to refuse treatment.

(3) Each client must give informed, written consent before participating in experimental research.

C. Transfer and discharge: Each client must be transferred or discharged only for:

(1) medical reasons;

(2) their welfare or that of the other residents;

(3) non-payment for services rendered;

(4) the client requests to be discharged;

(5) the client no longer requires an active treatment program.

D. Exercising rights: Each client must be encouraged and assisted to exercise their rights as a client of the facility and as a citizen and allowed to submit complaints or recommendations concerning the policies and services of the facility.

E. Financial affairs: Each client must be allowed to possess and use money in normal ways or be learning to do so.

F. Freedom from abuse and restraints: Each client must be free from mental and physical abuse and free from chemical and physical restraints unless necessary as part of their treatment plan.

G. Privacy: Each client must be treated with consideration, respect, and full recognition of their dignity and individuality.

(1) Each client must be given privacy during treatment and care of personal needs.

(2) Each client's record, including information in an automatic data bank (computer), must be treated confidentially.

(3) Each client must give written consent before the facility may release information from their record to someone not otherwise authorized by law to receive it.

(4) A married client must be given privacy during visits by their spouse. If husband and wife are both clients in the facility they must be permitted to share a room.

H. Work: No client shall be required to perform services for the facility for which they are not paid.

I. Freedom of association and correspondence: Each client must be allowed to:

(1) communicate, associate, and meet privately with individuals of their choice, unless this infringes on the rights of another client;

(2) send and receive personal mail unopened.

J. Activities: Each client must be allowed to participate in social, religious, and community group activities, unless the interdisciplinary team determines that these activities are contraindicated for a client. Any such determination must be documented in the client's records.

K. Personal possessions: Each client must be allowed to retain and use their personal possessions and clothing as space permits.
[1/1/54, 3/25/69, 10/11/90, 11/30/99; Recompiled 10/31/01]

7.26.2.28 PHILOSOPHY, OBJECTIVES AND GOALS: Each facility licensed pursuant to these regulations must have a written outline of the philosophy, objectives, and goals it is striving to achieve that includes, at least:

- A.** the facility's role in the state comprehensive program for the mentally retarded;
- B.** the facility's goals for its clients to include but not limited to: an integrated active treatment program, homelike living environments and consumer protections;
- C.** the facility's concept of its relationship to the parents or legal guardians of its residents;
- D.** the facility's outline of the above must be available for distribution to staff, consumer representatives, and the interested public;
- E.** the facility's promotion of informed decision making by the consumer;
- F.** the facilities policies on utilization of community supports and how clients will be involved in the community.

[10/11/90, 11/30/99; Recompiled 10/31/01]

7.26.2.29 POLICIES AND PROCEDURES: Each facility licensed pursuant to these regulations must have written policies and procedures covering the following areas:

- A.** client's civil rights;
- B.** delegation of client's civil rights;
- C.** handling of client funds;
- D.** admission criteria and evaluations;
- E.** personnel policies;
- F.** prohibitions against mistreatment, neglect or abuse of clients by employees or other persons;
- G.** staff training and evaluations;
- H.** control and discipline of clients, including behavior management;
- I.** use of physical and chemical restraints;
- J.** quality assurance;
- K.** procurement, handling, storage, safeguarding and accountability of medications;
- L.** maintenance of buildings, grounds and equipment;
- M.** transfer of client to hospital or other facility;
- N.** release of client medical records;
- O.** fire and disaster.

[10/11/90; Recompiled 10/31/01]

7.26.2.30 STAFF RECORDS: There must be maintained on file in the facility or in a central office if there are multi-facilities run by the same organization in the same city or town, a record for each staff member which contains at least, but is not limited to, the following:

- A. Personal information:**
 - (1) name;
 - (2) address and telephone number;
 - (3) position for which employed;
 - (4) person to contact in case of emergency.
- B.** a clearance letter from the department of health caregivers criminal history screening program stating criminal records check has been conducted with negative results;
- C.** documentation of training to include transportation and wheelchair safety training.
- D.** health certificate as outlined in Section 68 [now 7.26.2.68 NMAC] of these regulations.

[10/11/90, 11/30/99; Recompiled 10/31/01]

7.26.2.31 FACILITY RULES:

A. Each facility licensed pursuant to these regulations must have facility rules which must include, but is not limited to, the following:

- (1) the use of tobacco or alcohol;
- (2) visitors and visiting hours;
- (3) use of the telephone;
- (4) hours and volume for viewing and listening to television, radio, and phonographs;
- (5) use and safekeeping of personal property.

B. Facility rules shall be posted in a conspicuous place in the facility.

[10/11/90; Recompiled 10/31/01]

7.26.2.32 ADMISSION AGREEMENT: Prior to admission to a facility, the licensee or authorized representative and the client or client's parent/s or guardian shall sign a written admission agreement. The facility shall keep the original agreement in the client's record and a copy must be provided to the client or client's parent/s or guardian. A standard form may be developed and used. The admission agreement must meet the criteria stated below:

A. The services that will be provided by the facility and the charges for such services must be explained in full.

B. The method of payment for the services must be clearly stated.

C. Terms for termination of the admission agreement either on part of the facility or the client or parent/s or guardian must be clearly outlined.

D. A new admission agreement must be made whenever any term of the agreement is changed by either the facility or the client or the parent/s or guardian of the client.

[11/1/50, 10/11/90; Recompiled 10/31/01]

7.26.2.33 AGREEMENTS WITH OUTSIDE RESOURCES: If the ICF/MR does not employ a qualified professional to furnish a required service, it must have in effect a written agreement with a qualified professional outside the ICF/MR to furnish the required service. The agreement must:

A. contain the responsibilities, functions, objectives, and other items agreed to by the ICF/MR and the qualified professional;

B. be signed by the administrator or his representative and by the qualified professional;

C. the facility must assure that outside providers meet all appropriate state and federal requirements, and the quality of services meet the needs of the individual.

[10/11/90; Recompiled 10/31/01]

7.26.2.34 STAFF CLIENT COMMUNICATIONS: The facility must provide for effective staff and resident participation and communication in the following manner:

A. The facility must establish appropriate standing committees such as human rights, and other committees as appropriate to the facility.

B. The committees must meet regularly and include direct-care staff whenever appropriate.

C. Reports of staff meetings and standing and ad hoc committee meetings must include recommendations and their implementation, and be filed in the facility.

[10/11/90; Recompiled 10/31/01]

7.26.2.35 COMMUNICATIONS WITH THE CLIENTS, PARENTS/GUARDIANS: The facility must have an active program of communication with the client's and their families, that includes:

A. keeping client's families or legal guardians informed of resident activities that may be of interest to them and of significant changes in the client's condition;

B. answering communications from client's relatives promptly and appropriately;

C. allowing close relatives and guardians to visit at any reasonable hour, without prior notice, unless the client's needs limit visits;

D. allowing parents to visit any part of the facility that provides services to clients;

E. encouraging frequent and informal visits home by the clients;

F. having rules that make it easy to arrange visits home;

G. the facility must insure that individuals allowed to visit the facility under Section 35.3 [now Subsection C of 7.26.2.35 NMAC] above do not infringe on the privacy and rights of other clients. [10/11/90; Recompiled 10/31/01]

7.26.2.36 RESEARCH STATEMENT: If the facility conducts research, it must establish protocols based on standards of conduct currently endorsed by professional and federal standards. [10/11/90; Recompiled 10/31/01]

7.26.2.37 BUILDING(S), GROUNDS, AND SAFETY REQUIREMENTS:

A. Those programs which are located in a building which is licensed as a long term care facility or hospital must meet all the building requirements for that type facility as outlined in the following regulations:

(1) Requirements for General and Special Hospitals, New Mexico department of health, 7 NMAC 7.2 (10-31-96) [now 7.7.2 NMAC].

(2) Requirements for Long Term Care Facilities, New Mexico department of health, 7 NMAC 9.2 (10-31-96) [now 7.9.2 NMAC].

(3) Copies of these regulations may be requested from the licensing authority.

B. Capacity of building(s): All building requirements contained in these regulations are based on a maximum capacity of fifteen (15) clients. All facilities requesting licensure for more than fifteen (15) clients will have additional requirements according to the applicable building and fire codes. Due to the complexities of the building and fire codes these additional requirements will be outlined by the appropriate building and fire authorities, and by the licensing authority through plan review and on site surveys during the licensing process. Maximum capacity for any facility licensed after the effective date of revisions to these regulations is four (4) clients. Exception: ICF/MR facilities may be licensed for a maximum capacity of six (6) clients based upon a written plan that must be approved by the licensing authority prior to the facility's licensure. The plan must demonstrate the following:

(1) the anticipated facility service benefits to the client population;

(2) how the facility's services will promote, independence, active treatment and community supports;

(3) how the facility's services will address the needs and protections of the proposed clients.

C. Number of stories: All building requirements contained in these regulations are based on buildings of one (1) story, which do not house clients above or below ground level. Buildings which are multi-storied or house clients below ground level shall have additional requirements which vary due to the complexities of the building and fire codes. These additional requirements will be outlined by the appropriate building and fire authorities and by the licensing authority through plan review and on-site surveys during the licensing process.

D. Additional requirements: A facility applying for licensure pursuant to these regulations may have additional requirements not contained herein. The complexity of building and fire codes and requirements of city, county, or municipal governments may require these additional requirements. Any additional requirement will be outlined by the appropriate building and fire authorities, and by the licensing authority through plan review, consultation and on-site surveys during the licensing process.

E. Access to the handicapped: All facilities licensed pursuant to these regulations must be accessible to and usable by handicapped employees, visitors and clients.

F. Prohibition on mobile homes: Trailers and mobile homes must not be used as any part of a facility in which services and care are given to clients.

G. Extent of a facility: All buildings on the premises providing client care and services shall be considered part of the facility and must meet all requirements of these regulations.

H. Individual living unit may not be located within 150 feet of each other. [11/1/50, 1/1/54, 3/25/69, 10/11/90, 10/31/96, 11/30/99; Recompiled 10/31/01]

7.26.2.38 MAINTENANCE OF BUILDING(S), GROUNDS, AND EQUIPMENT: Facilities licensed pursuant to these regulations must keep the building(s), grounds, and equipment in good repair and presentable at all times such as, but not limited to the following:

A. All electrical, signaling, mechanical, water supply, heating, fire protection, and sewage disposal systems must be maintained in a safe and functioning condition to include regular inspections of these systems.

B. All client care equipment must be maintained in a safe and operable condition at all times.

C. All furniture and furnishings must be kept clean and in good repair. Furnishings or decorations of an explosive or highly flammable character must not be used.

D. The grounds of the facility must be maintained in a safe, sanitary and presentable condition at all times.
[11/1/50, 1/1/54, 3/25/69, 10/11/90; Recompiled 10/31/01]

7.26.2.39 HOUSEKEEPING:

- A.** The facility must be kept free from offensive odors, accumulations of dirt, rubbish, dust and safety hazards.
 - B.** Client rooms must be cleaned and tidied daily.
 - C.** Floors and walls must be constructed of a finish that can be easily cleaned. Floor polish shall provide a slip-resistant finish.
 - D.** Bathrooms and lavatories must be cleaned as often as necessary to maintain a clean and sanitary condition.
 - E.** Deodorizers must not be used to mask odors caused by the unsanitary conditions or poor housekeeping practices.
 - F.** Storage areas must be kept free from accumulation of refuse, discarded furniture, old newspapers, and the like.
 - G.** Combustibles such as cleaning rags and compounds must be kept in closed metal containers in areas providing adequate ventilation and away from client rooms.
 - H.** Poisonous or flammable substances must not be stored in residential areas, food preparation areas, or food storage areas.
- [11/1/50, 3/25/69, 10/11/90; Recompiled 10/31/01]

7.26.2.40 HEATING, VENTILATION AND AIR CONDITIONING:

- A.** Heating, air-conditioning, piping, boilers, and ventilation equipment must be furnished, installed and maintained to meet all requirements of current state and local mechanical, electrical, and construction codes. All facilities must have documentation that fuel-fire heating systems have been checked, tested and maintained annually by qualified personnel.
 - B.** The heating method used by the facility must provide a minimum temperature of seventy (70) degrees F. in all rooms used by the clients.
 - C.** An ample supply of outside air for proper combustion must be provided in all spaces where fueled fired boilers or heaters are located.
 - D.** All gas fired heating equipment must be provided with a 100 percent automatic cutoff control valve in event of pilot failure.
 - E.** Each building where gas is used must have an outside gas shutoff valve. The facility must have a tool readily available which will operate the shut-off valve. All personnel employed by the facility must be instructed as to location of the shut-off valve and tool and must know how to shut off the gas supply in case of fire or gas leakage.
 - F.** No open-face gas or electric heater nor unprotected single shell gas or electric heating device shall be used for heating the facility. Portable heating units shall not be used for heating the facility.
 - G.** All boiler, furnace or heater rooms shall be protected from other parts of the building by construction having a fire resistance rating of not less than one-hour. Doors to these rooms shall be 1-3/4" solid core.
 - H.** A facility must be adequately ventilated at all times to provide fresh air and the control of unpleasant odors by either mechanical or natural means.
 - I.** All gas burning heating and cooking equipment must be connected to an approved venting system to take the products of combustion directly to the outside air.
 - J.** All openings to the outer air used for ventilation must be screened with screening material of not less than sixteen (16) meshes per lineal inch.
 - K.** Screen doors must be equipped with self-closing devices.
 - L.** A facility must be provided with a system for maintaining residents comfort during periods of hot weather.
- [11/1/50, 3/25/69, 10/11/90; Recompiled 10/31/01]

7.26.2.41 WATER HEATERS:

- A. All fuel fired water heaters shall be separated from other parts of the facility by partitions having a fire resistive rating of one hour. Doors to enclosure must be 1-3/4" solid core.
 - B. All water heaters must be equipped with a pressure relief valve (pop-off valve).
 - C. Water heaters must not be located in sleeping rooms or rooms opening into sleeping rooms.
- [3/25/69, 10/11/90; Recompiled 10/31/01]

7.26.2.42 WATER:

- A. A facility must be provided with an adequate supply of water which is of a safe and sanitary quality suitable for domestic use.
 - B. If the water supply is not obtained from an approved public system, the private water system must be inspected, tested, and approved by the New Mexico environment department prior to licensure. It is the facility's responsibility to insure that subsequent periodic testing or inspection of such private water systems be made at intervals prescribed by the New Mexico environment department.
 - C. Hot and cold running water under pressure must be distributed to all food preparation areas, lavatories, washrooms, and laundries. The hot water temperature in all rooms accessible to clients must be maintained at a maximum of 110 degrees F.
- [11/1/50, 3/25/69, 10/11/90, 10/31/96; Recompiled 10/31/01]

7.26.2.43 SEWAGE AND WASTE DISPOSAL:

- A. All sewage and liquid wastes must be disposed of into a municipal sewage system where such facilities are available.
 - B. Where a municipal sewage system is not available, the system used must be inspected and approved by the environmental health authority.
 - C. Where municipal or community garbage collection and disposal service are not available the method of collection and disposal of garbage used by the facility must be inspected and approved by the New Mexico environment department.
 - D. All garbage and refuse receptacles must be durable, have tight fitting lids, must be insect and rodent proof, washable, leak proof, and constructed of material which will not absorb liquids. Receptacles must be kept clean.
- [11/1/50, 3/25/69, 10/11/90, 10/31/96; Recompiled 10/31/01]

7.26.2.44 LIGHTING AND LIGHTING FIXTURES:

- A. All areas of the facility including storerooms, stairways, hallways, and entrances must be lighted sufficiently to make all parts of the area clearly visible.
 - B. Exits, exit-access ways, and other areas used at night by clients and staff must be illuminated.
 - C. Lighting fixtures must be selected and located with the comfort and convenience of the clients in minds [sic].
 - D. Lamps and lighting fixtures must be shaded to prevent glare to the eyes of clients and staff, and shielded from accidental breakage or shattering.
 - E. A facility must be provided with emergency lighting which will activate automatically upon disruption of electrical services.
- [11/1/50, 3/25/69, 10/11/90; Recompiled 10/31/01]

7.26.2.45 ELEMENTS OF FACILITY ELECTRICAL SYSTEM:

- A. Electrical installations and electrical equipment must comply with all current state and local codes.
- B. All fuse and breaker boxes must be labeled to indicate the area of the facility to which each fuse or circuit breaker provides services.
- C. The main electrical service line must have a readily available disconnect switch. All staff personnel of the facility must know the location of the electrical disconnect switch in each building to which such staff are regularly assigned.
- D. The use of jumpers or devices to bypass circuit breakers or fuses is prohibited.
- E. Electrical cords and appliances must be U/L approved.
 - (1) Electrical cords shall be replaced as soon as they show wear.
 - (2) Under no circumstances shall extension cords be used as a general wiring method.

(3) Extension cords must be plugged into an electrical outlet within the room where used and may not be connected in one room and extended to some other room.

(4) Extension cords must not be used in series.

F. The use of multiple sockets in electrical outlets is strictly prohibited.

[3/25/69, 10/11/90; Recompiled 10/31/01]

7.26.2.46 WINDOWS:

A. Each resident sleeping room and activity room must have window area of at least 1/10 the floor area with a minimum of at least ten (10) square feet.

B. Each sleeping room must provide at least one window for egress or rescue with a minimum net clear opening of five point seven (5.7) square feet. The minimum net clear opening for height dimension shall be twenty-four (24) inches. The minimum net clear opening width dimension shall be twenty (20) inches.

C. Egress and rescue windows shall have a finished sill height of not more than forty-four (44) inches above the floor. Exception: If a sleeping room has a door directly to the outside, egress/rescue window is not required.

[11/1/50, 3/25/69, 10/11/90; Recompiled 10/31/01]

7.26.2.47 EXITS:

A. Each building must have at least two (2) approved exits.

B. Each exit will be clearly marked with signs having letters at least six inches (6") high whose principal strokes are at least three fourths (3/4") of an inch wide. Exit signs shall be visible at all times.

C. Exits must be clear of obstructions at all times.

D. Exits, exit paths, or means of egress shall not pass through hazardous areas, storerooms, closets, bedrooms, or spaces subject to locking.

[3/25/69, 10/11/90; Recompiled 10/31/01]

7.26.2.48 CORRIDORS

A. Corridors in a facility must have a minimum width of thirty-six (36) inches. Corridors in newly constructed facilities shall have a minimum width of forty-four (44) inches.

B. Corridors shall have a clear ceiling height of not less than seven (7) feet measured to the lowest projection from the ceiling.

C. Corridors shall be maintained clear and free of obstructions at all times.

[3/25/69, 10/11/90; Recompiled 10/31/01]

7.26.2.49 MINIMUM ROOM DIMENSIONS:

A. All habitable rooms in a facility shall have a ceiling height of not less than seven feet six inches (7'6"). Kitchens, halls, bathrooms and toilet compartments will have a ceiling height of not less than seven (7) feet.

B. All habitable rooms other than a kitchen shall be not less than seven (7) feet in any dimension.

C. Any room with sloped ceiling is subject to review and approval or disapproval by the licensing authority, based upon Uniform Building Code computation of minimum area.

[10/11/90; Recompiled 10/31/01]

7.26.2.50 DOORS:

A. All client sleeping room doors must be at least 1-3/4" bonded solid core with a minimum width of 30".

B. All exit doors must have a minimum width of 36".

C. All doors to toilet and bathing facilities must have a minimum width of 24".

D. Locks on doors to toilets, if used, shall be of such type that the lock can be released from the outside.

E. Exit doors leading to the outside of the facility with a capacity of ten (10) or more clients must open outward. Exit doors may be provided with a night latch, dead bolt, or security chain, provided such devices are openable from the inside without the use of a key, tool, or any special knowledge and are mounted at a height not to exceed forty-eight (48) inches above the finished floor.

F. If locks are not readily openable by all occupants within the building, then the locks must:

(1) unlock upon activation of the fire detection or sprinkler system;

(2) unlock upon loss of power in the facility. The facility must have written approval from the fire authorities having jurisdiction prior to installing such locking devices.
[11/1/50, 3/25/69, 10/11/90; Recompiled 10/31/01]

7.26.2.51 CLIENT ROOMS:

- A. Each client room must be an outside room.
 - B. There must be no through traffic in client rooms.
 - C. Client rooms must communicate directly with other areas of the facility.
 - D. Client rooms must be private or semi-private.
 - E. Private rooms must have at least one hundred (100) square feet of floor area. Closet and locker area shall not be counted as part of the available floor space.
 - F. Semi-private rooms must have at least eighty (80) square feet of floor area for each bed. Closet and locker area shall not be counted as part of the available floor space.
 - G. Client rooms will have beds spaced at least three (3) feet apart.
- [11/1/50, 1/1/54, 3/25/69, 10/11/90; Recompiled 10/31/01]

7.26.2.52 TOILET AND BATHING FACILITIES:

- A. Toilets and sinks for residents in a facility must be provided in a ratio of at least one (1) toilet and one (1) sink for every eight (8) clients.
 - B. If a facility has a capacity greater than five (5) and provides service to both male and female clients, separate facilities must be provided for each sex in the same ratio as stated in 52.1 [now Subsection A of 7.26.2.52 NMAC] above.
 - C. Both showers and/or tubs must be provided for the clients use in the same ratio as stated in 52.1 and 52.2 [now Subsections A and B of 7.26.2.52 NMAC] above. At least one tub and one shower must be provided to allow for residents bathing preference.
 - D. The combination type tub and shower is permitted.
 - E. Toilets, tubs, and showers must be provided with grab bars.
 - F. If a facility has live-in staff, a separate toilet, hand washing, and bathing facilities for staff must be provided.
 - G. Tubs and showers must have a slip resistant surface.
 - H. Toilet, hand washing, and bathing facilities must be readily available to the clients. No passage through a client room by another client to reach a toilet, bath, or hand washing facility is permitted.
 - I. All facilities must have at least one (1) toilet and bathing facility which meets requirements for handicapped.
 - J. Toilet paper and soap must be provided in each toilet room.
 - K. The use of a common towel is prohibited.
- [11/1/50, 1/1/54, 3/25/69, 10/11/90; Recompiled 10/31/01]

7.26.2.53 FIRE SAFETY COMPLIANCE: All current applicable requirements of state and local codes for fire prevention and safety must be met by the facility.
[3/25/69, 10/11/90; Recompiled 10/31/01]

7.26.2.54 FIRE CLEARANCE AND INSPECTIONS:

- A. Written documentation from the state fire marshall's office or fire prevention authority having jurisdiction evidencing a facility's compliance with applicable fire prevention codes shall be submitted to the licensing authority prior to issuance of a initial license.
 - B. Each facility shall request, from the local fire prevention authorities, an annual fire inspection. If the policy of the local fire department does not provide for annual inspection of the facility, the facility will document the date the request was made and to whom. If the local fire prevention authorities do make annual inspections, a copy of the latest inspection must be kept on file in the facility.
- [3/25/69, 10/11/90; Recompiled 10/31/01]

7.26.2.55 FIRE ALARMS, SMOKE DETECTORS AND OTHER FIRE EQUIPMENT:

- A. The facility shall be equipped with an approved, manually operated alarm system or other continuously sounding alarm approved in writing by the fire authority having jurisdiction.

B. Approved smoke detectors powered by house electrical service shall be installed to provide, when activated, an alarm which is audible in all sleeping areas. Smoke detectors must be installed in corridors at no more than thirty (30) foot spacing. Areas of assembly, such as the dining and living room, must be provided with smoke detectors. All smoke detectors must be connected to the electrical system of the facility and have battery back-up.

C. Heat detectors shall be installed in all enclosed kitchens and also powered by the facility electrical service.

D. Fire extinguishers, as approved by the state fire marshal or fire prevention authority having jurisdiction, must be located in the facility. Facilities must, as a minimum, have two (2) 2A10BC fire extinguishers, one (1) located in the kitchen or food preparation area, and one (1) centrally located in the facility. All fire extinguishers shall be inspected yearly and recharged as needed. All fire extinguishers must be tagged noting the date of inspection.

E. Fire extinguishers, alarm systems, automatic detection equipment, and other fire fighting equipment must be properly maintained and inspected as recommended by the manufacturer, state fire marshal, or fire authority having jurisdiction. Documentation of these inspections must be maintained on file in the facility. [3/25/69, 10/11-90; Recompiled 10/31/01]

7.26.2.56 STAFF AND CLIENT FIRE AND SAFETY TRAINING:

A. All staff personnel of the facility must know the location of and be instructed in proper use of fire fighting equipment and other procedures to be observed in case of fire or other emergencies. The facility should request the local fire prevention authority to give periodic instructions in the use of fire prevention and techniques of evacuation.

B. Facility staff must be instructed as part of their duties to constantly strive to detect and eliminate potential safety hazards, such as loose handrails, frayed electrical cords, blocked exits or exit ways, and any other condition which could cause burns, falls, or other personal injury to the clients or staff.

C. Each new client must, upon being accepted into the facility, be given an orientation tour of the facility to include, but not be limited to, the location of the exits, fire extinguishers, and telephones, and shall be instructed in action to be taken in case of fire or other emergency.

D. Fire drills and evacuation drills: The facility must conduct at least one (1) fire drill each month.

- (1) Fire drills must be held at different times of the day.
- (2) The fire alarm system or detector system in the facility shall be used in the conduct of fire drills.
- (3) In the conduct of fire drills, emphasis must be placed upon orderly evacuation under proper discipline rather than upon speed.
- (4) A record of fire drills held must be maintained on file in the facility. Such record must show date and time of the drill, number of personnel participating in the drill, any problem noted during the drill and the evacuation time in total minutes.
- (5) The local fire department should be requested to supervise and participate in fire drills.

[3/25/69, 10/11/90; Recompiled 10/31/01]

7.26.2.57 PROVISIONS FOR EMERGENCY CALLS:

A. An easily accessible telephone for summoning help in case of emergency must be available in each facility. A pay telephone will not fulfill this requirement.

B. A list of emergency numbers, including, but not limited to, fire department, police department, ambulance services, and poison control center, shall be posted by each telephone in the facility. [11/1/50, 3/25/69, 10/11/90; Recompiled 10/31/01]

7.26.2.58 SMOKING:

A. Smoking by clients and staff must only be done in supervised areas designated by the facility and approved by the state fire marshal or local fire prevention authorities. Smoking must not be allowed in a kitchen or food preparation area.

B. All designated smoking areas must be provided with suitable ashtrays. [10/11/90; Recompiled 10/31/01]

7.26.2.59 ACCESS REQUIREMENTS FOR THE HANDICAPPED IN NEW FACILITIES:

Accessibility to the handicapped must be provided in all facilities in accordance with ANSI standards and shall include the following:

- A. main entry into the facility must be ground level or ramped to allow wheelchair access;
- B. building must allow access to main living area and dining area;
- C. access to at least one bedroom is provided which requires a door clearance of thirty-four (34) inches;
- D. access to at least one toilet and bathing facility is required which requires a minimum door clearance of thirty-four (34) inches, thirty-six (36) inches is recommended. Toilet and bathing area must also provide a sixty inch (60") diameter clear space (turning radius for a wheelchair);
- E. if ramps are provided to the building, slope must be at least twelve inches (12") horizontal run for each one inch (1") of vertical rise;
- F. ramps leading to doorway must have a five (5) foot by five (5) foot level area at the doorway;
- G. ramps exceeding a six (6) inch rise shall be provided with handrails;
- H. Requirements contained herein are minimum and additional handicap requirements may apply depending on size and complexity of the facility.

[10/11/90; Recompiled 10/31/01]

7.26.2.60 GOVERNING BODY:

- A. Each facility licensed pursuant to these regulations must have a governing body that:
 - (1) exercises general direction over the affairs of the facility.
 - (2) establishes policies concerning the operation of the facility and the welfare of the individuals it serves.
 - (3) establishes qualifications for the administrator in the following areas:
 - (a) education;
 - (b) experience;
 - (c) personal factors;
 - (d) skills;
 - (4) appoints the administrator.

- B. The governing body may consist of one individual or a group.

[10/11/90; Recompiled 10/31/01]

7.26.2.61 ADMINISTRATOR: Each facility licensed pursuant to these regulations must have an administrator appointed by the governing body who acts for the governing body in the overall management of the facility.

[10/11/90; Recompiled 10/31/01]

7.26.2.62 QUALIFIED MENTAL RETARDATION PROFESSIONAL: Each facility licensed pursuant to these regulations must have a qualified mental retardation professional. A qualified mental retardation professional is a person who has specialized training or one (1) year of experience in treating or working with the mentally retarded and is one of the following:

- A. a psychologist with a masters degree from an accredited program;
- B. a licensed doctor of medicine or osteopathy;
- C. an educator with a degree in education from an accredited program;
- D. a social worker with a bachelors degree in:
 - (1) social work from an accredited program; or
 - (2) a field other than social work and at least three (3) years of social work experience under the supervision of a qualified social worker.
- E. a physical or occupational therapist who meets all criteria of the state or federal government as a physical or occupational therapist.
- F. a speech pathologist or audiologist who meets all criteria of the state or federal government as a speech pathologist or audiologist.
- G. a registered nurse licensed in the state of New Mexico.
- H. a therapeutic recreation specialist who:
 - (1) is a graduate of an accredited program; or
 - (2) meets all criteria of the state or federal government as a therapeutic recreation specialist;
- I. a rehabilitation counselor who is certified by the committee on rehabilitation counselor certification.

J. a human services professional who has at least a bachelor's degree in a human services field (including but not limited to sociology, special education, rehabilitation counseling, or psychology).
[10/11/90; Recompiled 10/31/01]

7.26.2.63 INTERDISCIPLINARY TEAM: Each facility licensed pursuant to these regulations must have an interdisciplinary team assigned to each client.

A. Each interdisciplinary team shall be composed of staff members including direct care staff and individuals including the client's family or guardian who are involved or interested in meeting the client's active treatment needs.

B. Interdisciplinary teams must:

- (1) evaluate each client's needs;
- (2) plan an individualized habilitation program to meet each client's identified needs;
- (3) quarterly review each client's responses to their program and revise the program accordingly.

[10/11/90; Recompiled 10/31/01]

7.26.2.64 SUPPORT STAFF: Each facility licensed pursuant to these regulations must have either adequate staff not involved in direct care to clients or contractual services to perform the following functions:

- A.** administration;
- B.** fiscal;
- C.** clerical;
- D.** housekeeping and maintenance.

[10/11/90; Recompiled 10/31/01]

7.26.2.65 DIRECT CARE STAFF: Direct care staff must make care and development of the clients, their primary responsibility, this includes training of each client in the activities of daily living and in the development of self-help and social skills.

A. The facility management must insure that the direct care staff are not diverted from their primary responsibilities by housekeeping or clerical duties or other activities not related to client care.

B. Members of the direct care staff from all shifts must participate in appropriate activities relating to the care and development of the client including at least, referral, planning, initiation, coordination, implementation, follow-through, monitoring and evaluation.

[10/11/90; Recompiled 10/31/01]

7.26.2.66 STAFF EVALUATION AND DEVELOPMENT: A facility licensed pursuant to these regulations must have a written plan for the orientation, on-going staff development, supervision, and evaluation of all staff members.

A. The facility must have a staff training program appropriate to the size and nature of the facility that includes:

- (1) orientation for each new employee to acquaint them with the philosophy, organization, program, practices and goals of the facility;
- (2) orientation for each new employee on the facility's emergency and safety procedures;
- (3) orientation for each new employee on the policies and procedures of the facility.

B. The facility must have continuing in-service training for all employees to update and improve their skills.

C. The facility must have supervisory and management training for each employee who is in, or a candidate for, a supervisory position.

D. Each facility must have someone designated to be responsible for staff development and training.

E. Any employee or agent of a facility or agency who is responsible for assisting a client in boarding or alighting from a motor vehicle must complete a state-approved training program in passenger transportation assistance before assisting any client.

F. Any employee or agent of a facility or agency who drives a motor vehicle provided by the facility or agency for use in the transportation of clients must complete:

- (1) a state approved training program in passenger assistance, and
- (2) a state approved training program in the operation of a motor vehicle to transport clients of a regulated facility or agency.

G. Each facility and agency shall establish and enforce written policies (including training) and procedures for employees who provide assistance to clients with boarding or alighting from motor vehicles.

H. Each facility and agency shall establish and enforce written policies (including training) and procedures for employees who operate motor vehicles to transport clients.
[10/11/90, 11/30/99; Recompiled 10/31/01]

7.26.2.67 ORGANIZATION CHART: The facility must have an organization chart that shows the following:

- A.** the major operating programs of the facility;
- B.** the staff divisions of the facility;
- C.** the administrative personnel in charge of the programs and divisions;
- D.** the lines of authority, responsibility and communication for administrative personnel.

[10/11/90; recompiled 10/31/01]

7.26.2.68 HEALTH REQUIREMENTS FOR STAFF:

A. Prior to employment all staff must obtain a health certificate stating that they are free from tuberculosis.

B. Health certificate means a completed New Mexico department of health, public health division form 015, "health certificate" signed by a physician licensed in New Mexico or a public health nurse in one of the public health division health offices who is acting for the state tuberculosis control officer.

[11/1/50, 3/25/69, 10/11/90; Recompiled 10/31/01]

7.26.2.69 STAFF/CLIENT RATIOS: For each facility regardless of organization or design must have, as a minimum, overall staff/client ratios (allowing for a five (5) day work week plus holiday, vacation and sick time) as shown below:

A. Those facilities serving children under the age of six (6) years, severely and profoundly retarded, severely physically handicapped, or client's who are aggressive, assaultive, or security risks, or who manifest severely hyperactive or psychotic-like behavior, the overall ratio is one (1) staff member to three point two (3.2) clients.

B. Those facilities serving moderately retarded clients requiring habit training, the overall ratio is one (1) staff member to four (4) clients.

C. Those facilities serving clients in vocational training programs and adults who work in sheltered employment situation, the overall ratio is one (1) staff member to six point four (6.4) clients.

[10/11/90; Recompiled 10/31/01]

7.26.2.70 CRIMINAL RECORDS CHECK AS CONDITION OF EMPLOYMENT:

A. All staff of a facility providing services must apply for a nationwide criminal records check and employment history in compliance with New Mexico regulations governing criminal records check.

B. Copies of the above cited regulations will be provided by the department of health, caregivers criminal history screening program.

C. Fingerprint cards, instructions, and employment history forms will be provided by the department of health, caregivers criminal history screening program.

[10/11/90, 11/30/99; Recompiled 10/31/01]

7.26.2.71 ACTIVE TREATMENT SERVICES: Each client must receive a continuous active treatment program, which includes aggressive, consistent implementation of a program of specialized and generic training, treatment, health services, and related services as described in these regulations, that is directed toward:

A. the acquisition of the behaviors necessary for the client to function with as much self determination and independence as possible;

B. the prevention of deceleration of regression or loss of current optimal functional status;

C. clients who are admitted by the facility must be in need of receiving active treatment services;

D. active treatment does not include services to maintain generally independent clients who are able to function with little supervision or in the absence of a continuous active treatment plan.

[10/11/90; Recompiled 10/31/01]

7.26.2.72 CLIENT ACTIVITIES: Every facility licensed pursuant to these regulations must develop an activity schedule for each client that:

A. The amount of daily active treatment a person receives should be based on the individual needs of that person and planned and provided for by the facility in both formal and informal settings directed at achieving needed and possible independence. To the extent possible, the active treatment schedule should allow for the flexible participation of the individual in a broad range of options, rather than a fixed routine.

B. Allows free time for individual or group activities using appropriate materials.

C. Includes planned outdoor periods all year round.

D. Each client's activity schedule must be available to direct care staff and be carried out daily.

E. The facility must insure that a multiple-handicapped or non-ambulatory client:

- (1) spends a major portion of the waking day out of bed;
- (2) spends a portion of the waking day out of his bedroom area;
- (3) has planned daily activity and exercise periods;
- (4) moves around by various methods and devices whenever possible.

[1/1/54, 3/25/69, 10/11/90; Recompiled 10/31/01]

7.26.2.73 PERSONAL POSSESSIONS: The facility must allow the clients to have personal possessions such as toys, books, pictures, games, radios, arts and crafts materials, religious articles, toiletries, jewelry, and letters.

[3/25/69, 10/11/90; Recompiled 10/31/01]

7.26.2.74 CONTROL AND DISCIPLINE OF CLIENTS: The facility must have written policies and procedures for the control and discipline of clients that are available in each living unit and to parents and guardians.

A. If appropriate, clients must participate in formulating these policies and procedures.

B. The facility must not allow:

- (1) corporal punishment of a client;
- (2) a client to discipline another client unless it is done as part of an organized self-government program conducted in accordance with written policy;
- (3) a client to be placed alone in a locked room.

[10/11/90; Recompiled 10/31/01]

7.26.2.75 PHYSICAL RESTRAINT OF CLIENTS: Except as provided for behavior modification programs, the facility may allow the use of physical restraint on a client only if absolutely necessary to protect the client from injuring himself or others.

A. The facility may not use physical restraint:

- (1) as punishment;
- (2) for the convenience of the staff;
- (3) as a substitute for activities or treatment.

B. The facility must have written policies that specify:

- (1) how and when physical restraints may be used;
- (2) the staff members who must authorize its use;
- (3) the method for monitoring and controlling its use.

C. An order for physical restraint may not be in effect longer than twelve (12) hours.

D. Appropriately trained staff must check a client placed in a physical restraint at least every thirty (30) minutes and keep a record of these checks.

E. A client who is in a physical restraint must be given an opportunity for motion and exercise for a period of not less than ten (10) minutes during each two (2) hours of restraint.

[10/11/90; Recompiled 10/31/01]

7.26.2.76 MECHANICAL DEVICES USED FOR PHYSICAL RESTRAINT: Mechanical devices used for physical restraint must be designed and used in a way that causes the client no physical injury and the least possible physical discomfort.

A. A totally enclosed crib or a barred enclosure is a physical restraint.

B. Mechanical supports used to achieve proper body position and balance are not physical restraints. However, mechanical supports must be designed and applied:

- (1) under the supervision of a qualified professional;
- (2) in accordance with principles of good body alignment, concern for circulation, and allowance for change of position.

[10/11/90; Recompiled 10/31/01]

7.26.2.77 CHEMICAL RESTRAINT OF CLIENTS: The facility shall not use chemical restraints in the following manner:

- A.** excessively;
- B.** as punishment;
- C.** for the convenience of the staff;
- D.** as a substitute for activities or treatment;
- E.** in quantities that interfere with a client habilitation program.

[10/11/90; Recompiled 10/31/01]

7.26.2.78 BEHAVIOR MODIFICATION PROGRAMS:

A. "Aversive stimuli": things or events that a client finds unpleasant or painful that are used to immediately discourage undesired behavior may be used by the facility as a means of behavior modification.

B. "Time out": a procedure designed to improve a client's behavior by removing positive reinforcement when his behavior is undesirable may be used by the facility as a means of behavior modification.

C. Behavior modification programs involving the use of aversive stimuli or time out must be:

- (1) reviewed and approved by the facility's human rights committee and the qualified mental retardation professional;
- (2) conducted only with the consent of the affected client's parents or legal guardian;
- (3) described in written plans that are kept on file in the facility;
- (4) a physical restraint used as a time-out device shall be applied only during behavior modification exercises and only in the presence of the trainer.

(5) time-out devices and aversive stimuli may not be used for longer than one (1) hour for time-out purposes involving removal from a situation, and then only during the behavior modification program and only under the supervision of the trainer.

[10/11/90; Recompiled 10/31/01]

7.26.2.79 GROUPING AND ORGANIZATION OF LIVING UNITS:

A. A facility licensed pursuant to these regulations may not house clients of grossly different ages, developmental levels, and social needs in close physical or social proximity unless the housing is planned to promote the growth and development of all those housed together.

B. The facility may not segregate clients on the basis of their physical handicaps. It must integrate residents who are mobile, non-ambulatory, deaf, blind, epileptic, and so forth with others of comparable social and intellectual development.

C. Individual living units may not be located within 150 feet of each other.

[10/11/90, 11/30/99; Recompiled 10/31/01]

7.26.2.80 RECREATION SERVICES: The facility must coordinate recreational services with other services and programs provided to each client in order to:

- A.** make the fullest possible use of the facility's resources;
- B.** maximize benefits to the clients;
- C.** design and construct or modify recreation areas and facilities so that all residents, regardless of their disabilities have access to them;

D. provide recreation equipment and supplies in a quantity and variety that is sufficient to carry out the stated objectives of the activities programs.

[10/11/90; Recompiled 10/31/01]

7.26.2.81 RESIDENT CLOTHING: The facility must insure that each client:

- A.** has enough neat, clean, suitable and seasonable clothing;

- B. has his own clothing marked with his name when necessary;
- C. is dressed daily in their own clothing unless this is contraindicated in written medical orders;
- D. is trained and encouraged as appropriate to:
 - (1) select their daily clothing;
 - (2) dress themselves;
 - (3) change their clothes to suit their activities;
 - (4) has storage space for their clothing that is accessible to them even if they are in a wheelchair.

[1/1/54, 3/25/96, 10/11/90; Recompiled 10/31/01]

7.26.2.82 CLIENT ROOMS: The facility must provide each client with:

- A. a separate bed of proper size and height for the convenience of the client;
- B. bedding appropriate to the weather and climate;
- C. a clean comfortable mattress;
- D. appropriate furniture, such as a chest of drawers, a table or desk, and an individual closet with clothes racks and shelves accessible to the client.

[11/1/50, 1/1/54, 3/25/69, 10/11/90; Recompiled 10/31/01]

7.26.2.83 STORAGE SPACE IN LIVING UNITS: Each facility licensed pursuant to these regulations must provide:

- A. space for equipment for daily out-of-bed activity for all clients who are not yet mobile, except those who have a short-term illness or those few clients for whom out-of-bed activity is a threat to life;
- B. suitable storage space, accessible to the client for personal possessions, such as toys and prosthetic equipment;
- C. adequate clean linen and dirty linen storage areas.

[11/1/50, 3/25/69, 10/11/90; Recompiled 10/31/01]

7.26.2.84 HEALTH, HYGIENE, GROOMING AND TOILET TRAINING:

- A. Each client must be trained to be as independent as possible in health, hygiene and grooming practices, including bathing, brushing teeth, shampooing, combing and brushing hair, shaving and caring for toenails and fingernails.
- B. Each client who does not eliminate appropriately and independently must be in a regular, systematic toilet training program and a record must be kept of their progress in the program.
- C. A client who is incontinent must be bathed or cleaned immediately upon voiding or soiling, unless specifically contraindicated by the training program and all soiled items must be changed.
- D. The facility must establish procedures for:
 - (1) weighing each client monthly, unless the special needs of the client require more frequent weighing;
 - (2) measuring the height of each client every 3 months until the client reaches the age of maximum growth;
 - (3) maintaining weight and height records for each client;
 - (4) insuring that each client maintains a normal weight.

E. At least every three (3) days a physician must review orders prescribing bed rest or prohibiting a client from being outdoors.

F. The facility must furnish, maintain in good repair, and encourage the use of dentures, eyeglasses, hearing aids, braces, and other aids prescribed for a client by an appropriate specialist.

[1/1/54, 3/25/69, 10/11/90; Recompiled 10/31/01]

7.26.2.85 DENTAL SERVICES:

A. Diagnostic services:

- (1) The facility must provide each client with comprehensive diagnostic dental services that include a complete extraoral and intraoral examination using all diagnostic aids necessary to properly evaluate the client's oral condition, not later than one (1) month after a client's admission to the facility unless they received the examination within six (6) months before admission.
- (2) The facility must review the results of the examination and enter them in the client's record.

B. Treatment: The facility must provide each client with comprehensive dental treatment that includes:

- (1) provision for emergency dental treatment on a 24-hour-a-day basis by a qualified dentist;
- (2) a system that assures that each client is re-examined as needed but at least once a year.

C. Education and training: The facility must provide education and training in the maintenance of oral health that includes:

- (1) a dental hygiene program that informs clients and all staff on nutrition and diet control measures, and clients and living unit staff on proper oral hygiene methods;
- (2) instruction of parents or guardians in the maintenance of proper oral hygiene in appropriate instances, for example when the client leaves the facility.

[3/25/69, 10/11/90; Recompiled 10/31/01]

7.26.2.86 PREVENTIVE HEALTH SERVICES: The facility must have preventive health services for clients that include:

A. means for the prompt detection and referral of health problems through adequate medical surveillance, periodic inspection and regular medical examinations;

B. annual physical examinations that include:

- (1) examination of vision and hearing;
- (2) routine screening laboratory examinations as determined necessary by the physician and special studies when needed.

C. immunizations using as a guide the recommendations of the public health service advisory committee on immunization practices and of the committee on the control of infectious diseases of the American academy of pediatrics;

D. Tuberculosis control in accordance with New Mexico state law;

E. Reporting of communicable diseases and infections in accordance with New Mexico state law.

[10/11/90; Recompiled 10/31/01]

7.26.2.87 MEDICAL SERVICES: The facility must:

A. provide medical services through direct contact between physicians and clients and through contact between physicians and individuals working with the clients;

B. provide health services including treatment, medications, diet, and any other health service prescribed or planned for the client twenty-four (24) hours a day;

C. have available electroencephalographic services as needed;

D. have enough space, facilities and equipment to fulfill the medical needs of the clients;

E. provide evidence that hospital and laboratory services are used in accordance with professional standards.

F. Goals and evaluations: Physicians must participate, when appropriate, in:

(1) the continuing interdisciplinary evaluation of individual clients for the purposes of beginning, monitoring, and following-up on individualized habilitation programs;

(2) the development for each client of a detailed written statement of:

(a) case management goals for physical and mental health, education and functional and social competence;

(b) a management plan detailing the various habilitation or rehabilitation services to achieve those goals with clear designation of responsibility for implementation.

(3) The facility must review and update the statement of treatment goals and management plans as needed but at least annually to insure:

(a) continuing appropriateness of the goals;

(b) consistency of management methods with the goals;

(c) the achievement of progress toward the goals.

[11/1/50, 10/11/90; Recompiled 10/31/01]

7.26.2.88 PSYCHOLOGICAL SERVICES: The facility must:

A. provide psychological services through personal contact between psychologists and clients and through contact between psychologists and individuals involved with the clients;

B. have available enough qualified staff and support personnel to furnish the following psychological services based on need:

- (1) administration and supervision of psychological services;
- (2) staff training.

C. A qualified psychologist must:

(1) participate, when appropriate, in the continuing interdisciplinary evaluation of each individual client for the purpose of beginning, monitoring and following-up on the clients individualized habilitation program.

(2) report and disseminate evaluation results in a manner that:

- (a) promptly provides information useful to staff working directly with the clients;
- (b) maintains accepted standards of confidentiality.

(3) participate, when appropriate, in the development of written detailed, specific and individualized habilitation program that:

(a) provide for periodic review, follow-up and updating;

(b) are designated to maximize each client's development and acquisition of perceptual skills, sensorimotor skills, self-help skills, communication skills, social skills, self-direction, emotional stability, and effective use of time, including leisure time.

[10/11/90; Recompiled 10/31/01]

7.26.2.89 PHYSICAL AND OCCUPATIONAL THERAPY SERVICES: The facility must provide physical and occupational therapy services through direct contact between therapist and individuals involved with the clients.

A. Physical and occupational therapy staff must provide treatment training programs that are designed to:

(1) preserve and improve abilities for independent function, such as range of motion, strength, tolerance, coordination and activities of daily living;

(2) prevent, insofar as possible, irreducible or progressive disabilities through means such as the use of orthotic and prosthetic appliances, assistive and adaptive devices, positioning, behavior adaptations and sensory stimulation.

B. The therapist must:

- (1) work closely with the client's primary physician and with other medical specialists;
- (2) record regularly and evaluate periodically the treatment training progress;
- (3) use the treatment training progress as the basis for continuation or change in the client's program.

C. The facility must have evaluation results, treatment objectives, plans and procedures, and continuing observations of treatment progress, which must be:

- (1) recorded accurately, summarized, and communicated to all relevant parties;
- (2) used in evaluating progress;
- (3) included in the client's record kept in the living unit.

[10/11/90; Recompiled 10/31/01]

7.26.2.90 NURSING SERVICES: The facility must provide clients with nursing services, in accordance with their needs, that include, as appropriate, the following:

A. Registered nurse participation:

- (1) The pre-admission evaluation study and plan.
- (2) The evaluation study, program design, and placement of the client at the time of admission.
- (3) The periodic re-evaluation of the type, extend [sic] and quality of services and programming.

B. Training in habits of personal hygiene, family life and sex education that includes, but is not limited to, family planning and venereal disease counseling.

C. Control of communicable diseases and infections through:

- (1) Identification and assessment.
- (2) Reporting to medical authorities.
- (3) Implementation of appropriate protective and preventive measures.
- (4) Development of a written nursing services plan for each client as part of the total habilitation program.

(5) Modification of the nursing plan in terms of the client's daily needs, at least annually for adults and more frequently for children in accordance with developmental changes.

D. Management of the medication aide program in accordance with the board of nursing.
[3/25/69, 10/11/90, 11/30/99; Recompiled 10/31/01]

7.26.2.91 SOCIAL SERVICES: The facility must provide, as part of an inter-disciplinary set of services, social services to each client directed toward:

- A.** maximizing the social functioning of each client;
- B.** enhancing the coping capacity of each client's family;
- C.** asserting and safeguarding the human and civil rights of the retarded and their families;
- D.** fostering the human dignity and personal worth of each client;
- E.** the development of the discharge plan;
- F.** the referral to appropriate community resources.

[10/11/90; Recompiled 10/31/01]

7.26.2.92 LAUNDRY SERVICES: The facility must manage its laundry services to [sic] that it meets daily clothing and linen needs without delays.

- A.** Each client must have available a clean change of clothing whenever necessary.
- B.** There must be separate handling and storage of clean and soiled linens.
- C.** Linens must be laundered and disinfected prior to re-use by another client.
- D.** New linens must be laundered before use.

[11/1/50, 3/25/69, 10/11/90; Recompiled 10/31/01]

7.26.2.93 SPEECH PATHOLOGY AND AUDIOLOGY SERVICES: The facility must provide speech pathology and audiology services through direct contact between speech pathologists and audiologist and clients, and working with other personnel, including but not limited to, teachers and direct care staff. Speech pathology and audiology services must include:

- A.** screening and evaluation of clients with respect to speech and hearing functions;
- B.** comprehensive audiological assessment of clients, as indicated by screening results that include tests of puretone air and bone conduction, speech audiometry and other procedures as necessary, and the assessment of the use of visual cues;
- C.** assessment of the use of amplification;
- D.** provision for procurement, maintenance and replacement of hearing aids, as specified by a qualified audiologist;
- E.** comprehensive speech and language evaluation of clients, as indicated by screening results including appraisal of articulation, voice, rhythm, and language;
- F.** participation in the continuing interdisciplinary evaluation of individual clients for purposes of beginning, monitoring, and following-up on individualized habilitation programs;
- G.** treatment services as an extension of the evaluation process that include:
 - (1) direct counseling with clients;
 - (2) consultation with appropriate staff for speech improvement and speech education activities;
 - (3) work with appropriate staff to develop specialized programs for developing each client's communication skills, in comprehension, including speech, reading, auditory training, hearing aid utilization and skills in expression, including improvement in articulation, voice, rhythm, and language.
- H.** participation in in-service training programs for direct care and other staff.

[10/11/90; Recompiled 10/31/01]

7.26.2.94 PHARMACY SERVICES: Any facility licensed pursuant to these regulations that supervises the administration or self-administration of medications for clients must have a current custodial care facility license issued by the New Mexico board of pharmacy.

- A.** The facility must make formal arrangements for qualified pharmacy services, including provision for emergency service.
- B.** Have a current pharmacy manual that:
 - (1) includes policies and procedures and defines the functions and responsibilities relating to pharmacy services;
 - (2) is revised annually to keep abreast of current developments in services and management techniques;

(3) have a formulary system approved by a responsible physician and pharmacist and other appropriate staff. Copies of the facility's formulary system and of the American Hospital Formulary Service must be located and available in the facility.

C. Pharmacist:

- (1) Pharmacy services must be provided under the direction of a qualified pharmacist.
- (2) The pharmacist must:
 - (a) when a client is admitted obtain, if possible, a history of prescription and non-prescription drugs used and enter this information in the client's record;
 - (b) receive the original, or a direct copy, of the physician's drug treatment order;
 - (c) maintain for each client an individual record of all prescription and non-prescription medication dispensed, including quantities and frequency of refills;
 - (d) participate, as appropriate, in the continuing interdisciplinary evaluation of individual clients for the purpose of beginning, monitoring and following up on individualized habilitation programs;
 - (e) establish quality specifications for drug purchases and insure that they are met.

(3) A pharmacist must regularly review the medication record of each client for potential adverse reactions, allergies, interactions, contraindications, rationality and laboratory test modifications and advise the physician of any recommended changes with reasons and with an alternate drug regimen.

(4) The responsible pharmacist, physician, nurse and other professional staff must write policies and procedures that govern the safe administration and handling of all drugs. The following policies and procedures must be included:

- (a) self-administration of drugs, whether prescribed or not.
- (b) the pharmacist or an individual under his supervision must compound, package, label and dispense drugs including samples and investigational drugs. Proper controls and records must be kept of these processes.
- (c) each drug must be identified up to the point of administration.
- (d) whenever possible, the pharmacist must dispense drugs that require dosage measurements in a form ready to be administered to the client.

D. Drugs and medications:

(1) A medication must be used only by the client for whom it is issued. Only appropriately trained staff may administer drugs.

(2) Any drug that is discontinued or outdated and any container with a worn, illegible or missing label must be returned to the pharmacy for proper disposition.

- (3) The facility must have:
- (a) an automatic stop order on all drugs;
 - (b) a drug recall procedure that can be readily used;
 - (c) a procedure for reporting adverse drug reactions to the Food and Drug Administration;
 - (d) an emergency kit available to each living unit and appropriate to the needs of its clients.
- (4) Medication errors and drug reactions must be recorded and reported immediately to the practitioner who ordered the drug.

E. Drug storage:

(1) The facility must store drugs under proper conditions of sanitation, temperature, light, moisture, ventilation, segregation and security.

(2) The facility must store drugs used externally and drugs taken internally on separate shelves or in separate cabinets.

(3) The facility must keep medication that is stored in a refrigerator containing other items in a separate compartment with proper security.

(4) If there is a drug storeroom separate from the pharmacy, an inventory of receipts and issues of all drugs from that storeroom must be kept.

(5) The facility must meet the drug security requirements of federal and state laws that apply to storerooms, pharmacies and living units.

[11/1/50, 1/1/54, 3/25/69, 10/11/90, 11/30/99; Recompiled 10/31/01]

7.26.2.95 FOOD AND NUTRITION SERVICES:

A. Dietician: The facility must employ a qualified dietitian either full-time, part-time, or on a consultant basis. If a qualified dietitian is not employed full-time, the facility must designate a person to serve as the director of food service.

B. Food services: The facility's food services must include:

- (1) menu planning;
- (2) initiating food orders or requisitions;
- (3) establishing specifications for food purchases and insuring that the specifications are met;
- (4) storing and handling food;
- (5) preparing and serving food;
- (6) maintaining sanitary standards in compliance with the New Mexico environment department food service regulations;
- (7) orienting, training and supervising food service personnel.

C. Diet requirements:

- (1) The facility must provide each client with a nourishing well-balanced diet.
- (2) Modified diets must be:
 - (a) prescribed by the client's interdisciplinary team with a record of the prescription kept on file;
 - (b) planned, prepared and served by individuals who have received adequate instruction;
 - (c) periodically reviewed and adjusted as needed.
- (3) The facility must furnish a nourishing, well-balanced diet in accordance with the recommended dietary allowances of the food and nutrition board of the national research council, national academy of sciences, adjusted for age, sex, activity and disability, unless otherwise required by medical needs.
- (4) A client may not be denied a nutritionally adequate diet as a form of punishment.

D. Meal service:

- (1) The facility must serve at least three (3) meals daily at regular times comparable to normal mealtimes in the community with:
 - (a) not more than fourteen (14) hours between a substantial evening meal and breakfast of the following day;
 - (b) not less than ten (10) hours between breakfast and the evening meal of the same day.
- (2) Food must be served:
 - (a) in appropriate quantity;
 - (b) at appropriate temperature;
 - (c) in a form consistent with the developmental level of the resident;
 - (d) with appropriate utensils;
 - (e) food served and uneaten must be discarded.

E. Menus:

- (1) Must be written in advance.
- (2) Provide a variety of foods at each meal.
- (3) Be different for the same days of each week and adjusted for seasonal changes.
- (4) Menus must be kept on file for at least thirty (30) days as served.

F. Food storage:

- (1) Dry or staple food items at least twelve (12) inches above the floor, in a ventilated room not subject to sewage or waste water back flow or contamination by condensation, leakage, rodents or vermin.
- (2) Perishable foods must be kept at proper temperatures to conserve nutritive values.

G. Work areas:

- (1) The facility must have effective procedures for cleaning all equipment and work areas.
- (2) The facility must be provided with hand washing facilities to include hot and cold water, soap and paper towels adjacent to the work areas.

H. Dining areas and service:

- (1) The facility must serve meals for all residents, including the mobile non-ambulatory, in dining rooms unless otherwise required for health reasons or by decision of the team responsible for the client's program.
- (2) The facility must provide table service for all clients who can and will eat at a table, including clients in wheelchairs.
- (3) The facility will equip areas with table, chairs, eating utensils and dishes designed to meet the developmental needs of each client.

(4) The facility must supervise and staff dining rooms adequately to direct self-help dining procedures and to assure that each client receives enough food.
[11/1/50, 3/25/69, 10/11/90; Recompiled 10/31/01]

7.26.2.96 RELATED REGULATIONS AND CODES: ICF/MR facilities subject to these regulations are also subject to other regulations, codes and standards as the same may from time to time be amended as follows:

A. Health Facility Licensure Fees and Procedures, New Mexico department of health, 7 NMAC 1.7 (10-31-96) [now 7.1.7 NMAC].

B. Health Facility Sanctions and Civil Monetary Penalties, 7 NMAC 1.8 (10-31-96) [now 7.1.8 NMAC].

C. Adjudicatory Hearings, New Mexico department of health, 7 NMAC 1.2 (2-1-96) [now 7.1.2 NMAC].

D. Caregivers Criminal History Screening Requirements, New Mexico department of health, 7 NMAC 1.9 (9-1-98) [now 7.1.9 NMAC].

[10/11/90, 10/31/96, 11/30/99; Recompiled 10/31/01]

HISTORY OF 7.26.6 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center: HED 90-5 (PHD), Regulations Governing ICF/MR Facilities, 10-11-90.

History of Repealed Material: [RESERVED]