

TITLE 7 HEALTH
CHAPTER 7 HOSPITALS
PART 2 REQUIREMENTS FOR ACUTE CARE, LIMITED SERVICES AND SPECIAL
HOSPITALS

7.7.2.1 ISSUING AGENCY: New Mexico Department of Health, Division of Health Improvement, Health Facility Licensing & Certification Bureau.
[7.7.2.1 NMAC - Rp, 7.7.2.1 NMAC, 06-15-04]

7.7.2.2 SCOPE: These requirements apply to public and private hospitals as defined in Section 7.7.2.7 of these requirements. Facilities that are specifically exempt under Section 24-1-2 (D), NMSA 1978, from being treated as hospitals for purposes of regulation under Section 24-1-5, NMSA 1978, and these requirements, are physicians' clinics and offices, nursing homes, as well as health centers and correctional institutions that are operated by the state.
[7.7.2.2 NMAC - Rp, 7.7.2.2 NMAC, 06-15-04]

7.7.2.3 STATUTORY AUTHORITY: The requirements set forth herein are promulgated by the secretary of the department of health, pursuant to the general authority granted under Section 9-7-6 (E), NMSA 1978, as amended and the authority granted under Sections 24-1-2 (D), 24-1-3 (I) and 24-1-5, NMSA 1978, of the Public Health Act as amended.
[7.7.2.3 NMAC - Rp, 7.7.2.3 NMAC, 06-15-04]

7.7.2.4 DURATION: Permanent.
[7.7.2.4 NMAC - Rp, 7.7.2.4 NMAC, 06-15-04]

7.7.2.5 EFFECTIVE DATE: June 15, 2004, unless a later date is specified at the end of a section.
[7.7.2.5 NMAC - Rp, 7.7.2.5 NMAC, 06-15-04]

7.7.2.6 OBJECTIVE:

- A.** Establish standards for licensing hospitals in order to ensure that hospital patients receive adequate care and treatment and that the health and safety of patients and hospital employees are protected.
- B.** Establish standards for the construction, maintenance and operation of hospitals.
- C.** Regulate such hospitals in providing the appropriate level of care for patients
- D.** Provide for hospital compliance with these requirements through surveys to identify any areas that could be dangerous or harmful to the health, safety, or welfare of the patients and staff.

[7.7.2.6 NMAC - Rp, 7.7.2.6 NMAC, 06-15-04]

7.7.2.7 DEFINITIONS:

- A.** **"Abuse"** means injury, sexual misuse, or neglect resulting in harm of an individual patient.
- B.** **"Acute-care hospital"** means a hospital providing emergency services, in-patient medical and nursing care for acute illness, injury, surgery or obstetrics; ancillary services such as pharmacy, clinical laboratory, radiology, and dietary are required for acute-care hospitals.
- C.** **"Allied health personnel"** means persons who are not physicians, podiatrists, psychologists or dentists who may be admitted to practice in the hospital through the medical staff credentialing process, and includes.

(1) "Licensed independent practitioner" means an advanced practice professional registered nurse permitted by law to provide care without direction or supervision within the scope of the individual's license and consistent with individually granted privileges; this includes certified nurse midwives, certified nurse practitioners and clinical nurse specialists.

(2) "Certified registered nurse anesthetist" means an advanced practice professional registered nurse permitted by law to provide anesthesia care; in an interdependent role as a member of a health care team in which medical care of the patient is directed by a medical physician, osteopathic physician, dentist or podiatrist licensed in the state of New Mexico; the certified registered nurse anesthetist shall collaborate with the medical physician, osteopathic physician, dentist or podiatrist concerning the anesthesia care or the patient; collaboration means the process in which each health care provider contributes their respective expertise.

(3) **“Physician assistant”** means a person licensed as a physician assistant by the New Mexico board of medical examiners, pursuant to Section 61-6-6, NMSA 1978.

D. “Annual net revenue” means, as determined from the hospitals governing board’s approved audited financial statement for an annual time period, the hospital’s net patient services revenue; net patient services revenue does not include **net** operating revenue from other sources, such as medical office rental and cafeteria; annual net revenue is determined after deductions for:

- (1) contractual allowances;
- (2) uncompensated care and bad debt;
- (3) charity care; and
- (4) annual net revenue excludes other non-operating revenues, including but not limited to, income from endowments, investments, gifts and bequests, and net gain on sale of fixed assets.

E. “Annual cost of care” means with respect to the requirements of Section 24-1-5.8 NMSA 1978 (2003), the billed charges of providing emergency services and general health care to nonpaying patients and low-income reimbursed patients.

F. “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 the authority to sign for the organization.

G. “Audiologist” means a person licensed under the Speech-Language Pathology and Audiology Act, Sections 61-14B-1 to 61-14B-16, NMSA 1978, to practice audiology.

H. “Automated medication management system” means an automatic device that compounds, measures, counts, packages and delivers a specified quantity of dosage units for a designated product and which collects, controls and maintains all transaction information.

I. “CMS” means center for medicare & medicaid services.

J. “Consultant pharmacist” means a person licensed in New Mexico under the Pharmacy Act, Section 61-11-2 (D), NMSA 1978, as a consultant pharmacist.

K. “Critical access hospital” means a hospital with special characteristics, duly certified as such by centers for medicare and medicaid services (CMS) and is in compliance with the conditions of participation for such facilities; such critical access hospitals are deemed as meeting the intent of these requirements and may be licensed accordingly by the licensing authority.

L. “Dentist” means a person licensed to practice dentistry under the Dental Act, Sections 61-5-1 to 61-5-22, NMSA 1978.

M. “Department” means the New Mexico department of health.

N. “Dietician” means a person who is eligible for registration as a dietitian by the commission on dietetic registration of the American dietetic association, or who has a baccalaureate degree with major studies in food and nutrition, dietetics, or food service management.

O. “Dietetic service supervisor” means a person who:

- (1) is a qualified dietitian with one year of supervisory experience in the dietetic service of a health care institution; or
- (2) is a graduate of a dietetic technician or dietetic assistant training program, approved by the American dietetic association and has consultation from a qualified dietitian; or
- (3) is a graduate of a state-approved course that provided 90 or more hours of classroom instruction in food service supervision and has experience as a supervisor in a health care institution with consultation from a dietitian; if the supervisor is not a qualified dietitian then consultation from a qualified dietitian must be provided.

P. “Distinct emergency service” means an emergency distinct department that provides a medical screening examination and treatment of a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain, psychiatric disturbances or symptoms of substance abuse) that requires immediate medical attention.

Q. “Emergency care for sexual assault survivors” means medical examinations, procedures and services provided by a hospital to a sexual assault survivor following an alleged sexual assault.

R. “Emergency contraception” means a drug approved by the federal food and drug administration that prevents pregnancy after sexual intercourse.

S. “Emotional abuse” means verbal behavior, harassment, or other actions that result in emotional or behavioral problems, physical manifestations, disordered or delayed development.

T. “Financial interest” means any equity, security, lease or debt interest in the hospital; financial interest also includes any equity, security, and lease or debt interest in any real property used by the hospital or in any entity that receives compensation arising from the use real property by the hospital.

U. “Health physicist” means a person holding a master’s degree or doctorate in an appropriate discipline of radiologic physics or who has equivalent education and experience.

V. “Hospital” means a facility offering in-patient services, nursing, overnight care on a 24-hour basis for diagnosing, treating, and providing medical, psychological or surgical care for three or more separate individuals who have a physical or mental illness, disease, injury, a rehabilitative condition or are pregnant; use of the term “hospital” for any facility not duly licensed according to these requirements is prohibited; any acute care hospital shall have emergency services, inpatient medical and nursing care for acute illness, injury, surgery, and obstetrics; any limited services hospital shall have emergency services, inpatient medical and nursing care for acute illness, injury and surgery; ancillary services such as pharmacy, clinical laboratory, radiology, and dietary are required for acute-care or limited service hospitals.

W. “Long term acute-care hospital” means a hospital providing long term, in-patient medical care for medically-complex patients whose length of stay averages greater than 25 days; ancillary support services such as pharmacy, clinical laboratory, radiology, and dietary are required for long-term acute-care hospitals.

X. “Low-income patient” means a patient whose family or household income does not exceed two hundred percent of the most current federal poverty level.

Y. “Rehabilitation hospital” means a special hospital that primarily provides rehabilitative care to inpatients.

Z. “Legally authorized person” means a parent of a minor, a court appointed guardian or a person authorized by the patient in accordance with law to act on the patient’s behalf.

AA. “Licensed practical nurse” means a person licensed as a practical nurse under the Nursing Practice Act, Sections 61-3-1 through 61-3-30, NMSA 1978.

AB. “Licensee” means the person(s) who, or organization which, has an ownership, leasehold, or similar interest in the hospital and in whose name a license has been issued and who is legally responsible for compliance with these requirements.

AC. “Licensing authority” means the agency within the department vested with the authority to enforce these requirements.

AD. “Limited services hospital” means a hospital that limits admissions according to medical or surgical specialty, type of disease or medical condition, or a hospital that limits its inpatient hospital services to surgical services or invasive diagnostic treatment procedures; a limited services hospital must have emergency services, inpatient medical and nursing care for acute illness, injury, and surgery, and must offer ancillary services including pharmacy, clinical laboratory, radiology, and dietary; a limited services hospital does not include:

- (1) a hospital licensed by the department as a special hospital;
- (2) an eleemosynary hospital that does not bill patients for the services provided; and
- (3) a hospital that has been granted a license prior to January 1, 2003.

AE. “Local community” means with respect to the requirements of Section 24-1-5.8 NMSA 1978 (2003), the New Mexico standard metropolitan statistical area or county in which a limited services hospital or an acute-care hospital applies to be licensed or becomes initially licensed by the department at any time after January 1, 2003; if the applicant seeks licensure of a facility within the boundaries of a New Mexico standard metropolitan statistical area, the local community for purposes of that application is that standard metropolitan statistical area; if the applicant seeks licensure of a facility not within the boundaries of a New Mexico standard metropolitan statistical area, the local community for purposes of that application is the New Mexico county.

AF. “Medically and factually accurate and objective” means verified or supported by the weight of research conducted in compliance with accepted scientific methods and standards; published in peer-reviewed journals; and recognized as accurate and objective by leading professional organizations and agencies with relevant expertise in the field of obstetrics and gynecology, such as the American college of obstetricians and gynecologists.

AG. “Medical staff” means the hospital’s organized component of physicians, podiatrists, psychologists, dentists and allied health personnel who have been appointed by the governing body of the hospital and granted specific privileges for the purpose of providing care for the patients of the hospital.

AH. “Misappropriation of property” means the deliberate misplacement, misappropriation of patients’ property, or wrongful, temporary or permanent use of a patient’s belongings or money without the patients’ consent.

AI. “Neglect” means the failure to provide goods and services necessary to avoid physical harm, mental anguish, or mental illness.

AJ. “Nonpaying patients” means with respect to the requirements of Section 24-1-5.8 NMSA 1978 (2003), patients whose care is substantially uncompensated, including patients classified as charity care or bad debit.

AK. “Nosocomial” means an infection pertaining to or originating in a hospital not present or incubating prior to admittance to a hospital.

AL. “Occupational therapist” means a person licensed as an occupational therapist under the Occupational Therapy Act, Sections 61-12A-1 to 61- 12A-20, NMSA 1978.

AM. “Pharmacist” means a person licensed in New Mexico under the Pharmacy Act, 61-11-1 to 61-11-29, NMSA 1978.

AN. “Pharmacy” means a place where drugs are compounded or dispensed that is licensed by the New Mexico board of pharmacy.

AO. “Physical abuse” means damaging or potentially damaging acts or incidents that result in bodily injury or death.

AP. “Physical therapist” means a person licensed to practice physical therapy under the Physical Therapy Act, Sections 61-12-1 to 61-12-21, NMSA 1978.

AQ. “Physician” means a person licensed to practice medicine or osteopathy by the New Mexico board of medical examiners, pursuant to Section 61-6-10, NMSA 1978 or the osteopathic medical examiners board pursuant to Sections 61-10-1 through 61-10-21, NMSA 1978.

AR. “Physician owner” means a physician, podiatrist, dentist licensed by the New Mexico board of dental health care pursuant to Section 61-5A-12NMSA 1978, or any other person licensed in New Mexico as a health care practitioner permitted by the hospital to refer, admit or treat hospital patients, and who has a financial interest in the hospital.

AS. “Podiatrist” means a person licensed to practice podiatry or podiatric medicine and surgery under the Podiatry Act, Sections 61-8-1 to 61-8-16, NMSA 1978.

AT. “Privileges” means the authorization of the medical staff members to provide care to hospital patients in the area in which the person has expertise as a result of education, training and experience.

AU. “Psychologist” means a person licensed to practice psychology under the Professional Psychologists’ Act, Sections 61-9-1 through 61-9-18, NMSA 1978.

AV. “Psychiatric hospital” means a special hospital that primarily provides by or under the supervision of a physician, psychological and/or psychiatric services for the diagnosis and treatment of mentally ill persons.

AW. “Registered nurse” means a person licensed as a professional registered nurse under the Nursing Practice Act, Sections 61-3-1 through 61-3-30, NMSA 1978.

AX. “Reporting year” means with respect to the provision of financial, utilization, and services information for the hospital’s last full and audited annual accounting period.

AY. “Respiratory care practitioner” means a person who is licensed under the Respiratory Care Act, Sections 61-12B-1 to 61-12B-16, NMSA 1978.

AZ. “Sexual assault” means the crime of criminal sexual penetration that may result in pregnancy.

BA. “Sexual assault survivor” means a person who alleges or is alleged to have been sexually assaulted and who presents as a patient to a hospital.

BB. “Special hospital” means a hospital that treats patients that have a diagnosis-related group classifications for two-thirds of all its patients that fall into no more than two major diagnosis categories, or if at least two-thirds of its patients are classified in a specific diagnosis category; an example of a special hospital is a psychiatric or rehabilitation hospital.

BC. “Speech pathologist” means a person who is licensed under the Speech-Language Pathology and Audiology Act, Sections 61-14B-1 to 61-14B-16, NMSA 1978 to practice speech language pathology.

BD. “Variance” means an act on the part of the licensing authority to refrain from enforcing compliance with a portion or portions of these requirements for an unspecified period of time where the granting of a variance will not create a danger to the health, safety, or welfare of patients or staff of a hospital and is at the sole discretion of the licensing authority.

BE. “Waive/waiver” means an act on the part of the licensing authority to refrain from enforcing compliance with a portion or portions of these requirements for a limited period of time less than one year, provided the health, safety, or welfare of patients and staff are not in danger; waivers are issued at the sole discretion of the licensing authority.

[7.7.2.7 NMAC - Rp, 7.7.2.7 NMAC, 06-15-04]

7.7.2.8 REQUIRED LICENSURE BY THE DEPARTMENT: Procedures applicable after January 1, 2003: This section addresses the requirements of Section 24-1-5.8 NMSA 1978 (2003) and applies to local

communities in which an acute-care hospital or a limited services hospital applies to be licensed or becomes initially licensed by the department at any time after January 1, 2003.

A. No hospital may operate in New Mexico unless it is licensed in accordance with the requirements of the New Mexico department of health.

B. The department shall issue a license to an acute-care hospital or a limited services hospital that meets the requirements of this rule and agrees to:

(1) continuously maintain and operate an emergency department that provides emergency medical services as defined in Section NMAC 7.7.2.37; and

(2) when applicable, participate in the medicare, medicaid and county indigent care programs; and

(3) require a physician owner to disclose and document in the patient's medical record a financial interest in the hospital before referring a patient to the hospital.

C. Comply with the same quality standards applied to other hospitals.

D. Provide emergency services and general health care to a number of nonpaying patients and low-income reimbursed patients in the same proportion as the patients that are treated in acute-care hospitals in the local community, as determined by the department provided that the annual cost of the care required to be provided pursuant to paragraph (5) shall not exceed an amount equal to five percent of the hospital's annual net revenue for the previous fiscal year from audited financial statements.

E. Require a health care provider to disclose a financial interest before referring a patient to the hospital.

F. Reporting Requirements-General: The department, in accordance with the requirements of Section 24-1-5.8 NMSA 1978 (2003) requires the provision of information necessary to determine the annual cost of care for emergency and general health care to nonpaying and low-income reimbursed patients, including the number of nonpaying and low-income reimbursed patients treated, for the hospital's last full and audited accounting period. This period is called the most recent reporting year.

G. Reporting Hospitals: After January 1, 2003, an application to the department for an initial license by an acute-care hospital or limited services hospital in a local community will require the provision of information necessary to determine the annual cost of care for emergency and general health care to nonpaying and low-income reimbursed patients, including the number of nonpaying and low-income reimbursed patients treated, for the most current reporting year. The following hospitals must report to the department within 30 days of notice from the department of application for an initial license by an acute-care hospital or limited services hospital:

(1) all limited services hospitals in the local community;

(2) all acute-care hospitals in the local community;

(3) the limited services hospital applying for the initial license or the acute-care hospital applying for the initial license must submit a business plan that provides information necessary to determine the projected annual cost of care for emergency and general health care to nonpaying and low-income reimbursed patients, including the number of nonpaying and low-income reimbursed patients.

H. Reporting Requirements-Specific: The reporting requirement for information necessary to determine the annual cost of care for emergency and general health care to nonpaying and low-income reimbursed patients, including the number of nonpaying and low-income reimbursed patients treated, for the hospital's last full and audited accounting period, shall be satisfied by the provision of a certified statement by the hospital's chief executive officer and an independent certified public accountant attesting to the accuracy of the above required information, in the format determined by the department. The department shall conduct, as determined necessary, an independent audit to validate the information provided in the certified statement.

I. Determination of proportionality by the department. Based upon the certified statements and business plan(s) submitted, the department shall determine whether the application for licensure will provide emergency services and general health care to the number of nonpaying patients and low-income reimbursed patients in the same proportion as the proportion of nonpaying and low-income reimbursed patients that are treated in acute-care hospitals in the local community. Upon that determination by the department that the proportional requirements are met by the applicant and the receipt of a certified statement by the applicant's chief executive officer that the proportions will be maintained, and other rule requirements are met by the applicant, the department may issue a license consistent with the requirements of Section 24-1.5.8 NMSA 1978 (2003).

J. Limitation on costs to achieve proportionality. The acute-care hospital or limited service hospital applying for licensure after January 1, 2003 shall submit to the department on an annual basis a certified statement from an independent certified public accountant setting out for that reporting year the hospital's annual cost incurred in the provision of care to low-income reimbursed patients and to nonpaying patients, in order to satisfy the hospital's proportionality requirements. Submission to the department of such certified statement from an

independent certified public accountant shall be made by the hospital within 30 days of its acceptance by the hospital's board of directors of the annual audited financial statement. The cost incurred in the provision of care to low-income reimbursed patients and nonpaying patients to satisfy the hospital's proportionality requirements is limited to five percent of the hospital's annual net revenue.

K. Penalties for Non-Reporting: Failure to meet the reporting requirements set out in this rule within the proscribed timeliness may result in a civil monetary penalty not to exceed \$500,000, in the suspension or revocation of the hospital's license, the referral to CMS for sanctions under the medicare and medicaid program.

L. Penalties for Failure to Provide Proportional Services. Failure by an acute-care hospital or limited service hospital applying for licensure after January 1, 2003 to provide proportional services to nonpaying and low-income reimbursed patients, as required by this section, in any year following licensure, as determined from the information submitted annually by the hospital's chief executive officer and an independent certified public accountant may result in the Department's imposition of one or more of the following penalties:

(1) a department-directed or department approved plan of correction in which the hospital's failure to provide proportional services to nonpaying and low-income reimbursed patients is remedied in subsequent years through the additional provision of services to nonpaying and low-income reimbursed patients beyond the proportion established by the department for such years;

(2) a civil monetary penalty not to exceed \$500,000;

(3) suspension or revocation of the hospital's license; and

(4) referral to CMS for sanctions under the medicare and medicaid programs.

M. Annual Reporting: Acute-care hospitals or limited services hospitals licensed after January 1, 2003, and all acute-care hospitals in the local community, shall submit to the department on an annual basis a certified statement from an independent certified public accountant that sets out:

(1) the annual cost of care for emergency and general health care to nonpaying and low-income reimbursed patients;

(2) the annual net patient service revenue;

(3) the number of nonpaying and low-income reimbursed patients treated; and

(4) the total number of patients treated.

N. Physician Owner Disclosure of Financial Interest Requirements: Disclosure Required: The physician owner of a limited services hospital or an acute-care hospital initially licensed by the department at any time after January 1, 2003 shall not make a referral of a patient for the provision of health care items or services to such limited services hospital or the acute-care hospital unless, in advance of any such referral, the referring physician owner discloses to the patient the existence and the nature of physician's ownership interest.

O. The disclosure of financial interest by a physician owner, as required in this section, shall be made in writing, prior to or at the time of the referral, and shall be furnished to:

(1) the patient, or the patient's authorized representative, and

(2) the acute-care hospital or the limited services hospital licensed by the department at any time after January 1, 2003, in which the referring physician owner has a financial interest, for inclusion in the hospital's permanent patient's medical record; the acute-care hospital or the limited services hospital licensed by the department at any time after January 1, 2003 must permit inspection of the patient's medical record by authorized employees of the department to determine the hospital's compliance with this requirement, regardless of the hospital's deemed status.

P. The written disclosure of financial interest by a physician owner, as required in this section, shall include:

(1) the physician's name, address, and telephone number;

(2) the name and address of the limited services hospital or the acute-care hospital licensed by the department at any time after January 1, 2003 to which the patient is being referred by the physician;

(3) the nature of the items or services which the patient is to receive from the hospital to which the patient is being referred;

(4) the existence, nature and extent of the physician's financial interest in the hospital to which the patient is being referred; and

(5) a signed acknowledgement by the patient or the patient's authorized representative that the required disclosure has been furnished.

Q. To be approved by the New Mexico department of health, a hospital shall comply with these requirements and with all other applicable state laws and local ordinances. Staff of the hospital shall be licensed or registered, as appropriate, in accordance with applicable laws.

- R.** An application for licensure shall be submitted to the department on a form prescribed by the department. All applications must have the following information:
- (1) name of administrator or chief executive officer;
 - (2) type of facility to be operated and types of services that will be offered;
 - (3) location of the hospital; and
 - (4) statement of ownership which must include:
 - (a) the name and principle business address of each officer and director for the corporation;
 - (b) the name and business address of each stockholder owning 10 percent or more of the stock;
 - (c) copy of the current organizational chart; and
 - (d) such other information or documents as may be required by the department for the proper administration and enforcement of the licensing law and requirements.
- S.** The department shall review and make a determination on an application for licensure within 90 working days of receipt of the application.
- T.** Separate licenses shall be required for hospitals that are maintained on separate premises even though they are under the same management. This does not apply to outpatient departments or clinics of hospitals designated as such which are maintained and operated on separate premises within the same county or, if in another county, not to exceed a one hour drive time from the parent facility. Separate licenses shall not be required for separate buildings on the same grounds or adjacent grounds.
- U.** Applications submitted for proposed construction of new hospitals or additions to licensed hospitals shall include architectural plans and specifications.
- V.** Information contained in such applications shall be on file in the department and available to interested individuals and community agencies.
[7.7.2.8 NMAC - Rp, 7.7.2.8 NMAC, 06-15-04]

7.7.2.9 TYPES OF LICENSE:

- A. "Annual license":** an annual license is issued for a one-year period to a hospital that has met all requirements of these requirements.
- B. "Temporary license":** the licensing authority may, at its sole discretion, issue a temporary license prior to the initial state licensing survey, or when the licensing authority finds partial compliance with these requirements.
- (1) A temporary license shall cover a period of time, not to exceed 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 consecutive temporary licenses shall be issued.
- C. "Amended license":** a licensee must apply to the licensing authority for an amended license when there is any change of administrator, name, location, capacity, classification of any unit as listed in these requirements:
- (1) the application must be on a form provided by the licensing authority;
 - (2) application must be accompanied by the required fee for an amended license; and
 - (3) application must be submitted at least 10 working days prior to the change.
- [7.7.2.9 NMAC - Rp, 7.7.2.9 NMAC, 06-15-04]

7.7.2.10 LICENSE RENEWAL:

- A.** The licensee must submit a renewal application on forms provided by the licensing authority, along with the required fee prior to the expiration of the current license.
- B.** Upon receipt of the renewal application and the 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 requirements.
[7.7.2.10 NMAC - Rp, 7.7.2.10 NMAC, 06-15-04]

- 7.7.2.11 POSTING:** The license, or a copy thereof, shall be conspicuously posted in a location accessible to public view within the hospital.
[7.7.2.11 NMAC - Rp, 7.7.2.11 NMAC, 06-15-04]

7.7.2.12 NON-TRANSFERABLE REGISTRATION OF 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 hospital changes;
- B. the facility changes location;
- C. the licensee of the hospital changes; or
- D. the hospital discontinues operation.

[7.7.2.12 NMAC - Rp, 7.7.2.12 NMAC, 06-15-04]

7.7.2.13 EXPIRATION OF LICENSE: A license will 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; or
- B. on the day a facility is sold, leased, or otherwise changes ownership and/or licensee; or
- C. on the day a facility changes location.

[7.7.2.13 NMAC - Rp, 7.7.2.13 NMAC, 06-15-04]

7.7.2.14 SUSPENSION OF LICENSE WITHOUT PRIOR HEARING: In accordance with 24-1-5 (H), NMSA 1978, if the licensing authority determines immediate action is required to protect human health and safety, the licensing authority may suspend a license. A hearing must be held in accordance with the regulations governing adjudicatory hearings, New Mexico department of health, 7 NMAC 1.2. [Recompiled as 7.1.2 NMAC]

[7.7.2.14 NMAC - Rp, 7.7.2.14 NMAC, 06-15-04]

7.7.2.15 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 denied, revoked or suspended, 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 provisions of these requirements;
- B. failure to allow survey by authorized representatives of the licensing authority;
- C. permitting any person while active in the operation of a facility licensed pursuant to these requirements to be impaired by the use of prescribed or non-prescribed drugs, including alcohol;
- D. misrepresentation or falsification of any information provided to the licensing authority;
- E. the discovery of repeat violations of these requirements during surveys; or
- F. the failure to provide the required care and services as outlined by these requirements.

[7.7.2.15 NMAC - Rp, 7.7.2.15 NMAC, 06-15-04]

7.7.2.16 HEARING PROCEDURES:

- A. An applicant or licensee subject to an adverse action may request an administrative appeal.
- B. Hearing procedures for an administrative appeal of an adverse action taken by the licensing authority against the hospital as outlined in Section 14 and 15 above will be held in accordance with adjudicatory hearings, New Mexico department of health, 7 NMAC 1.2. [Recompiled as 7.1.2 NMAC]
- C. A copy of the adjudicatory hearing procedures will be furnished to the hospital at the time an adverse action is taken against the licensee by the licensing authority. A copy may be requested at any time by contacting the licensing authority.

[7.7.2.16 NMAC - Rp, 7.7.2.16 NMAC, 06-15-04]

7.7.2.17 WAIVERS AND VARIANCES:

A. Applications: All applications for the grant of a waiver or variance shall be made in writing to the licensing authority, specifying the following:

- (1) the rule from which the waiver or variance is requested;
- (2) the time period for which the waiver or variance is requested;
- (3) if the request is for a variance, the specific alternative action which the facility proposes;
- (4) the reasons for request; and
- (5) an explanation of why the health, safety, and welfare of the residents or staff are not endangered by the condition.

B. Requests for a waiver or variance may be made at any time.

C. The licensing authority may require additional information from the hospital prior to acting on the request.

(1) **Grants and Denials:** The licensing authority shall grant or deny each request for waiver or variance in writing. Notice of a denial shall contain the reasons for denial. The decisions to grant, modify, or deny a request for a waiver or variance is subject to appeal one time only.

(2) The terms of a requested variance may be modified upon agreement between the licensing authority and the hospital.

D. The licensing authority may impose whatever conditions on the granting of a waiver or variance it considers necessary.

E. The licensing authority may limit the duration of any waiver.
[7.7.2.17 NMAC - Rp, 7.7.2.17 NMAC, 06-15-04]

7.7.2.18 GOVERNING BODY:

A. General Requirements. The hospital shall have an effective governing body, which is legally responsible for the management and provision of all hospital services, maintenance of the hospital services and the quality thereof.

B. Responsibilities. By-laws. The governing body shall adopt by-laws. The by-laws shall be in writing and shall be available to all members of the governing body as well as the public. The by-laws shall:

(1) stipulate the basis upon which members are selected, their terms of office and their duties and requirements;

(2) specify to whom responsibilities for operation and maintenance of the hospital, including evaluation of hospital practices, may be delegated, and the methods established by the governing body for holding these individuals responsible;

(3) require a physician owner or other provider to disclose to the patient or the patient's representative and document for the patient's medical record a financial interest in the hospital before referring a patient to the hospital;

(4) provide for the designation of officers, if any, their terms of office and their duties, and for the organization of the governing body;

(5) specify the frequency with which meetings shall be held;

(6) allow for the organization of committees, either standing or ad hoc, to assist the board in carrying out their responsibilities;

(7) provide for the appointment of members of the medical staff; and

(8) provide mechanisms for the formal approval of the organization, by-laws and rules of the medical staff.

C. Meetings.

(1) The governing body shall meet at regular intervals as stated in its by-laws.

(2) Meetings shall be held frequently enough for the governing body to carry on necessary planning for growth and development and to evaluate the performance of the hospital, including the care utilization of physical and financial assets and the delegation to the CEO/administrator for the hiring and direction of personnel.

(3) Minutes of meetings shall reflect pertinent business conducted.

D. Committees.

(1) The governing body shall appoint committees. There shall be an executive committee and others as allowed by bylaws.

(2) The number and types of committees shall be consistent with the size and scope of activities of the hospital

(3) The executive committee or the governing body as a whole shall establish operating guidelines for the activities and general policies of the various hospital services and committees established by the governing body.

(4) Written minutes, or reports, which reflect business conducted by the executive committee shall be maintained for review by the governing body.

(5) Other committees, which may include finance, joint conference, quality improvement and plant and safety management committees, shall function in a manner consistent with their duties assigned by the governing body and shall maintain written minutes or reports which reflect the performance of these duties. If the governing body does not appoint a committee for a particular area, a member or members of the governing body shall assure the performance of the duties normally assigned to a committee for that area.

E. Medical Staff Liaison. The governing body shall establish a formal means of liaison with the medical staff by a joint conference committee or by other means as follows:

(1) a direct and effective method of communication with the medical staff shall be established on a formal, regular basis, and shall be documented in written minutes or reports which are distributed to designated members of the governing body and the active medical staff; and

(2) liaison shall be a responsibility of the joint conference committee or its equivalent and the executive committee for designated members of the governing body.

F. Medical Staff Appointments. The governing body shall appoint members of the medical staff in accordance with the approved medical staff by-laws.

(1) A formal procedure shall be established, governed by written rules covering application for medical staff membership and the method of processing applications.

(2) The procedure related to the submission and processing of applications shall involve the chief executive officer/administrator, the credentials committee of the medical staff or its equivalent, and the governing body.

(3) Action taken by the governing body on applications for medical staff appointments shall be in writing; and available to the licensing authority during surveys or complaint investigations.

(4) Written notification of applicants shall be made by either the governing body or its designated representative.

(5) Applicants selected for medical staff appointment shall sign an agreement to abide by the medical staff rules and by-laws.

(6) The governing body shall establish a procedure for appeal and hearing by the governing body or a designated committee if the applicant or the medical staff wishes to contest the decision on an application for medical staff appointments.

G. Appointment of chief executive officer/administrator. The governing body shall appoint an administrator or a chief executive officer/administrator for the hospital. The governing body shall review the performance of the chief executive officer/administrator at least annually.

H. Patient Care. The governing body shall establish a policy, which requires that every patient be under the care of a licensed, independent practitioner as determined by the medical staff and governmental body.

I. Physical Plant Requirements. The governing body shall be responsible for providing a physical plant equipped and staffed to maintain the needed facilities and services for patients.

J. Risk Management. The facility shall have a risk management program. State, county or city facilities must have a risk management plan in accordance with the general services department rules.

K. Discharge Planning.

(1) The governing body shall assure that the hospital maintains an effective, ongoing program coordinated with community resources to facilitate the provision of appropriate follow-up care to patients who are discharged.

(2) The hospital shall have current information on community resources available for continuing care of discharged patients.

(3) The discharge planning program shall:

(a) have a mechanism to identify patients who require discharge planning to provide continuity of medical care to meet their identified needs;

(b) initiate discharge planning in a timely manner;

(c) identify the role of the patient's provider, nursing staff, social work staff, other appropriate staff, the patient, and the patient's family or representative in the initiation and implementation of the discharge planning process;

(d) assure documentation in the medical record of the discharge plan;

(e) allow for the timely and effective transmittal of all medical, social, economic information concerning the patient to persons responsible for subsequent care of the patient;

(f) provide that every patient, or their legal representatives, receive relevant information concerning their health needs and is involved in his or her own discharge planning; and

(g) be reviewed at least once a year to evaluate effectiveness.

[7.7.2.18 NMAC - Rp, 7.7.2.18 NMAC, 06-15-04]

7.7.2.19 POLICIES: Every hospital shall have written policies approved by the governing board and shall include provisions for implementation, and for access by the patient, on:

A. Patient rights and responsibilities: a list of these patient rights and responsibilities shall be available in languages appropriate to the ethnic needs of the community;

(1) The policies on patient rights and responsibilities shall provide that:

(a) patients may not be denied appropriate hospital care because of the patient's race creed, color, national origin, religion, sex, sexual orientation, marital status, age, disability or source of payment;

(b) patients shall be treated with consideration, respect, and recognition of their individuality, including the need for privacy in treatment;

(c) the individual patient's medical records, including all computerized medical information, shall be kept confidential in accordance with applicable federal, state and local laws;

(d) the patient or any person authorized by statute or in writing by the patient shall have access to the patient's medical record but access to patient's psychiatric records may be limited by treating professionals when specific hospital policies specify requirements for limiting access;

(e) every patient shall be entitled to know who has overall responsibility for the patient's care;

(f) every patient, legally authorized person or any person authorized in writing by the patient, shall receive, from the appropriate person within the facility, information about his illness, course of treatment and prognosis for recovery in terms the patient can understand;

(g) every patient, or his designate representative, where appropriate, shall have the opportunity to participate to the fullest extent possible in planning for his care and treatment;

(h) every patient, or his designated representative, shall be given, at the time of admission, a copy of the patient's rights and responsibilities;

(i) except in emergencies, the consent of the patient, or their legally authorized representative, shall be obtained before treatment is administered;

(j) any patient may refuse treatment to the extent permitted by law and shall be informed of the medical consequences of the refusal;

(k) the patient, the patient's legally authorized representative, or person granted the power to authorize medical treatment, shall be fully informed and give consent for the patient's participation in any form of research or experimentation;

(l) except in emergencies, the patient may be transferred to another facility only with a full explanation of the reason for the transfer, provision for continuing care; and acceptance by the receiving institution;

(m) every patient may examine and receive an explanation of the patient's hospital bill regardless of source of payment, and may receive upon request, information relating to financial assistance available through the hospital;

(n) every patient shall be informed of his responsibility to comply with hospital rules, cooperate in the patient's own treatment, provide a complete and accurate medical history, be respectful of other patients, staff and property, and provide required information concerning payment of charges;

(o) every patient shall be informed in writing about the hospital's policies and procedures for initiation, review and resolution of patient complaints, including the address where complaints may be filed with the department;

(p) every patient shall be allowed to designate who may be permitted to visit during the hospital stay in accordance with the hospital policy; and

(q) every patient shall have freedom from physical or verbal abuse, harassment and inappropriate physical and chemical restraints;

(r) hospitals must be in compliance with CMS's patient rights condition of participation.

(2) The policies on patient rights and responsibilities shall also provide that patients who receive treatment for mental illness, or developmental disability, in addition to the rights listed herein, have the rights provided in section 43-1-6 NMSA 1978.

(3) Hospital staff assigned to provide direct patient care shall be informed of, and demonstrate their understanding of, the policies on patient rights and responsibilities through orientation and appropriate in-service training activities.

B. Movement of visitors: the hospital shall develop policies regarding the movement of visitors, which provide for infection control and patient privacy, but also allow the patient appropriate freedom as to the time, nature, and location of visit.

C. Use of volunteers:

(1) the scope of volunteer activities shall be delineated in hospital policies and procedures;

(2) volunteers may assist with patient care only under direct supervision of appropriate hospital personnel and after appropriate, documented in-service training; volunteers may not perform procedures permitted only by a licensed health care provider;

(3) no volunteer under 16 years of age may assist with or render direct patient care.

D. Identification: the hospital shall develop a method to identify employees, patients, personnel records and patient files.

E. Cancer reporting: every hospital shall report to the tumor registry all malignant neoplasms that are diagnosed by the hospital and all malignant neoplasm's diagnosed elsewhere if the individual is subsequently admitted to the hospital; the report of each malignant neoplasm shall be made on a form prescribed or approved by the department and shall be submitted to the UNM tumor registry within six months after the diagnosis is made or within six months after the individual's first admission to the hospital if the neoplasm is diagnosed elsewhere, as appropriate; in this paragraph, "malignant neoplasm" means an in situ or invasive tumor of the human body, but does not include a squamous cell carcinoma or basal cell carcinoma arising in the skin.

F. Post - mortem examinations:

(1) the hospital shall have policies for notifying all personnel of special handling needs during post-mortem procedures;

(2) the hospital shall have policies for the release of a deceased human body to a funeral director or other authorized person.

G. Tagging of bodies: all deceased human bodies to be removed from a hospital shall be tagged by staff of the hospital; a red tag shall be used to indicate the possibility of the presence of the communicable or infectious disease or radioactive materials. If the body is in a container, a tag shall also be applied to the outside of the container.

H. Autopsy: reports are to be distributed to the primary provider and become part of the patient's clinical record.

I. Withholding of resuscitative services from patients;

(1) a policy shall be developed in consultation with the medical staff, nursing staff, and other appropriate bodies and shall be adopted by medical staff and approved by the governing body. The policy shall describe:

(a) a mechanism(s) for reaching decisions about the withholding of resuscitative services from individual patients;

(b) the mechanism(s) for resolving conflicts in decision making, should they arise;

(c) the roles of physicians and, when applicable, of nursing personnel, other appropriate staff, and family members in the decision to withhold resuscitative services;

(d) provisions designed to assure that patients' rights are respected when decisions are made to withhold resuscitative services;

(e) a requirement that patients, or their legal representative(s), and family members must be afforded the opportunity to make their wishes known about decisions affecting the patient's end of life care;

(f) a requirement that appropriate orders be written by the physician or other licensed independent practitioners primarily responsible for the patient and that documentation be made in the patient's medical record.

(2) a decision to withhold resuscitative services does not absolve the hospital from providing basic patient care.

J. Anatomical gifts: a policy shall be adopted and implemented for organ and tissue donation in accordance with section 7.7.2.41 NMAC; the policy shall include procedures to assist the medical, surgical and nursing staff in identifying, evaluating and reporting potential organ and tissue donors.

K. Reporting: a policy for compliance with all applicable state and federal reporting requirements must be adopted and updated as necessary; such federal requirements include but are not limited to the New Mexico health policy commission, the national practitioner data bank and the healthcare integrity and protection data bank. [7.7.2.19 NMAC - Rp, 7.7.2.19 NMAC, 06-15-04]

7.7.2.20 CHIEF EXECUTIVE OFFICER/ADMINISTRATOR:

A. Appointment. The hospital shall be directed by a chief executive officer/administrator. The chief executive officer/administrator shall be appointed by the governing body, shall be responsible for the management of the hospital and shall provide liaison among the governing body, medical staff, nursing services and other services of the hospital.

B. Qualification. The chief executive officer/administrator shall:

- (1) be a college or university graduate from an accredited college or university, with three years of experience in a health care facility; or
- (2) possess a college or university graduate degree in hospital, health care administration, or an advanced degree such as an MPH or an MBA with a health concentration; or
- (3) have been hired and be acting in the capacity of the facility's chief executive officer/administrator before the effective date of these requirements.

C. Responsibilities. The chief executive officer/administrator shall:

- (1) keep the governing body fully informed about the quality of patient care, the management and financial status of the hospital, survey results and the adequacy of physical plant, equipment and personnel;
- (2) organize the day-to-day functions of the hospital;
- (3) establish formal means of staff evaluation and accountability on the part of subordinates to whom duties have been assigned;
- (4) provide for the maintenance of an accurate, current and complete personnel record for each hospital employee;
- (5) ensure that there is sufficient communication among the governing body, medical staff, nursing services and other services, hold interdepartmental and departmental meetings, where appropriate, attend or be represented at the meetings on a regular basis, and report to the governing body on the pertinent activities of the hospital;
- (6) provide the department with any information required to document compliance with the Public Health Act, Section 24-1-1 et seq., NMSA 1978, and provide reasonable means for examining records and gathering the information;
- (7) be responsible for the preparation of policies and procedures on the withholding of resuscitative services from patients.

[7.7.2.20 NMAC - Rp, 7.7.2.20 NMAC, 06-15-04]

7.7.2.21 EMPLOYEE HEALTH: The hospital shall have an employee health program under the direction of a physician, an authorized licensed independent practitioner or professional registered nurse, which shall include.

A. Post Hiring Health Screen. A post hiring health screening shall be required for all employees and persons who will have frequent and direct contact with patients. The assessment shall be completed and the results known prior to the assumption of duties by persons who will have direct contact with patients. The screening shall include:

- (1) a health history, including a history of communicable diseases and immunizations;
- (2) a PPD tuberculin skin test and, if necessary, a chest roentgenogram to determine whether disease is present, unless medically contra-indicated.

B. Health History for Volunteers. A health history of communicable diseases and immunizations shall be obtained prior to any volunteer assuming duties that involve direct patient care.

C. Protection against Rubella. Vaccination or confirmed immunity against rubella shall be required for everyone who has direct contact with rubella patients, pediatric patients or female patients of childbearing age. No individual without documented vaccination against or immunity to rubella may be placed in a position in which he or she has direct contact with rubella patients, pediatric patients or female-patients of childbearing age.

[7.7.2.21 NMAC - Rp, 7.7.2.21 NMAC, 06-15-04]

7.7.2.22 INFECTION CONTROL.

A. **Program.** The hospital shall have an infection control program designed to reduce the number of infections, including nosocomial infections, within the hospital.

B. **Program Approval.**

(1) Purpose: The governing body or medical staff shall approve an infection control program to carry out surveillance and investigation of infections in the hospital and to implement measures designed to reduce these infections to the extent possible.

(2) Responsibilities: The infection control program shall:

- (a) establish techniques and systems for discovering and isolating infections occurring in the hospital;
- (b) establish written infection control policies and procedures which govern the use of aseptic technique and procedures in all areas of the hospital;

(c) establish a method of control used in relation to the sterilization of supplies and solutions. There shall be a written policy requiring identification of sterile items and specified time periods in which sterile items shall be reprocessed;

(d) establish policies specifying when employees or persons providing contractual services with infections or contagious conditions, including carriers of infectious organisms, shall be relieved from, or reassigned duties, until there is evidence that the disease or condition poses no significant risk to others;

(e) at least annually assess effectiveness of the infection control process; and

(f) establish effective guidelines for the disposition of infectious materials in accordance with the local, state and federal guidelines.

C. Education: The hospital shall provide training to all appropriate hospital personnel on the epidemiology, etiology, transmission, prevention and elimination of infection, as follows.

(1) Aseptic technique: All appropriate personnel shall be educated in the practice of aseptic techniques such as hand-washing and scrubbing practices, standard precautions, personal hygiene, masking and dressing techniques, disinfecting and sterilizing techniques and the handling and storage of patient care equipment and supplies, to include the handling of needles and sharp instruments.

(2) Orientation and in-service: New employees shall receive appropriate orientation and on-the- job training, and all employees shall participate in a continuing in-service program. The participation shall be documented.

D. General Infection Control Provisions.

(1) There shall be regular inspection and cleaning of air intake sources, screens and filters, with special attention given to high risk areas of the hospital as determined by the infection control committee.

(2) A sanitary environment shall be maintained to avoid sources and transmission of infection.

(3) Proper facilities shall be maintained, and techniques used, for disposal of infectious wastes, as well as sanitary disposal of all other wastes.

(4) Hand-washing facilities shall be provided in patient care areas for the use of hospital personnel.

(5) Sterilizing services shall be available at all times.

(6) Soiled linen shall be contained and secured at the point generated. It can be transported to a designated area or cleaning facilities. No special precautions beyond the standard precautions are necessary. Soiled bed linen shall be placed immediately in a container available for this purpose and sent to the laundry promptly.

(7) Tuberculosis exposure control plan.

(a) A program to minimize the risk of infectious tuberculosis among or between health care workers, patients, or visitors and others shall be developed.

(b) This program shall include: a comprehensive facility-wide risk assessment, early identification, isolation, and treatment of potentially infectious tuberculosis patients, effective engineering controls to prevent the spread, and reduce the concentration of, infectious droplet nuclei, a written, respiratory protection program to protect health care workers from exposure, education, counseling, and screening processes for health care workers.

E. Reporting Disease: Hospitals shall report cases and suspected cases of reportable communicable disease to local public health offices and to the office of epidemiology in Santa Fe pursuant to New Mexico regulations governing the control of disease and conditions of public health significance, New Mexico department of health, 7 NMAC 4.3, [Recompiled as 7.4.3 NMAC] or any superceding regulation.

F. There shall be written policies and procedures pertinent to care of patients with communicable diseases that shall include standard precautions.

(1) These policies and procedures shall be developed by administrative, medical, and nursing staff.

(2) The policies and procedures shall be applicable within the hospital, designed to ensure safe and adequate care to patients, safety to hospital employees, and consistent with applicable laws and regulations.

(3) Policies shall be made known to, and readily available to all hospital employees as well as the medical and nursing staff, and shall be followed in the care of patients, and shall be kept current by periodic review and revision.

[7.7.2.22 NMAC - Rp, 7.7.2.22 NMAC, 06-15-04]

7.7.2.23 QUALITY IMPROVEMENT:

A. Responsibility of the Governing Body: The governing body shall ensure that the hospital has a written quality improvement program for monitoring, evaluating and improving the quality of patient care and the ancillary services in the hospital on an on-going basis. The program shall promote the most effective and efficient

use of available health facilities and services consistent with patient needs and professionally recognized standards of health care.

B. Responsibilities of the Chief Executive Officer/Administrator and the Chief of the Medical Staff. As part of the quality improvement program, the chief executive officer/administrator and chief of the medical staff shall ensure that:

- (1) the hospital's quality improvement program is implemented and evaluated for effectiveness for all patient care and all services;
- (2) the findings of the program are incorporated into a well defined method of assessing staff performance in relation to patient care and the provision of services; and
- (3) program findings, actions and results of the hospital's quality improvement program are reported to the chief executive officer/administrator, chief of medical staff and governing body not less than annually.

C. Evaluation of Care to be Problem-Focused.

- (1) Monitoring and evaluation of the quality of care given patients and services provided shall focus on identifying patient care problems and opportunities for improving patient care.
- (2) Evaluation of care and services shall be problem-focused whenever serious events occur which have a major impact on patient care and services, or when the hospital receives a quality-of-care concern or complaint.

D. Evaluation of Care and Services to use variety of sources. The quality of care given patients shall be evaluated using a variety of data sources, including, but not limited to, medical records, hospital information systems, published research, literature comparison, peer review organization data, patient satisfaction findings, and when available, third party information.

E. Activities. Hospitals shall document how each of the monitoring and evaluation activities has produced data used to institute changes to improve quality of care or services and promote more efficient use of facilities and services. Quality improvement activities shall:

- (1) emphasize identification and analysis of patterns of patient care and suggest possible changes for maintaining consistently high quality care and effective and efficient use of services;
- (2) identify and analyze factors related to the patient care rendered in the facility and, where indicated, make recommendations to the governing body, chief executive officer/administrator and chief of the medical staff for changes that are beneficial to patients, staff, the facility and the community; and
- (3) document the monitoring and evaluation activities performed and indicate how the results of these activities have been used to institute changes to improve the quality and appropriateness of the care provided.

F. Evaluation of the program. The chief executive officer/administrator and chief of medical staff shall be involved in evaluation of the effectiveness of the quality improvement program which is evaluated by clinical and administrative staff at least once a year and that the results are communicated to the governing body. [7.7.2.23 NMAC - Rp, 7.7.2.23 NMAC, 06-15-04]

7.7.2.24 UTILIZATION MANAGEMENT:

A. Plan: Every hospital shall have in operation a written utilization management plan designed to ensure that quality patient care is provided in the most appropriate manner. The plan should address potential over and under utilization as well as the efficient use of resources for patients.

(1) Description of Plan. The written utilization management plan shall include at a minimum at least the following:

- (a) a delineation of the responsibilities and authority of those involved in the performance of utilization management activities, including utilization management personnel, administrative personnel, and, when applicable, any qualified outside organization contracting to perform review activities specified in the plan;
- (b) a conflict of interest statement stating that reviews may not be conducted by any person who has a proprietary interest in any hospital or by any person who was professionally involved in the care of the patient whose case is being reviewed;
- (c) a confidentiality policy applicable to all utilization management activities, including any findings and recommendations;
- (d) a description of the process by which the hospital identifies and resolves utilization related problems, including the appropriateness and medical necessity of admissions, continued stays, and supportive services, as well as delays in the provision of supportive services; and
- (e) the following activities shall be incorporated into the process: analysis of profiles and patterns of care, feedback of results of profile analysis to the medical staff, documentation of specific actions taken

to correct aberrant practice patterns or other utilization management problems, and evaluation of the effectiveness of action taken.

(2) The plan must include the procedures for conducting review, including the time period within which the review is to be performed following admission and in assigning continued stay review dates.

(3) A mechanism for the provision of discharge planning as set forth under these requirements must be included.

(4) Responsibility for performance. The plan shall be approved by the medical staff, administration and governing body. Hospital administration shall assure the effective implementation of the plan.

B. Conduct of Review.

(1) Written measurable criteria that have been approved by the medical staff shall be utilized when performing reviews.

(2) Non-physician health care professionals may participate in the development of review criteria and conduct of review relative to services provided by their peers.

(3) Determinations regarding the medical necessity and appropriateness of care provided shall be based upon information documented in the medical record. The medical staff member primarily responsible for the patient's care shall be notified whenever it is determined that an admission or continued stay is not medically necessary, and shall be afforded the opportunity to present his or her own views before a final determination is made. At least two medical staff members shall make a determination when the medical staff member primarily responsible for the patient's care disagrees.

(4) Different rules may apply to beneficiaries of, or enrollees in, plans which provide medicare or medicaid services. If the hospital is a member of, or has a contractual relationship with, a risk bearing entity, and such risk bearing entity has a contract with CMS or with the New Mexico medicaid authority (single state agency), then the applicable federal or state requirements shall apply to enrollees under such a plan.

(5) Written notice of any decision that an admission or continued stay is not medically necessary shall be given to the appropriate hospital department, the medical staff member primarily responsible for care of the patient and the patient no later than 72 hours after the determination.

C. Records and Reporting: Records shall be kept of hospital utilization management recommendations made to the medical staff and to the governing body as necessary. Recommendations relevant to hospital operations or administration shall be reported to administration.

[7.7.2.24 NMAC - Rp, 7.7.2.24 NMAC, 06-15-04]

7.7.2.25 MEDICAL STAFF:

A. General Requirements:

(1) Organization and accountability: The hospital shall have a medical staff organized under by-laws approved by the governing body. The medical staff shall be responsible to the governing body of the hospital for the quality of all medical care provided patients in the hospital and for the ethical and professional practices of its members.

(2) Responsibility of members: Members of the medical staff shall comply with medical staff and hospital policies. The medical staff by-laws shall prescribe disciplinary procedures for infraction of hospital and medical staff policies by members of the medical staff. There shall be evidence that the disciplinary procedures are applied where appropriate.

B. Membership.

(1) Active Staff: A hospital shall have an active medical staff, which performs all the organizational duties pertaining to the medical staff. Active staff membership shall be limited to individuals, as defined in Subsection AG of 7.7.2.7 NMAC of these requirements, who are currently licensed. Individuals may be granted membership in accordance with the medical staff by-laws and rules, and in accordance with the by-laws of the hospital.

(2) Other staff: The medical staff may include one or more categories defined in the medical staff by-laws in addition to the active staff.

C. Appointment.

(1) Governing body responsibilities:

(a) medical staff appointments shall be made by the governing body, taking into account recommendations made by the active medical staff;

(b) the governing body shall biennially ensure that members of the medical staff are qualified legally and professionally for the position to which they are appointed;

(c) the hospital, through its medical staff, shall require applicants for medical staff membership to provide, in addition to other medical staff requirements, a complete list of all hospital medical staff memberships held within five years prior to application; and

(d) hospital medical staff applications shall require reporting any malpractice action, any previously successful and currently pending challenges to licensure in this or another state, and any loss or pending action affecting medical staff membership or privileges at another hospital.

(2) Medical staff responsibilities:

(a) to select its members and delineate their privileges, the hospital medical staff shall have a system, based on specific standards for evaluation of each applicant by a credentials committee, which makes recommendations to the medical staff and to the governing body; and

(b) the medical staff may include one or more categories of medical staff defined in the medical staff by-laws in addition to the active medical staff, but this in no way modifies the duties and responsibilities of the active staff.

D. Criteria for appointment.

(1) Criteria for selection shall include the individual's current licensure, health status, professional performance, judgment and clinical and technical skills.

(2) All qualified candidates shall be considered by the credentials committee.

(3) Re-appointments shall be made at least biennially and recorded in the minutes or files of the governing body. Reappointment policies shall provide for a periodic appraisal of each member of the staff, including consideration at the time of reappointment of information concerning the individual's current licensure, health status, professional performance, judgment and clinical and technical skills. Recommendations for re-appointments shall be noted in the minutes of the meetings of the appropriate committee.

(4) Temporary staff privileges may be granted for a limited period if the individual is qualified for membership on the medical staff.

(5) A copy of the scope of privileges to be accorded the individual shall be distributed to appropriate hospital staff. The privileges of each staff member shall be specifically stated or the medical staff shall define a classification system. If a system involving classifications is used, the scope of the categories shall be well defined, and the standards that must be met by the applicant, shall be clearly stated for each category.

(6) If other categories of staff membership are to be established for allied health personnel, the necessary qualifications, privileges and rights shall be delineated in accordance with the medical staff by-laws.

E. Consultations.

(1) The medical staff must have established policies concerning the holding of consultations.

(2) Except in an emergency, consultations are required when:

(a) the patient is not a good medical or surgical risk;

(b) the diagnosis is obscure;

(c) there is doubt as to the best therapeutic measures to be utilized; or

(d) when the patient, or legally authorized person, requests such consultation.

(3) Consultations must be included in the medical record. When operative procedures are involved, the consultation note, except in an emergency, shall be recorded prior to the operation.

(4) The patient's physician or authorized licensed independent practitioner is responsible for requesting consultations when indicated. It is the duty of the medical staff to make certain that members of the medical staff contact consultants as needed.

F. By-Laws.

(1) Adoption and Purpose: By-laws shall be adopted by the medical staff and approved by the governing body to govern and enable the medical staff to carry out its responsibilities. The by-laws of the medical staff shall be a precise and clear statement of the policies under which the medical staff regulates itself.

(2) Content: Medical staff by-laws and rules shall include:

(a) a descriptive outline of the medical staff organization;

(b) a statement of the necessary qualifications which each member must possess to be privileged to work in the hospital, and of the duties and privileges of each category of medical staff;

(c) a procedure for granting or withdrawing privileges to each member; and an appeal process for privilege withdrawal or refusal;

(d) a mechanism for appeal of decisions regarding medical staff membership and privileges;

(e) provision for regular meetings of the medical staff;

(f) provision for keeping timely, accurate and complete records;

- (g) provisions for routine examination of all patients upon admission and recording of the preoperative diagnosis prior to surgery;
- (h) a stipulation that a surgical operation is permitted only with the consent of the patient or legally authorized person except in emergencies;
- (i) statements concerning the request for the performance of consultations, and instances where consultations are require; and
- (j) a statement specifying categories of personnel duly authorized to accept and implement medical staff orders.

G. Governance.

- (1) The medical staff shall have the numbers and kinds of officers necessary for the governance of the staff.
- (2) Officers shall be members of the active staff and shall be elected by the active medical staff.

H. Meetings.

- (1) Number and frequency: The number and frequency of medical staff meetings shall be determined by the active medical staff and clearly stated in the by-laws of the medical staff. At a minimum the executive committee of the medical staff shall meet at least quarterly.
- (2) Attendance: Attendance records shall be kept of medical staff meetings. Attendance requirements for each individual member shall be clearly stated in the by-laws of the medical staff.
- (3) Purpose: Full medical staff meetings shall be held to conduct the general business of the medical staff and to review the significant findings identified through the quality improvement program.
- (4) Minutes: Minutes of all meetings shall be kept.

I. Committees.

- (1) Establishment: The medical staff shall establish committees of the medical staff and is responsible for their performance.
- (2) Executive committee: The medical staff shall have an executive committee to coordinate the activities and general policies of the various departments, act for the staff as a whole under limitations that may be imposed by the medical staff bylaws, and receive and act upon the reports of all other medical staff committees.

J. Administrative Structure: Hospitals may create services to fulfill medical staff responsibilities. Services are responsible for the quality of care rendered to patients under their care.
[7.7.2.25 NMAC - Rp, 7.7.2.25 NMAC, 06-15-04]

7.7.2.26 NURSING SERVICES:

A. Requirement: The hospital shall provide a 24-hour nursing service, supervised by a professional registered nurse, and have a licensed practical nurse or professional registered nurse on duty at all times.

B. Administration.

- (1) The nursing services shall be directed by a professional registered nurse with appropriate education and experience to direct the service. A professional registered nurse with administrative authority shall be designated to act in the absence of the director of the nursing services. Appropriate administrative staffing shall be provided on all shifts.
- (2) There shall be a written plan showing the flow of authority throughout the nursing service, with delineation of the responsibilities and duties of each category of nursing staff.
- (3) The delineation of responsibilities and duties for each category of the nursing staff shall be in the form of a written job description for each category.

C. Staffing.

- (1) An adequate number of professional registered nurses shall be on duty at all times to meet the nursing care needs of the patients. There shall be qualified supervisory personnel for each service or unit to ensure adequate patient care management.
- (2) The number of nursing personnel for all patient care services of the hospital shall be consistent with the nursing care needs of the hospital's patients.
- (3) The staffing pattern shall ensure the availability of professional registered nurses to assess, plan, implement and direct the nursing care for all patients on a 24-hour basis.

D. Patient Care.

- (1) Care planning:
 - (a) All nursing care shall be planned and directed by professional registered nurses. A professional registered nurse shall be on duty and immediately available to give direct patient care when needed.

(b) A professional registered nurse shall be available at all times to render direct care in the facility.

(2) Care determinants:

(a) A professional registered nurse shall assign the nursing care of each patient to other nursing personnel in accordance with the patient's needs and the preparation and competence of the available nursing staff.

(b) The ratio of licensed nursing personnel to patients shall be determined by the acuity of patients, the patient census, and complexity of care that must be provided.

(c) A professional registered nurse shall plan, supervise and evaluate the care of all patients, including the care assigned to licensed practical/vocational nurses and non-licensed care givers.

(d) There shall be other nursing personnel in sufficient numbers to provide nursing care not requiring the services of a professional registered nurse.

(3) Special care units: Areas providing specialized nursing care shall be well defined by policies and procedures specific to the nursing services provided. These areas may include, but shall not be limited to, intensive care, coronary care, obstetrics, nursery, renal units, burn units, and emergency rooms.

(a) Specific policies and procedures shall supplement basic hospital nursing policies and procedures. Nursing policies and procedures of special care units shall keep pace with best practice and new knowledge and shall include but not be limited to: protocols for resuscitation and disaster situations, immediate availability of emergency equipment and drugs, appropriate and safe storage of pharmaceuticals and biologicals, programs for maintenance and safe operation of all equipment, appropriate infection-control measures, control of visitors and non-essential personnel, and documentation of quality improvement.

(b) Special-care unit nursing services shall be integrated with other hospital departments and services.

(c) Supervision of nursing care in the unit shall be provided by a professional registered nurse with relevant education, training, experience, and demonstrated current competence.

(d) All nursing personnel shall be prepared for their responsibilities in the special-care unit through appropriate orientation, ongoing in-service training, and continuing education programs. Each hospital shall have a planned, formal training program for all nurses and shall be of sufficient duration and substance to cover all patient-care responsibilities in the special care unit.

E. Staff Qualifications.

(1) Individuals selected for the nursing staff shall be qualified by education, experience, and current competence for the positions to which they are appointed.

(2) The education and experience qualifications of the director of nursing supervisors, and other medical professionals shall be commensurate with the scope and complexity of the services of the hospital.

(3) The functions and qualifications of nursing personnel shall be clearly defined in relation to the duties and responsibilities delegated to them.

(4) Personnel records, including application forms and verifications of current licensure and credentials, shall be on file.

(5) Nursing management shall make decisions about the selection and promotion of nursing personnel based on their qualifications and capabilities and shall recommend the termination of employment when necessary.

(6) Approval: There shall be a policy and procedure to ensure that hospital nursing personnel for whom registration, a license or other approval is required by law shall have valid and current registration, licensure or other approval.

F. Evaluation and Review of Nursing Care: There shall be a review and evaluation of the nursing care provided for patients. There shall be written nursing care procedures and plans of care.

(1) Responsible staff: A licensed professional registered nurse shall plan, supervise, and evaluate the nursing care for each patient.

(2) The director of nursing is responsible for the effective use of care plans by the nursing staff.

(3) Nursing care plan: Nursing care plans shall be kept current. Plans shall indicate nursing care needed, how it is to be accomplished, and methods, approaches, and modifications necessary to obtain best results for patients.

(4) Nursing notes: Nursing notes shall be legible, informative and descriptive of the nursing care given and include information and observations of significance so that they contribute to the continuity of patient care.

G. Orientation and In-Service.

(1) There shall be a comprehensive and thorough employee orientation program for all nursing services personnel.

(2) The facility shall provide orientation to nursing services personnel before they provide care to patients.

H. Hospital Relationships.

(1) General: The nursing service shall have well-established working relationships with the medical staff and with other hospital staff that provide and contribute to patient care.

(2) Policies: Written policies and procedures affecting nursing services shall be developed and reviewed with the participation of the director of nursing or designee, in consultation with other appropriate health professionals and administration. The governing body shall approve the policies. The nursing service shall be represented on hospital committees that affect patient care policies and practices.

I. Documentation, Staff Meetings and Evaluation.

(1) Nursing care policies and procedures that reflect optimal standards of nursing practice shall be written and approved, and shall be reviewed and revised as necessary to keep pace with current knowledge. Written nursing care policies and procedures shall be available on each nursing unit.

(2) There shall be a written nursing care plan for each patient, which shall include the elements of assessment, planning, intervention and evaluation.

(3) Documentation of nursing care shall be pertinent and concise and shall describe patient status needs, problems, capabilities and limitations. Nursing intervention and patient response shall be noted.

(4) Meetings of the nursing staff shall be held at least once every two months to discuss patient care, nursing services problems and administrative policies. Minutes of all meetings shall be kept and shall be available to all staff members.

(5) The nursing services director shall ensure that there is ongoing review and evaluation of the nursing care provided for patients and shall assure that nursing care standards and objectives are established and met. If the nursing department is decentralized into clinical departmental services or clinical programs are established, there shall be one administrator to whom the nursing directors shall be accountable and who has the responsibility to assure one standard of nursing practice within the organization.

J. Additional Patient Care Requirements.

(1) In this subsection, "circulating nurse" means a professional registered nurse who is present during an operation to provide emotional support to the patient, assist with the anesthesia induction, and throughout the surgical procedure or delivery, coordinate the activities of the room, monitor the traffic in the room, maintain an accurate account of urine and blood loss, and who, before the surgical procedure or delivery is completed, informs the recovery rooms of special needs and ensures that the sponge, needle and instrument counts have been done according to hospital policy.

(2) Obstetrical: Every patient admitted in labor shall be assessed initially by a professional registered nurse or physician.

(3) Surgical:

(a) A professional registered nurse shall supervise the operating room(s).

(b) A qualified professional registered nurse shall function as the circulating nurse in the surgical and obstetrical room whenever general anesthesia is used and on all local anesthesia cases involving a high degree of patient risk. Individual surgical technologists and licensed practical nurses may function as assistants under the direct supervision of a qualified professional registered nurse.

(4) Temporary nursing personnel:

(a) When contract nursing personnel from outside registries or agencies are used by the hospital, the nursing services shall have a means for evaluating the credentials and competence of these personnel. Contract nursing personnel shall function under the direction and supervision of a qualified professional registered nurse from the hospital nursing staff. The temporary nursing personnel shall have an orientation to the facility.

(b) If private duty nursing personnel are employed by the patients, the nursing department shall ensure the private duty nursing agency has a means for evaluating the credentials and competence of these personnel. The hospital shall have policies regarding use of these personnel in the facility.

(5) Medications: Only the following shall be permitted in accordance with the Nurse Practice Act and the requirements of the board of nursing:

(a) a professional registered nurse may pass medications;

(b) a licensed practical nurse or a student nurse in an approved school of nursing under the supervision of a licensed professional registered nurse may pass medications;

(c) medications may not be prepared by nursing personnel on one shift for administration during succeeding shifts; and

(d) medication administration may not be delegated to unlicensed personnel.;

(6) Reporting: The hospital shall have effective policies and procedures for reporting transfusion reactions, adverse drug reactions, accidents and medication errors. The medical staff shall review summary reports of these reactions, accidents and errors at least quarterly.

[7.7.2.26 NMAC - Rp, 7.7.2.26 NMAC, 06-15-04]

7.7.2.27 DIETARY SERVICES: The hospital shall provide a 24-hour dietary service or contract for a 24-hour dietary services which meets the requirements of this section, and which shall provide meals and other nutritional care to its patients. The dietary service shall be integrated with other services of the hospital.

A. Administrative.

(1) There shall be written policies and procedures for food storage, preparation and service and clinical aspects developed by the dietitian.

(2) There shall be a qualified person serving as full-time director of the service who shall be responsible for the daily management aspects of the service.

(3) The dietitian shall participate in the nutritional aspects of patient care by means that include assessing the nutritional status of patients, instructing patients, recording diet histories, interpreting and integrating therapeutic principles, participating appropriately in patient rounds and conferences, and recording in medical records and sharing specialized knowledge with others on the medical team.

(4) There shall be written job descriptions for all dietary employees.

(5) The dietitian shall be responsible for maintaining a current diet manual for therapeutic diets, approved jointly by the dietitian and a qualified member of the medical staff. The dietetic manual shall be developed on recognized current therapeutic practices. The dietitian shall recommend this manual to a qualified member of the medical staff for approval for use in the facility. All changes must be submitted to a qualified member of the medical staff for approval prior to inclusion in the manual.

(6) There shall be an in service training program for dietary employees which shall include instruction in proper storage, preparation and serving food, safety, appropriate personal hygiene and infection control.

(7) A menu cycle shall be available and posted. Substitutions of equal nutritional value are acceptable and shall be noted. The hospital must keep for 30 days a record of each menu as served.

(8) A hospital that contracts for its dietary services shall be in compliance with this section if the contracted services meets all applicable rules of this section.

B. Facilities.

(1) Adequate facilities shall be provided to meet the dietary needs of the patients.

(2) Sanitary conditions shall be maintained for the storage, preparation and distribution of food.

(3) All dietary areas shall be appropriately located, adequate in size, well-lighted, ventilated and maintained in a clean and orderly condition.

(4) Equipment and work areas shall be clean and orderly. Effective procedures for cleaning and sanitizing all equipment and work areas shall be followed consistently to safeguard the health of the patients, staff and visitors.

(5) Lavatories specifically for hand-washing shall include hot and cold running water, soap, and disposable towels or air dryers, and shall be conveniently located throughout the service area for use by dietary staff.

(6) The dietary service shall have written reports of the most recent environmental or licensing inspection on file at the hospital with notation made by the hospital of action taken to comply with recommendations or citations.

(7) Dry or staple food items shall be stored off the floor in a ventilated room which is not subject to sewage or waste water back-flow or contamination by condensation, leakage, rodents or vermin.

(8) All perishable foods shall be refrigerated and the temperature maintained at, or below, 40 degrees fahrenheit.

(9) Hot food shall be maintained at 140 degrees fahrenheit, or higher.

(10) Foods being displayed or transported shall be protected from environmental contamination and maintained at proper temperatures in clean containers, cabinets or serving carts.

(11) Dishwashing procedures and techniques shall be well-developed and understood by the responsible staff, with periodic monitoring of: The operation of the detergent dispenser, washing, rinsing, and sanitizing temperatures and the cleanliness of machine and jets, and thermostatic controls.

(12) A daily log of recorded temperatures for all refrigerators, freezers, steam tables and dishwashers must be maintained and available for inspection for 30 days.

(13) All garbage and kitchen refuse not disposed of through a garbage disposal unit shall be kept in watertight containers with close-fitting covers and disposed of daily in a safe and sanitary manner.

(14) Food and non-food supplies shall be clearly labeled and dated and shall be stored in separate areas.

(15) No hazardous non-food items shall be stored in the proximity of materials that could compromise the safety of the food supply.

(16) The dietitian shall be responsible for, and active in, the hospital's quality improvement program.

C. Records.

(1) A systematic record shall be maintained of all diets.

(2) Therapeutic diets shall be prescribed by an authorized individual in written orders on the medical record.

(3) Nutritional needs shall be in accordance with physicians' orders and, to the extent medically possible, in accordance with the "recommended daily dietary allowance" of the food and nutrition board of the national research council, national academy of sciences. A current edition of these standards shall be available in the dietary service.

(4) The qualified staff person who instructs the patient in home diet shall document this in the medical record.

D. Sanitation. All practices shall be in accordance with the standards of the New Mexico environment department.

(1) Kitchen sanitation.

(a) Equipment and work areas shall be clean and orderly. Surfaces with which food or beverages come into contact shall be of smooth, impervious material free of open seams, not readily corrosible and easily accessible for cleaning.

(b) Utensils shall be stored in a clean, dry place protected from contamination.

(c) The walls, ceiling and floors of all rooms in which food or drink is stored, prepared or served shall be kept clean and in good repair.

(2) Washing and sanitizing of kitchenware.

(a) All reusable tableware and kitchenware shall be cleaned in accordance with procedures as outlined by the New Mexico environment department, which shall include separate steps for pre-washing, washing, rinsing and sanitizing.

(b) Dishwashing procedures and techniques shall be well-developed, understood by dishwashing staff and carried out according to policy. To make sure that service ware is sanitized and to prevent recontamination, correct temperature maintenance shall be monitored during cleaning cycles.

(3) Canned or preserved foods.

(a) All processed food shall be procured from sources that process the food under regulated quality and sanitation controls. This does not preclude the use of local fresh produce.

(b) The hospital may not use home-canned foods.

(4) Cooks and food handlers. Cooks and food handlers shall wear clean outer garments and hair nets or caps and gloves as needed, and shall keep their hands clean at all times when engaged in handling food, drink, utensils or equipment. Food handlers must obtain a tuberculosis test, prior to employment and as often as required thereafter according to hospital policy.

(5) Milk.

(a) Raw milk shall not be used.

(b) Milk for drinking shall be grade A pasteurized whole milk (3 1/4% milk fat or greater and not less than (8 1/4% milk solids, not fat) or any other grade A fluid milk product as defined in the New Mexico Restaurant Act (includes skim milk, low-fat milk, and cream products) unless otherwise requested by the patient or as a part of a therapeutic diet.

(c) Condensed, evaporated, and/or dried milk products which are recognized nationally, may be employed as "additives" in cooked food preparation but shall not be substituted or served to patients (adult, child, or infant) in place of milk as approved for drinking purposes. These products shall be handled and stored in accordance with the requirements of the current dietary practices.

[7.7.2.27 NMAC - Rp, 7.7.2.27 NMAC, 06-15-04]

7.7.2.28 PHARMACY SERVICES:

A. Organization.

(1) Pharmacy: The hospital pharmacy shall be supervised by a designated pharmacist-in-charge who is employed part-time or full-time. If employed part-time, the pharmacist shall visit the facility at least every 72 hours.

(2) Other storage: If there is no pharmacy, pre-labeled, prepackaged medications shall be stored in, and distributed from, an automated medication management system, which is under the supervision of the pharmacist-in-charge.

(3) Pharmacist accountability: The pharmacist-in-charge shall have appropriate administrative oversight and shall prepare a pharmacy policy and procedure manual that shall be reviewed and updated at least annually.

B. Facility.

(1) Space & Equipment: The pharmacy shall meet the space and equipment requirements specified by the New Mexico board of pharmacy.

(2) Security: The pharmacist shall control access to the pharmacy and any automated medication system devices. Established procedures shall assure accountability for all doses of drugs removed when the pharmacist is not present. Only a designated licensed nurse may remove drugs from the pharmacy when the pharmacist is not present.

(3) Drug preparation areas: All drug storage and preparation areas within the facility shall be the responsibility of the pharmacist and inspected at least monthly.

(4) Pharmacy policies and procedures should address practices to be followed when compounding, reconstituting, and repackaging medications to assure adherence to professional standards of practice for cleanliness and infection control.

(5) Schedule II controlled substance storage: Schedule II controlled substances that are stored in the pharmacy shall be stored in a separate locked storage.

C. Personnel.

(1) The pharmacist shall be assisted by an adequate number of competent and qualified personnel. Job descriptions for all categories shall be prepared and revised as necessary.

(2) A pharmacist shall be on call during all absences of the designated pharmacist from the facility.

D. Records. Hospital pharmacies shall maintain all dangerous drug distribution records that are required by applicable state and federal laws and regulation, including:

(1) Floor stock dangerous drug description records; and

(2) Inpatient dangerous drug description records.

(a) Schedule II controlled substance distribution records must be kept separate.

(b) Schedule III-V controlled substance distribution records must be readily retrievable.

(c) An annual inventory of Schedule II-V controlled substances shall be conducted and a record maintained along with the procurement records for these drugs.

(d) When automated drug distribution systems are utilized, they shall produce transaction records that meet the above records keeping requirement.

(e) The pharmacist shall maintain records of quality improvement monitoring of automated drug distribution systems.

E. Other Responsibilities of the Pharmacist.

(1) When limited doses of a drug are removed from the pharmacy when the pharmacist is not present:

(a) The pharmacist shall verify the withdrawal within 72 hours of the withdrawal.

(b) A drug regimen review, pursuant to a new medication order, will be conducted by a pharmacist, either on-site or by electronic transmission, within 24 hours of the new order.

(2) The pharmacist also shall:

(a) provide drug information to staff and patients of the facility;

(b) maintain current drug use reference manuals;

(c) provide and document in-service education to the facility's professional staff;

(d) in conjunction with the practitioners, nurses, and other professional staff, review significant adverse drug reactions; and

(e) review each medication order for safety and appropriateness and communicate with the prescribers when indicated.

[7.7.2.28 NMAC - 7.7.2.28 NMAC, 06-15-04]

7.7.2.29 MEDICAL RECORDS SERVICES:

A. Medical Record. A medical record shall be maintained for every patient admitted for care in the hospital. The record shall be kept confidential and released only in accordance with the Sections 14-6-1, 14-6-2 NMSA 1978 and, where appropriate, Section 43-1-19 NMSA 1978.

B. Service. The hospital shall have a medical records service with administrative responsibility for all medical records maintained by the hospital.

(1) Confidentiality:

(a) Written consent of the patient or legally authorized person shall be required for release of medical information to persons not otherwise authorized to receive this information.

(b) Original medical records may not be removed from the hospital except by authorized persons who are acting in accordance with a court order, and where measures are taken to protect the record from loss, defacement, tampering and unauthorized access.

(2) Preservation: There shall be a written policy for the preservation of medical records. The retention period shall be for 10 years following the last treatment date of the patient, except in the case of minor children whose records shall be retained to the age of majority, plus one year.

(a) Laboratory test records and reports may be destroyed one year after the date of the test recorded or reported therein provided that one copy is placed in the patient's record, or stored electronically in the hospital's information system. The hospital is responsible for electronic storage.

(b) X-ray films may be destroyed four years after the date of exposure, if there are in the hospital record written findings of a radiologist who has read such x-ray films. At anytime after the third year after the date of exposure, and upon proper identification, the patient may recover his own x-ray films as may be retained pursuant to this section. The written radiological findings shall be retained as provided by these requirements.

(3) Personnel:

(a) Adequate numbers of personnel who are qualified to supervise and operate the service shall be provided.

(b) A registered medical records administrator or an accredited records technician shall head the services, except that if such a professionally qualified person is not in charge of medical records, a consultant who is a registered records administrator or an accredited records technician shall organize the service, train the medical records personnel and make at least quarterly visits to the hospital to evaluate the records and the operation of the service, and prepare written reports of findings within 30 days.

(c) In this subdivision, "a registered record administrator" or an "accredited record technician" is an individual who has successfully completed the examination requirements of the American Medical Record Association.

(4) Availability:

(a) The system for identifying and filing records shall permit prompt retrieval of each patient's medical records.

(b) A master patient index shall include at least the patient's full name, sex, birth date and medical record number and/or reference to treatment dates.

(c) Filing equipment and space shall be adequate to maintain the records and facilitate retrieval.

(d) The inpatient, ambulatory care and emergency records of patients shall be kept in such a way that all patient care information can be provided for patient care when the patient is admitted to the hospital, when the patient appears for a pre-scheduled outpatient visit, or as needed for emergency services.

(e) Pertinent medical record information obtained from other providers shall be available to facilitate continuity of the patient's care.

(f) The original or legally reproduced form of all clinical information pertaining to a patient's stay shall be filed in the medical record folder as a unit record. When this is not feasible a system must be in place to provide prompt retrieval of all medical records when a patient is admitted.

(5) Coding and indexing:

(a) Records shall be coded and indexed according to diagnosis, operation and physician. Indexing shall be kept current within six months from the discharge of the patient.

(b) Any recognized system may be used for coding diagnoses, operations and procedures.

(c) The indices shall list all diagnoses for which the patient was treated during the hospitalization and the operations and procedures which were performed during the hospitalization.

C. Medical Record Contents. The medical record staff shall ensure that each patient's medical records contain:

(1) accurate and adequate patient identification data;

- (2) a concise statement of complaints, including the chief complaint which led the patient to seek medical care and the date of onset and duration of each;
- (3) a health history, containing a description of present illness, past history of illness and pertinent family and social history to be made part of the record within the first 24 hours after admission;
- (4) a statement about the results of the physical examination, including all positive and negative findings resulting from an inventory of systems;
- (5) the provisional diagnosis;
- (6) all diagnostic and therapeutic orders;
- (7) all clinical laboratory, x-ray reports and other diagnostic reports;
- (8) consultation reports containing a written opinion by the consultant that reflects, when appropriate, an actual examination of the patient and the patient's medical records;
- (9) except in an emergency, a current, thorough history and physical work-up shall be recorded in the medical record of every patient prior to surgery;
- (10) an operative report describing techniques and findings written or dictated immediately after surgery. The completed operative report is authenticated by the surgeon and filed in the medical record as soon as possible after surgery or available electronically in the hospital information system. When the operative report is not placed in the medical record immediately after surgery, a progress note is entered immediately;
- (11) a post operative documentation record of the patient's discharge from the post anesthesia care area;
- (12) tissue reports, including a report of microscopic findings if hospital policies require that microscopic examination be done. If only microscopic examination is warranted, a statement that the tissue has been received and a microscopic description of the findings shall be provided by the laboratory and filed in the medical record;
- (13) progress notes providing a chronological picture of the patient's progress sufficient to delineate the course and the results of treatment;
- (14) a definitive final diagnosis including all relevant treatment and operative procedures performed expressed in the terminology of a recognized system of disease nomenclature;
- (15) a discharge summary including the final diagnosis, the reason for hospitalization, the significant findings, the procedures performed, the condition of the patient on discharge and any specific instructions given the patient and/or family. A final progress note is acceptable when stay is less than 48 hours and in case of normal newborn infants and uncomplicated obstetrical deliveries;
- (16) autopsy findings when an autopsy is performed; and
- (17) for comprehensive inpatient programs the following information shall be present as well: rehabilitation evaluation including medical, psycho-social history and physical exam; rehabilitation plans including goals for treatment; documentation of patient care conferences held minimally every two weeks, or as indicated, by appropriate disciplines involved in the care and treatment of the patient, in which the patient's treatment and response to rehabilitation services shall be evaluated and modified as indicated.

D. Authentication. Only members of the hospital staff or other professional personnel authorized by the hospital shall record and authenticate entries in the medical record. Documentation of medical staff participation in the care of the patient shall be evidenced by at least:

- (1) the signature on the patient's health history as the required by medical staff by-laws and results of his or her physical examination;
- (2) periodic progress notes or countersignatures as defined by the hospital rules and regulations;
- (3) the surgeon's signature on the operative report; and
- (4) the signature as required by medical staff by-laws on the face sheet and discharge summary.

E. Completion.

- (1) Current records and those on discharged patients shall be completed promptly.
- (2) If a patient is readmitted within 30 days for the same or related condition, there shall be a reference to the previous history with an interval note, and any pertinent changes in physical findings shall be recorded.
- (3) All records of discharged patients shall be completed within a reasonable period of time specified in the medical staff by-laws, but not to exceed 30 days after discharge, excepting autopsy reports.

F. Maternity Patient Records.

- (1) Prenatal findings: Except in an emergency, before a maternity patient may be admitted to a hospital, a legible copy of the prenatal history shall be submitted to the hospital's obstetrical staff. The prenatal history shall note complication, Rh determination and other matters essential to adequate care.

(2) Maternal medical record: Each obstetric patient shall have a complete hospital record which shall include:

- (a) patient identification, prenatal history and findings;
- (b) the labor and delivery record, including anesthesia;
- (c) medicine and treatment sheet, including nursing notes;
- (d) any laboratory and x-rays reports;
- (e) any medical consultant's notes; and
- (f) an estimate of blood loss

G. Newborn Medical Records. Each newborn patient shall have a complete hospital record which shall include:

- (1) a record of pertinent material data, type of labor and delivery, and the condition of the infant at birth;
- (2) a record of physical examinations;
- (3) progress sheets to include medicine, treatment, weights, feeding and temperatures; and
- (4) the notes of any medical consultant.

H. Fetal Death. In the case of a fetal death, the weight and length of the fetus shall be recorded on the delivery record.

I. Authentication of all entries.

- (1) Documentation.
 - (a) All entries in medical records by hospital staff and medical staff shall be legible, permanently recorded, dated and authenticated with the name and title of the person making the entry.
 - (b) All orders shall be recorded and authenticated. All verbal and telephone orders shall be authenticated by the prescribing practitioner, or a practitioner authorized to sign on behalf of the prescribing physician, in writing within 72 hours.
 - (c) A rubber stamp reproduction of a person's signature or an electronic signature may be used instead of a handwritten signature, if: the stamp is used only by the person whose signature the stamp replicates, the facility possesses a statement signed by the person, certifying that only that person(s) shall possess and use the stamp.
- (2) Symbols and abbreviations: Symbols and abbreviations may be used in medical records if approved by a written facility policy, which defines the symbols and abbreviations and controls their use. There shall be only one meaning per symbol.

[7.7.2.29 NMAC - Rp, 7.7.2.29 NMAC, 06-15-04]

7.7.2.30 LABORATORY SERVICES:

A. Services and Facilities.

- (1) The extent and complexity of laboratory services shall be commensurate with the size, scope, and nature of the hospital and the needs of the medical staff.
- (2) Necessary space, facilities and equipment to perform both the basic minimum and all other services shall be provided by the hospital either on-site or by contracts and services.
- (3) All equipment shall be made to carry out adequate clinical laboratory examinations and services, as appropriate for the care of the patients. In the case of work performed, the original report or a legally reproduced copy of the report from the laboratory shall be contained in the medical record.

B. Availability.

- (1) Laboratory services shall be available at all times, and there shall be a sufficient number of qualified laboratory testing personnel and support staff to perform promptly and efficiently the tests required of the pathology and medical laboratory services.
- (2) Adequate provision shall be made for ensuring the availability of emergency laboratory services, either in the hospital or under arrangements with another laboratory. These services shall be available twenty-four (24) hours a day, seven days a week, including holidays.
- (3) A hospital that has contracted for laboratory services is in compliance with this paragraph if the contracted services have a current CLIA certificate at the appropriate level of testing.

C. Personnel.

- (1) A qualified medical technologist shall be a graduate of a medical technology program approved by a nationally recognized body or has documented equivalent education, training, and/or experience; a qualified medical lab technician shall be a graduate of a program approved by the federal Department of Health and Human Services.

(2) The laboratory may not perform procedures and tests that are outside the scope of training of laboratory personnel.

D. Records.

(1) Laboratory test records and reports may be destroyed four years after the date of the test with the exception of minor children whose records must be maintained until the age of majority plus one year.

(2) The laboratory director shall be responsible for the laboratory report.

(3) A mechanism by which the clinical laboratory report shall be authenticated by testing personnel shall be delineated in the laboratory services' policies and procedures.

(4) The laboratory shall have procedures for ensuring that all requests for tests are ordered in writing by individuals authorized by the medical staff.

(5) The hospital shall have available a copy of their current CLIA certificate or a verification of current CLIA certificate by contractor.

E. Anatomical Pathology.

(1) Pathologist.

(a) Anatomical pathology services shall be under the direct supervision of a pathologist. If it is on a consultative basis, the hospital shall provide for, at minimum, monthly consultative visits by the pathologist. The pathologist must be available in person or electronically at all times.

(b) The pathologist shall participate in lab quality improvement and department conferences.

(c) The pathologist shall be responsible for establishing qualifications of pathology laboratory staff.

(d) An autopsy may be performed only by a pathologist, other qualified individuals qualified by the office of medical investigator or another qualified physician.

(2) Tissue examination.

(a) The medical staff and a pathologist shall determine which tissue specimens require macroscopic examination and which require both macroscopic and microscopic examinations.

(b) The hospital shall maintain an ongoing file of tissue slides and blocks, for a minimum of ten (10) years. Use of outside laboratory facilities for storage and maintenance of records, slides and blocks is permitted.

(c) If the hospital does not have a pathologist or otherwise qualified physician, there shall be a written plan for sending all tissues requiring examination to a pathologist outside the hospital.

(d) A log of all tissues sent outside the hospital for examination shall be maintained.

Arrangements for tissue examinations done outside the hospital shall be made with a certified laboratory, or a laboratory approved for the federal CLIA program.

(e) Specimens shall be considered hazardous waste and shall be disposed of in a safe manner.

(3) Records.

(a) All reports of macroscopic and microscopic tissue examination must be authenticated by the pathologist or other qualified physician.

(b) Provisions shall be made for the prompt filing of examination results in the patient's medical record and for notification of the provider who requested the examination.

(c) The autopsy report shall be distributed to the provider and shall be made a part of the patient's record.

(d) Duplicate records of the examination reports shall be kept in the laboratory and maintained in a manner, which permits ready identification and accessibility for a minimum of two years.

(4) Blood Bank.

(a) The blood bank shall be operated according to standards set by the accrediting agency; either the FDA or CLIA, whichever is more stringent.

(b) Records shall be kept on file in the laboratory service and in the patient medical records according to CLIA guidelines to indicate the receipt and disposition of all blood and blood products provided to patients in the hospital.

(5) Laboratory Certification. The hospital laboratory shall successfully participate in proficiency testing programs that are offered or approved by CMS in those specialties for which the laboratory offers services. Provisions shall be made for an acceptable quality control program covering all types of analysis performed by the laboratory and any other department performing any other laboratory tests.

[7.7.2.30 NMAC - Rp, 7.7.2.30 NMAC, 06-15-04]

7.7.2.31 RADIOLOGICAL SERVICES:

A. Diagnostic X-Ray Services.

(1) Requirement. The hospital shall make diagnostic x-ray services available. These services shall meet professionally approved standards for safety and the qualifications of personnel in addition to the requirements set out in this subsection.

(2) Location. The hospital shall have diagnostic x-ray facilities available in the hospital building proper or clinic or medical facility that is readily accessible to the hospital's patients, physicians and staff.

(3) Policies. Written policies and procedures shall be developed and maintained by the person responsible for the service in consultation with other appropriate health professionals and administration. The governing body shall approve the policies. The administrative and medical staff shall approve the procedures where appropriate.

(4) Safety.

(a) The radiological service shall be free of hazards for patients and personnel.

(b) Proper safety precautions shall be maintained against fire and explosion hazards, electrical hazards and radiation hazards.

(c) Hospital x-ray facilities shall be inspected by a qualified radiation physicist or by the New Mexico environment department radiation consultant at least once every two years. Hazards identified by inspections shall be properly and promptly corrected.

(d) Radiological equipment and radiation services shall conform with the requirements of the Radiation Protection Act, Sections 74-3-1 through 74-3-16, NMSA 1978.

(e) Attention shall be paid to current safety design and good operating procedures for use of fluoroscopes. Records shall be maintained of the output of all fluoroscopes.

(f) Policies based on medical staff recommendations shall be established for the administration of the application and removal of radium element, its disintegration products and other radioactive isotopes.

(5) Personnel.

(a) A physician shall have overall responsibility for the radiological service. This physician shall be certified or eligible for certification by the American board of radiology. If such a radiologist is not available on a full-time or regular part-time basis, a physician, with training and experience in radiology, may administer the service. In this circumstance, a radiologist, qualified as above, shall provide consultation services at suitable intervals to assure high quality service.

(b) A sufficient number of personnel capable of supervising and carrying out the radiological services shall be provided. Their training must conform to the requirements set out in the Medical Radiation Health and Safety Act, Sections 61-14E-1 through 61-15E-12, NMSA 1978 and regulations promulgated by the New Mexico environment department titled radiologic technology certification, 20 NMAC 3.2. [Recompiled as 20.3.20 NMAC]

(c) The interpretation of radiological examinations shall be made by physicians qualified in the field.

(d) The hospital shall have a board-certified radiologist, full-time, part-time or on a consulting basis, who is qualified to interpret films that require specialized knowledge for accurate reading.

(e) A technologist shall be on duty or on call at all times.

(f) Only personnel designated as qualified by the state radiology technologist licensing body may use the x-ray apparatus, and only similarly designated personnel may apply and remove the radium element, its disintegration products and radioactive isotopes. Only properly trained persons authorized by the medical director of the radiological service may operate fluoroscopic equipment.

(6) Records.

(a) Authenticated radiological reports shall be filed in the patient's medical record.

(b) Written orders by the attending physician or other individual authorized by medical staff for an x-ray examination shall contain a concise statement of the reason for the examination.

(c) Interpretations of x-rays shall be written or dictated and signed by a qualified physician or other individual authorized by the medical staff.

(d) Copies of interpretive findings shall be retained in the medical record for at least 10 years. Scans and other image records shall be retained for at least four years.

B. Therapeutic X-Rays Services. If therapeutic x-ray services are provided, they shall meet professionally approved standards for safety and for qualifications of personnel. The physician in charge shall be appropriately qualified. Only a physician qualified by training and experience may prescribe radiotherapy treatments.

[7.7.2.31 NMAC - Rp, 7.7.2.31 NMAC, 06-15-04]

7.7.2.32 NUCLEAR MEDICINE SERVICES:

A. Nuclear Medicine Service.

(1) Requirement. If a hospital provides nuclear medicine services, the services shall meet the needs of the hospital's patients in accordance with acceptable standards of professional practice.

(2) Organization and Staffing:

(a) the organization of the nuclear medicine services shall be appropriate for the scope and complexity of the services offered;

(b) there shall be a physician director who is qualified in nuclear medicine to be responsible for the nuclear medicine service;

(c) the qualifications, education, training, functions and legal responsibilities of nuclear medicine personnel shall be specified by the director of the service and approved by the medical staff and chief executive officer/administrator based upon the assurance that personnel are appropriately licensed by the state radiology technologist licensing body; and

(d) all persons who administer radiopharmaceuticals shall be approved by the medical staff and in accordance with applicable federal, state and local laws. The numbers and types of personnel assigned to nuclear medicine shall be appropriate for the scope and complexity of the services offered.

(3) Location. Nuclear medicine services shall be provided in an area of the hospital that is adequately shielded.

(4) Radioactive. Radioactive materials shall be prepared, labeled, used, transported, stored and disposed of in accordance with applicable regulations, i.e. the Radiation Protection Act 74-1-9, 74-3-5, 74-3-9, NMSA 1974, and all regulations promulgated thereunder.

(5) Equipment and supplies.

(a) Equipment and supplies shall be appropriate for the types of nuclear medicine services offered and shall be maintained for safe and efficient performance.

(b) All equipment shall be maintained in safe operating condition and shall be inspected, tested and calibrated at least annually by a radiation or health physicist.

(6) Records.

(a) Authenticated and dated reports of nuclear medicine interpretations, consultations and therapy shall be made part of the patient's medical record and copies shall be retained by the service.

(b) Records shall note the amount of radiopharmaceuticals administered, the identity of the recipient, the supplier and lot number and the date of therapy.

(c) The hospital shall provide for monitoring the staff's exposure to radiation. The cumulative radiation exposure for each staff member shall be recorded in the service's records at least monthly.

(d) Records of the receipt and disposition of radiopharmaceuticals shall be maintained. Documentation of instrument performance and records of inspection shall be retained in the service.

B. Mobile Nuclear Medicine Services. The use of mobile nuclear medicine services by a facility to meet the diagnostic needs of its patients shall be subject to approval of the medical staff and the chief executive officer/administrator. The services offered by the mobile nuclear medicine unit shall comply with all applicable rules of this section.

[7.7.2.32 NMAC - Rp, 7.7.2.32 NMAC, 06-15-04]

7.7.2.33 CLINICAL SERVICES:

A. Policies and Procedures. Hospitals which have surgery, anesthesia, dental, maternity, and other services which may be optional services shall have effective written policies and procedures, in addition to those set forth under these requirements, relating to the staffing and functions of each services in order to protect the health and safety of the patients.

B. Surgery.

(1) Policies.

(a) Surgical privileges shall be delineated for each of the medical staff performing surgery in accordance with the individual's competencies and a copy shall be available to operating room supervisor.

(b) The surgical service shall have a written policy to ensure patient safety if a member of the surgical team becomes non-functional.

(c) The surgical service shall have the ability to retrieve information needed for infection surveillance, identification of personnel who assisted at operative procedures, and the compiling of needed data.

(d) There shall be adequate provision for immediate post-operative care. A patient may be directly discharged from post-anesthetic recovery status, upon direction by an anesthesiologist, another qualified physician or a certified registered nurse anesthetist.

(e) A procedure for the identification, investigation, and elimination of nosocomial infection associated with surgical services. There shall be a written procedure for investigating unusual levels of infection.

(f) Rules and policies relating to the operating rooms shall be available and posted in appropriate locations inside and outside the operating rooms.

(g) The hospital shall have policies which clearly identify the patient, the site, and/or side of the procedure.

(h) Prior to commencing surgery the person responsible for administering anesthesia, or the surgeon must verify the patient's identity, the site and/or side of the body to be operated on, and ascertain that a record of the following appears in the patient's medical record: an interval medical history and physical examination performed and recorded according to hospital policy, appropriate screening tests, based on the needs of the patient, accomplished and recorded according to hospital policy, a properly executed informed consent, in writing for the contemplated surgical procedure, except in emergencies.

(2) Supervision. A professional registered nurse who is qualified by training and experience to supervise the operating rooms shall supervise the operating rooms.

(3) Environment. If explosive gases are used, the services shall have appropriate policies, in writing, for safe use of these gases.

C. Anesthesia.

(1) Policies.

(a) The anesthesia service shall have effective written policies and procedures to protect the health and safety of all patients.

(b) If explosive gases are used, the service shall have appropriate policies, in writing, for safe use of these gases.

(2) Anesthesia use requirements.

(a) Every surgical patient shall have a pre-anesthetic assessment, intra-operative monitoring, and post-anesthesia assessment prior to discharge from a post-anesthesia level of care, according to hospital policy.

(b) In hospitals where there is no organized anesthesia service, the surgical service shall assume the responsibility for establishing general policies and supervising the administration of anesthetics.

(c) Anesthesia shall be administered only by a licensed practitioner permitted by the state to administer anesthetics.

(d) If a general or regional anesthetic is used and an MD or DO is not a member of the operating team, an MD or DO shall be immediately available on the hospital premises.

D. Dental Service. All dental services shall meet the following requirements:

(1) dentists performing surgical procedures at the hospital shall be members of the medical staff;

(2) surgical procedures performed by dentists shall be under the overall supervision of an M.D. or D.O., unless the dentist is a licensed oral surgeon;

(3) there shall be policies for referral of patients in need of dental services; these policies will be readily available to all emergency care staff.

E. Maternity.

(1) Definitions: In this subsection.

(a) "Neonatal" means pertaining to the first 27 days following birth.

(b) "Oxytocics" means any of several drugs that stimulate the smooth muscle of the uterus to contract and that are used to initiate labor at term.

(c) "Perinatal" means pertaining to the mother, fetus or infant, in anticipation of and during delivery, and in the first post partum week.

(d) "Perinatal care center" means an organized hospital-based health care service which includes a high-risk maternity service and a neonatal intensive care unit capable of providing case management for the most serious types of maternal, fetal and neonatal illness and abnormalities.

(2) Reporting numbers of beds and bassinets. The number of beds and bassinets for maternity patients and newborn infants, shall be designated by the hospital and reported to the licensing authority.

(3) Maternity admission requirements. The hospital shall have written policies regarding standards of practice for maternity and non-maternity patients who may be admitted to the maternity unit.

(4) High risk infants. Each maternity service shall have adequate facilities, personnel, equipment and support services for the care of high-risk infants, including premature infants, or a written plan for prompt transfer of these infants to a recognized intensive infant care or perinatal care center.

(5) Institutional transfer of infants.

(a) Written policies and procedures for inter-hospital transfer of perinatal and neonatal patients shall be established by hospitals which are involved in the transfer of these patients.

(b) A perinatal care center or high-risk maternity service and the sending hospital shall jointly develop policies and procedures for the transport of high-risk maternity patients.

(c) Policies, personnel and equipment for the transfer of infants from one hospital to another shall be available to each hospital's maternity service. The proper execution of transfer is a joint responsibility of the sending and receiving hospitals.

(6) Personnel.

(a) The labor, delivery, postpartum and nursery areas of maternity units shall have available the continuous services and supervision of a professional registered nurse for whom there shall be documentation of qualifications to care for women and infants during labor, delivery and in the postpartum period.

(b) When a maternity unit requires additional staff on an emergency basis, the needed personnel may be transferred from another service if they meet the infection control criteria.

(c) The service shall have written policies that state which emergency procedures may be initiated by the professional registered nurse in the maternity service.

(7) Infection control.

(a) The infection surveillance and control program in the maternity service shall be integrated with that of the entire hospital.

(b) Surgery on non-maternity patients may not be performed in the delivery suite, except in emergencies.

(c) Hospitals unable to effectively isolate and care for infants shall have an approved written plan for transferring the infants to hospitals where the necessary isolation and care can be provided.

(8) Labor and delivery.

(a) The hospital shall have written policies and procedures that specify who is responsible for, and what is to be documented for, the care of the patient in labor and delivery, including alternative birthing rooms.

(b) Equipment that is needed for normal delivery and the management of complications and emergencies occurring with either the mother or infant shall be provided and maintained in the labor and delivery unit. The medical staff and the nursing staff shall determine the items needed.

(c) The facility shall have policies for the performing of newborn genetic screening.

(d) Written standing orders shall exist allowing nurses qualified by documented training and experience to discontinue the oxytocic drip should circumstances warrant discontinuance.

(e) The hospital shall be responsible for proper identification of newborns in its care.

(9) Postpartum care. The hospital shall have written policies and procedures for nursing assessments of the postpartum patient during the entire postpartum course.

(10) Newborn nursery and the care of newborns.

(a) Oxygen, medical air and suction shall be readily available to every nursery.

(b) Hospitals that may require special formula preparation shall develop appropriate written policies and procedures.

(c) Newborn infants shall be screened for hearing sensitivity prior to being discharged.

(d) In the event that a newborn infant is brought to the hospital after birth and has not received a hearing sensitivity screening, the attending physician, nurse, audiologist or authorized staff shall arrange for a hearing sensitivity screening to be performed by a program approved by children's medical services of the department of health.

(e) The hospital shall have effective written policies and procedures to assure that newborn infants, who are brought to the hospital for emergency services, receive a hearing sensitivity screening.

(f) Documentation of the hearing sensitivity screening shall be entered into the infant's medical record as subject to Subsection G of 7.7.2.29 NMAC.

(g) Parents or the legally authorized person may waive the requirements for the newborn hearing sensitivity screening in writing if they object to the screening on the grounds that it conflicts with their religious beliefs. The waiver for the hearing screening shall be after the parents or legally authorized person have been provided with both written and oral explanations by the infant's physician so that they may make an informed decision. The document of waiver shall be placed in the newborn infant's medical record.

(h) Parent(s) who have lawful custody of the infant screened for hearing sensitivity shall be notified of the test results.

(i) Hospitals that permit minor siblings to visit the maternity unit shall have written policies and procedures detailing this practice.

(11) Discharge of infants.

(a) An infant may be discharged only to a parent who has lawful custody of the infant or to an individual who is legally authorized to receive the infant. If the infant is discharged to a legally authorized individual, that individual shall provide identification and, if applicable, the identification of the agency the individual represents.

(b) The hospital shall record the identity of the parent or legally authorized individual who received the infant in the infant's medical record.

[7.7.2.33 NMAC - Rp, 7.7.2.33 NMAC, 06-15-04]

7.7.2.34 REHABILITATION SERVICES:

A. Organization.

(1) A Hospital may have either inclusive rehabilitation services or separate services for physical therapy, occupational therapy, speech language pathology, recreational therapy or audiology.

(2) Rehabilitation services shall have written policies and procedures governing the management and care of patients.

(3) The services provided on each service shall be given by or provided under the supervision of a qualified professional therapist.

(4) Facility space and equipment for rehabilitation services shall be adequate to meet the needs of patients receiving care.

B. Orders. Physical therapy, occupational therapy, speech language pathology therapy, Recreational therapy, and/or audiology services shall be provided in accordance with orders of practitioners who are authorized.

C. Additional requirements for separate rehabilitation services.

(1) Definition: A rehabilitation unit or facility is defined as a designated unit, or hospital that primarily provides physiological rehabilitation services to inpatients and/or outpatients.

(2) If the facility maintains a separate rehabilitation unit, or hospital, there shall be medical directorship by an individual who has the necessary knowledge, experience and capabilities to direct the rehabilitation services. The medical director shall be a qualified professional physician.

(3) Additional treatment plan and staffing requirements.

(a) The rehabilitation unit or hospital, shall have sufficient staff to provide an optimal program for those who require rehabilitation services. Periodic evaluations of staffing requirements based on patients serviced shall be undertaken to assure rehabilitation needs can be met.

(b) The rehabilitation staff shall plan, implement and modify written individualized treatment plans for patients based on their intake assessment.

(c) Nursing services shall be provided under the direction of a professional registered nurse with background and/or training in rehabilitation nursing. Professional registered nurses who are qualified in the care of rehabilitation nursing services shall supervise nursing care.

(d) Psychological services shall be provided by or given under the supervision of, an appropriately licensed psychologist or psychiatrist. There shall be a sufficient number of psychologists, consultants and or support personnel to provide optimal patient and/or family evaluations and treatment.

(e) Social work services shall be provided by a sufficient number of qualified social work staff to provide optimal patient and family consultation related to social work rehabilitation services and indicated community resource planning.

(f) Therapy services staff shall be sufficient in number and have sufficient support personnel to provide optimal assessments and treatment(s) to patients served.

[7.7.2.34 NMAC - Rp, 7.7.2.34 NMAC, 06-15-04]

7.7.2.35 RESPIRATORY CARE SERVICES:

A. Direction. If respiratory care services are offered by the hospital, the service shall be under the medical direction of a qualified physician.

B. Policies and Procedures. Respiratory care services shall be provided in accordance with written policies and procedures that shall be approved by the medical staff. The policies and procedures shall address at a minimum:

- (1) assembly and operation of mechanical aids to ventilation;
- (2) management of adverse reactions to respiratory care services;
- (3) administration of medications in accordance with physicians' orders;
- (4) personnel who may perform specific procedures, under what circumstances and under what degree of supervision; and

- (5) procurement, handling, storage and dispensing of therapeutic gases.

C. Personnel. Respiratory care services shall be provided by personnel qualified by education, training, experience and demonstrated competence.

D. Physicians' Orders. Respiratory care services shall be provided in accordance with the orders of a physician. The staff person authorized to take orders shall transcribe oral orders given by a physician into the medical record.

E. Oxygen monitoring equipment, including oxygen analyzers, shall be available and shall be checked for proper function prior to use but at least daily. Oxygen concentrations shall be documented. There shall be a written policy, which states how frequently oxygen humidifiers are to be cleaned.

[7.7.2.35 NMAC - Rp, 7.7.2.35 NMAC, 06-15-04]

7.7.2.36 OUTPATIENT SERVICES:

A. Medical Direction. If outpatient services are offered by the hospital, the services shall be under the direction of a qualified member of the medical staff.

B. Administration.

(1) The outpatient service shall be organized into sections or clinics, the number of which shall depend on the size and the degree of departmentalization of the medical staff, the available facilities and the needs of the patients for whom it accepts responsibility.

(2) Outpatient clinics shall be coordinated with corresponding inpatient services.

(3) On their initial visit to the service, patients shall receive an appropriate health assessment with follow-up as indicated.

C. Personnel.

(1) The outpatient services shall have adequate numbers of qualified personnel.

(2) A professional registered nurse shall be responsible for the nursing care of the outpatient service.

D. Facilities.

(1) Facilities shall be provided to ensure that the outpatient service is operated efficiently and to protect the health and safety of the patients.

(2) The number of examination and treatment rooms shall be adequate in relation to the volume and nature of work performed.

(3) Suitable facilities for necessary laboratory and other diagnostic tests shall be available either through the hospital or by arrangement with an independent CLIA certified laboratory.

[7.7.2.36 NMAC - Rp, 7.7.2.36 NMAC, 06-15-04]

7.7.2.37 EMERGENCY SERVICES:

A. Minimum Care Requirements. Acute-care or limited services hospitals must provide an area in the facility with adequate space and emergency equipment needed to treat emergency patients. Written policies for the care of such patients must be readily available to all patient care staff.

B. Distinct Emergency Service. If the hospital has a distinct emergency service:

(1) the emergency service shall be directed by personnel who are qualified by training and experience to direct the emergency service and shall be integrated with other services of the hospital;

(2) the policies and procedures governing medical care provided by the emergency service shall be established by, and are a continuing responsibility of, the medical staff;

(3) emergency services shall be supervised by a member of the medical staff, and nursing functions shall be the responsibility of a professional registered nurse;

(4) the hospital's emergency services shall be coordinated with local/state/federal mass casualty plans; and

(5) written policies and procedures shall be established prescribing a course of action, including policies for transferring a patient to an appropriate facility when the patient's medical status indicates the need for emergency care which the hospital cannot provide, to be followed in the care of persons who:

(a) manifest severe emotional disturbances;

(b) are under the influence of alcohol or other drugs;

- (c) are victims of suspected abuse or are victims of other suspected criminal acts;
 - (d) have a contagious disease;
 - (e) have been contaminated by hazardous, chemical, biological or radioactive materials;
 - (f) are diagnosed dead on arrival; or
 - (g) present other conditions requiring special directions regarding action to be taken.
- (6) A hospital that provides emergency care for sexual assault survivors shall:
- (a) provide each sexual assault survivor with medically and factually accurate and
 - (b) objective written and oral information about emergency contraception as described in their policies and procedures;
 - (c) orally and in writing inform each sexual assault survivor for her option to be provided emergency contraception at the hospital; and
 - (d) provide emergency contraception at the hospital to each sexual assault survivor who requests it and document it in the patient's medical record.
- (7) The provision of emergency contraception pills shall include the initial dose that the sexual assault survivor can take at the hospital as well as the subsequent dose that the sexual assault survivor may self-administer 12 hours following the initial dose or in accordance with accepted standards of practice for the administration of emergency contraception.
- (8) A communications system employing telephone, radiotelephone or similar means shall be in use to establish and maintain contact with the police department, emergency medical services, rescue squads and other emergency services of the community.
- (9) A list of emergency referral services shall be available in the basic emergency service. This list shall include the name, address and telephone number of such services as:
- (a) police department;
 - (b) rape or domestic crisis center;
 - (c) burn center;
 - (d) drug abuse center;
 - (e) poison control information center;
 - (f) suicide prevention center;
 - (g) director of the state public health division or his designee;
 - (h) local health department;
 - (i) clergy;
 - (j) emergency psychiatric service;
 - (k) chronic dialysis service;
 - (l) renal transplant center;
 - (m) intensive care newborn nursery;
 - (n) radiation accident management service;
 - (o) ambulance transport and rescue service, including military resources;
 - (p) county coroner or medical examiner;
 - (q) hazardous materials management service;
 - (r) anti-venom service.
 - (s) emergency and dental service.
- (10) The hospital shall have the following service capabilities:
- (a) adequate monitoring and therapeutic equipment;
 - (b) laboratory service shall be capable of providing the necessary support for the emergency service;
 - (c) radiological service shall be capable of providing the necessary support of the emergency service;
 - (d) services shall be available for life threatening situations adequate for the size and scope of the facility and staff;
 - (e) the hospital shall have readily available the services of a blood bank containing common types of blood and blood derivatives.

C. Physical Environment.

- (1) The emergency service shall be provided with the facilities, equipment, drugs, supplies and space needed for prompt diagnosis and emergency treatment.
- (2) **Facilities** for the emergency service shall be separate and independent of the operating room.

(3) The location of the emergency service shall be in close proximity to an exterior entrance of the hospital.

D. Personnel.

(1) There shall be sufficient medical and nursing personnel available for the emergency service at all times. All medical and nursing personnel assigned to emergency services shall be trained in cardiopulmonary resuscitation.

(2) The medical staff shall ensure that qualified members of the medical staff are available at all times for the emergency service, either on duty or on call, and that an authorized medical staff member is responsible for all patients who arrive for treatment in the emergency service.

(3) If unable to reach the patient within 15 minutes, the physician or a licensed independent practitioner shall provide specific instructions to the emergency staff on duty if emergency measures are necessary. These instructions may take the form of written protocols approved by the medical staff.

E. A sufficient number of professional registered nurses qualified by training and/or experience to work in emergency services shall be available to deal with the number and severity of emergency service cases.

F. The hospital shall ensure that all personnel who provide care to sexual assault survivors have documented training in the provision of medically and factually accurate and objective information about emergency contraception within 60 days of employment.

G. Complaints.

(1) Complaints of failure to provide services required by the Sexual Assault Survivors Emergency Care Act may be filed with the department.

(2) The department shall investigate every complaint it receives regarding failure of a hospital to provide services required by the Sexual Assault Survivors Emergency Care Act to determine the action to be taken to satisfy the complaint.

(3) If the department determines that a hospital has failed to provide the services required in the Sexual Assault Survivors Emergency Care Act, the department shall:

(a) issue a written warning to the hospital upon receipt of a complaint that the hospital is not providing the services required by the Sexual Assault Survivors Emergency Care Act; and

(b) based on the department's investigation of the first complaint, require the hospital to correct the deficiency leading to the complaint.

(4) If after the issuance of a written warning to the hospital pursuant to Subsection D of this section, the department finds that the hospital has failed to provide services required by the Sexual Assault Survivors Emergency Care Act, the department shall, for a second through fifth complaint, impose on the hospital a fine of one thousand dollars (\$1,000):

(a) per sexual assault survivor who is found by the department to have been denied medically and factually accurate and objective information about emergency contraception or who is not offered or provided emergency contraception; or

(b) per month from the date of the complaint alleging noncompliance until the hospital provides training pursuant to the rules of the department.

(5) For the sixth and subsequent complaint against the same hospital if the department finds the hospital has failed to provide services required by the Sexual Assault Survivors Emergency Care Act, the department shall impose an intermediate sanction pursuant to Section 24-1-5.2 NMSA 1978 or suspend or revoke the license of the hospital issued pursuant to the Public Health Act.

H. Medical Records.

(1) Adequate medical records to permit continuity of care after provision of emergency services shall be maintained on all patients. The emergency room patient record shall contain:

(a) patient identification;

(b) history of disease or injury;

(c) physical findings;

(d) laboratory and x-ray reports, if any;

(e) diagnosis;

(f) record of treatment;

(g) disposition of the case;

(h) appropriate time notations, including time of the patient's arrival, time of physician notification, time of treatment, including administration of medications, time of patient discharge or transfer from the service or time of death.

(2) Where appropriate, medical records of emergency services shall be integrated with those of the inpatient and outpatient services.

I. Emergency Committee. An emergency services committee composed of physician, professional registered nurses and other appropriate hospital staff shall review emergency services and medical records for appropriateness of patient care on at least a quarterly basis. The committee shall make appropriate recommendations to the medical staff and hospital administrative staff based on its findings. This review may be part of a hospital's overall quality improvement program. Minutes of these meetings shall be maintained for a one year period.

J. Equipment and Supplies. All equipment and supplies necessary for life support shall be available, including but not limited to, airway control and ventilation equipment, suction devices, cardiac monitor, defibrillator, pacemaker capability, apparatus to establish central venous pressure monitoring, intravenous fluids and administration devices.

[7.7.2.37 NMAC - Rp, 7.7.2.37 NMAC; A, 06-15-04]

7.7.2.38 SOCIAL WORK SERVICES:

A. Organized Service. If the healthcare system provides social work services there should be corresponding written policies and procedures governing the scope and provision of services. If the system does not have employed providers for social work services, then they must be obtained via consultation with outside sources.

B. Personnel.

(1) Direction. Social work services shall be directed by personnel who have:

(a) a master's degree in social work from a graduate school of social work accredited by the council on social work education, and has one year of social work experience in a health care setting; or

(b) a bachelor's degree in social work, sociology or psychology; meets the National Association of social workers standards of membership; and has one year of social work experience in a health care setting.

(2) Staff. The social work services staff, in addition to the service director, may include social workers, caseworkers and social work assistants at various levels of social work training and experience.

(3) Number of Staff. There shall be a sufficient number of social work services staff to carry out the purpose and functions of the service.

C. Service. The social work services shall be integrated with other services of the hospital. Staff shall participate, as appropriate, in patient rounds, medical staff seminars, nursing staff conferences, and in conferences with individual physicians, nurses, and other personnel concerned with the care of a patient and the patient's family.

D. Functions. Social work services shall address the psychosocial needs of the patients, their families and others designated by the patient as these relate to health care. Services shall be clearly documented in the record.

E. Environment. The facilities or social work services staff shall provide privacy interviews with patients, their family members and others designated by the patients.

F. Quality Improvement. The service shall be part of the hospital's performance improvement program.

[7.7.2.38 NMAC - Rp, 7.7.2.38 NMAC, 06-15-04]

7.7.2.39 ADDITIONAL REQUIREMENTS FOR PSYCHIATRIC HOSPITALS:

A. Additional Medical Record Requirements. The medical records maintained by a psychiatric hospital shall document the degree and intensity of the treatment provided to individuals who are furnished services by the facility. A patient's medical record shall contain:

(1) identification data, including the patient's legal status;

(2) the reason for treatment or chief complaint in the words of the patient, when possible, as well as observations or concerns expressed by others;

(3) the psychiatric evaluation, including medical history containing a record of mental status and noting the onset of illness, the circumstances leading to admission, attitudes, behavior, estimate of intellectual functions, memory functioning, orientation and an inventory of the patient's personality assets recorded in descriptive fashion;

(4) social services records, including reports of interviews with patients, family members and others and an assessment of home plans, family attitudes and community resource contacts as well as social history;

(5) a comprehensive treatment plan based on an inventory of the patient's strengths and disabilities, which shall include:

- (a) at least one diagnosis;
- (b) short-term and long-range goals;
- (c) the specific treatment modalities used; and
- (d) the responsibilities of each member of the treatment team.

(6) staff shall plan, implement and revise, as indicated, a written, individualized treatment program for each patient based on:

- (a) the degree of psychological impairment and appropriate measures to be taken to relieve treatable distress and to compensate for nonreversible impairments;
- (b) the patient's capacity for social interaction;
- (c) environmental and physical limitations such as seclusion room or restraints, required to safeguard the individual's health and safety with an appropriate plan of care; and
- (d) the individual's potential for discharge and successful care management on an outpatient basis.

(7) the documentation of all active therapeutic efforts and interventions;

(8) progress notes related to treatment needs and the treatment plan are reviewed, revised and recorded at least weekly as the status of the patient requires by the physician, nurse, social worker and staff from other appropriate disciplines involved in active treatment modalities, as indicated by the patient's condition; and

(9) discharge information, including:

- (a) recommendations from appropriate services concerning follow-up care; and
- (b) at least one diagnosis.

B. Additional Treatment Plan and Staffing Requirements.

(1) The hospital shall have enough staff with appropriate qualifications to carry out an active plan of psychiatric treatment for individuals who are furnished services in the facility.

(2) The treatment of psychiatric inpatients shall be under the supervision of a qualified physician who shall provide for taking an active role in an intensive treatment program.

(3) If non-psychiatric medical and surgical diagnostic and treatment services are not available within the facility, qualified consultants or attending physicians shall be immediately available if a patient should need this attention, or an adequate arrangement shall be in place for immediate transfer of the patient to an acute-care hospital.

(4) Nursing services shall be under the supervision of a professional registered nurse qualified to care for psychiatric patients and, by demonstrated competence, to participate in interdisciplinary formulation of individual treatment plans, to give skilled nursing care and therapy, and to direct, supervise and educate others who assist in implementing the nursing component of each patient's treatment plan.

(5) Professional registered nurses and other nursing personnel shall participate in inter-disciplinary meetings affecting the planning and implementation of treatment plans for patients, including diagnostic conferences, treatment planning sessions and meetings held to consider alternative facilities and community resources.

(6) Psychological services shall be under the supervision of a psychologist licensed under the Professional Psychologists Act, Section 61-9-1 through 61-9-18 NMSA 1978. There shall be enough psychologists, consultants and support personnel qualified to carry out their duties to:

- (a) assist in essential diagnostic formulations;
- (b) participate in program development and evaluation;
- (c) participate in therapeutic interventions and in interdisciplinary conferences and meetings

held to establish diagnoses, goals and treatment programs.

(7) The number of social work staff qualified to carry out their duties shall be adequate for the hospital to meet the specific needs of individuals patients and their families and develop community resources and for consultation to other staff and community agencies. The social work staff shall:

- (a) provide psychosocial data for diagnosis and treatment planning;
- (b) provide direct therapeutic services; and
- (c) participate in interdisciplinary conferences and meetings on diagnostic formulation and treatment planning, including identification and use of alternative facilities and community resources.

(8) The number of qualified therapists and therapist assistants shall be sufficient to provide needed therapeutic activities, including, when appropriate, occupational, recreational, and physical therapy, to ensure that appropriate treatment is provided to each patient.

(9) The total number of rehabilitation personnel, including consultants, shall be sufficient to permit appropriate representation and participation in inter-disciplinary conferences and meetings, including diagnostic conferences, which affect the planning and implementation of activity and rehabilitation programs.
[7.7.2.39 NMAC - Rp, 7.7.2.39 NMAC, 06-15-04]

7.7.2.40 PHYSICAL ENVIRONMENT:

A. General. The buildings of the hospital shall be constructed and maintained so that they are functional for diagnosis and treatment and for the delivery of the hospital services appropriate to the needs of the community and with due regard for protecting the life, health and safety of the patients and staff. The provisions of this section apply to all new, remodeled and existing construction unless otherwise noted.

B. Definitions in 7.7.2.40 NMAC.

(1) "Building, Existing" means a building erected prior to the adoption of this regulation, or one for which a legal building permit has been issued.

(2) "Existing construction" means a building, which is in place or is being constructed with plans approved by the department prior to the effective date of this chapter.

(3) "Full-term nursery" means an area in the hospital designated for the care of infants who are born following a full-term pregnancy and without complications, until discharged to a parent or other legally authorized person.

(4) "Intermediate nursery" means an area in the hospital designated for the care of infants immediately following birth who require observation due to complications, and for the care of infants who require observation following placement in the critical care nursery, until discharged to a parent or other legally authorized person.

(5) "Life safety code" means the standard adopted by the national fire protection association (NFPA) known as NFPA 101 Life safety code.

(6) "New construction" means construction for the first time of any building or addition or remodeling to an existing building, the plans for which are approved after the effective date of this chapter.

(7) "Remodeling" means to make over or rebuild any portion of an existing building or structure and thereby modify its structure, structural strength, fire hazard character, exits, heating and ventilation systems, electrical system or internal circulation, as previously approved by the department. Where exterior walls are in place but interior walls are not in place at the time of the effective date of this chapter, construction of interior walls shall be considered remodeling. "Remodeling" does not include repairs necessary for the maintenance of a building or structure.

(8) "Special care unit" means an organized health care service that combines specialized facilities and staff for the intensive care and management of patients in a crisis or potential crisis state. "Special care units" include psychiatric special care, coronary care, surgical intensive care, medical intensive care and burn units, but do not include post-obstetrical or post-surgical recovery units or neonatal intensive care units.

C. Approvals. The hospital shall keep all documentation of inspections on file in the hospital following any inspections by state and local authorities for a period of five years.

D. Fire Protection.

(1) **Basic Responsibility:** The hospital shall provide fire protection adequate to ensure the safety of patients, staff and others on the hospital's premises. Necessary safeguards such as extinguishers, sprinkling and detection devices, fire and smoke barriers, and ventilation control barriers shall be installed and maintained to ensure rapid and effective fire and smoke control.

(2) **New Construction:** Any new construction or remodeling shall meet the applicable provisions of the current edition of the building code, fire code, life safety code, and AIA guidelines for hospitals and health care facilities.

(3) **Existing Facilities:** Any existing hospital shall be considered to have met the requirements of this subsection if, prior to the promulgation of this chapter, the hospital complied with and continues to comply with the applicable provisions of the 1967, 1973 or the current edition of the life safety code, with or without waivers.

(4) **Equivalent Compliance:** Any existing facility that does not meet all requirements of the applicable life safety code may be considered in compliance with life safety code if the facility achieves a passing score on the fire safety evaluation system (FSSES) developed by the U.S. department of commerce, national bureau of standards, to establish safety equivalencies under the life safety code.

E. General Construction.

(1) Prior to any construction, one copy of schematic plans shall be submitted to the Licensing Authority for review and preliminary approval.

(2) Before construction is started, one copy of final plans and specifications which, are used for bidding purposes shall be submitted to the licensing authority for review and approval. Plans must be prepared, sealed, signed and dated by an architect registered in the state of New Mexico.

(3) If on-site construction above the foundation is not started within 12 months of the date of approval of the final plans and specifications, the approval under these requirements shall be void and the plans and specifications must be resubmitted for reconsideration of approval.

(4) Before any construction change(s) is undertaken affecting the approved final plans, modified plans shall be submitted to the licensing authority for review and approval. The licensing authority shall notify the hospital in writing of any conflict with this subchapter found in its review of modified plans and specifications.

(5) General: Projects involving alterations of, and additions to, existing buildings shall be programmed and phased so that on-site construction will comply with all codes and minimize disruptions of existing functions. Access, exit ways, and fire protection shall be so maintained that the safety of the occupants will not be jeopardized during construction.

(6) Minimum requirements: All requirements listed in Subsection G of 7.7.2.40 NMAC, New Construction, relating to new construction projects, are applicable to renovation projects involving additions or alterations. When existing conditions make changes impractical to accomplish, minor deviations from functional requirements may be permitted with the approval of the licensing authority if the intent of the requirements is met and if the care and safety of patients will not be jeopardized.

(7) Nonconforming condition: When doing renovation work, if it is found to be infeasible to correct all of the non-conforming conditions in the existing facility in accordance with these standards, acceptable compliance status may be recognized by the licensing agency if the operation of the facility, necessary access by the handicapped, and safety of the patients, are not jeopardized by the remaining non-conforming conditions.

(a) Plan approval and building permit by the construction industries division or local building department, are also required for any new construction or remodeling.

(b) Copies of the life safety codes and related codes can be obtained from the National Fire Protection Association, 11 Tracy Drive, Avon, MA 02322.

F. Construction and Inspections. Construction shall not commence until plan-review deficiencies have been satisfactorily resolved.

(1) The completed construction shall be in compliance with the approved drawings and specifications, including all addenda or modifications approved for the project.

(2) A final inspection of the facility will be scheduled for the purpose of verifying compliance with the licensing standards, and approved plans and specifications.

(3) The facility shall not occupy any new structure or major addition or renovation space until the appropriate permission has been received from the local building and fire authorities and the licensing authority.

G. New Construction.

(1) General: Every hospital building hereafter constructed, every building hereafter converted for use as a hospital, and every addition and/or alteration hereafter made to a hospital shall comply with the requirements of these standards.

(a) Compliance with these standards does not constitute release from the requirements of other applicable state and local codes and ordinances. These standards must be followed where they exceed other codes and ordinances.

(b) No building may be converted for use as a licensed hospital, which because of its location, physical condition, state of repair, or arrangement of facilities, would be hazardous to the health and safety of the patients who would be housed in such a building. Any hospital or related institution that has been vacated in excess of one year or used for occupancy other than health care will be classified as a new facility.

(c) All new construction, remodeling and additions must meet requirements set forth by these standards, the building and fire codes and by the Americans with Disabilities Act (ADA), for accessibility for persons with disabilities.

(2) Codes and standards: In addition to compliance with these standards, all other applicable building codes, ordinances, and regulations under city, county or other state agency jurisdiction shall be observed.

(a) Compliance with local codes shall be pre-requisite for licensing. In areas not subject to local building codes, the state building codes shall be pre-requisite for licensing, as adopted.

(b) New construction for acute-care hospitals, limited services hospitals and special hospitals are governed by the current editions of the following codes and standards: uniform building code (UBC), uniform plumbing code (UPC), uniform mechanical code (UMC), national electric code (NEC), national fire protection association standards (NFPA), American national standards institute (ANSI), American society of heating,

refrigerating, and air conditioning engineers (ASHREA), American institute of architects (AIA), academy of architecture for health guidelines for design and construction of hospital and health care facilities, NFPA101, and New Mexico building code (NMBuilding Code).

H. Patient Rooms-General.

(1) Bed capacity: Each hospital's bed capacity may not exceed the capacity approved by the Licensing Authority.

(2) Privacy: Visual privacy shall be provided for each patient in multi-bed patient rooms. In new or remodeled construction, cubicle curtains shall be provided.

(3) Toilet room:

(a) In new construction, each patient room shall have access to one toilet without entering the general corridor area. One toilet room shall serve no more than four beds and no more than two patient rooms. Where the toilet room serves more than two beds an additional hand washing shall be placed in the patient room.

(b) In new and remodeled construction, the door to the patient toilet room shall swing into the patient room, or two-way hardware shall be provided.

(c) The minimum door width to the patient toilet room shall be 36 inches (91.4 cm) for new construction. The door shall swing outward or be double acting.

(4) Minimum floor area: The minimum floor area per bed shall be 100 square feet of clear floor area in multi-bed patient rooms, and 120 square feet of clear floor area in single-bed patient rooms, exclusive of toilet rooms, closets, lockers, wardrobes, alcoves or vestibules.

(5) Minimum furnishing:

(a) A hospital-type bed with suitable mattress, pillow and the necessary coverings shall be provided for each patient.

(b) There shall be a bedside table or stand and chair for each patient.

(c) Each patient shall have within his/her room adequate storage space suitable for hanging full-length garments and for storing personal effects.

I. Isolation Room(s). Rooms shall be provided for isolation of patients whose condition require isolation for physical health reasons.

(1) Each isolation room shall have a separate toilet, bathtub (or shower), and a hand washing sink. These shall be arranged to permit access from the bed area without passing through the work area of the vestibule or anteroom.

(2) Each room shall have an area for hand washing, gowning, and storage of soiled materials located directly outside or immediately inside the entry door to the room.

(3) Each room shall have self-closing devices on all room exit doors. All wall, ceiling and floor penetrations in the room shall be sealed tightly.

J. Patient Care.

(1) Nursing station or administrative center: Nursing stations or administrative centers in patient care areas of the hospital may be located to serve more than one nursing unit, but at least one of these service areas shall be provided on each nursing floor or wing. The station or center shall contain:

(a) storage for records, manuals and administrative supplies;

(b) an area for charting when the charts of patients are not maintained at patient rooms;

(c) hand washing sink conveniently accessible to the nurse station;

(d) staff toilet room: in new construction, a staff toilet room and hand washing sink shall be provided on each nursing unit; and

(e) securable closet or cabinet for the personal articles of nursing personnel, located in or near the nursing station.

(2) Utility areas: A utility area room for soiled linen and other clean articles shall be readily accessible to each nursing utility area. Each room shall have:

(a) storage facilities for supplies;

(b) a hand washing sink;

(c) work counters; and

(d) a waste receptacle.

(3) Bathing Facilities: Showers and bathtubs. When individual bathing facilities are not provided in patient rooms, there shall be at least one shower and/or one bathtub for each 12 beds without such facilities. Each bathtub or shower shall be in an individual room or enclosure that provides privacy for bathing, drying, and dressing. One special bathing facility, including space for attendants, shall be provided for patients on stretchers, carts and wheelchairs for each 100 beds or fraction thereof.

(4) Equipment and supply storage: An equipment and supply storage room or alcove shall be provided for storage of equipment necessary for patient care. Its location shall not interfere with the flow of traffic.

(5) Corridors and passageways: Corridors and passageways in patient care areas shall be free of obstacles.

(6) Housekeeping closet: A housekeeping closet shall be provided on the nursing unit or sufficient cleaning supplies and equipment shall be readily accessible to the nursing unit.

(7) Patient call system: A reliable call mechanism shall be provided in locations where patients may be left unattended, including patients rooms, toilet and bathing areas and designed high risk treatment areas where individuals may need to summon assistance.

K. Additional Requirements for Particular Patient Care Areas.

(1) Special care units.

(a) In new construction, sufficient viewing panels shall be provided in doors and walls for observation of patients. Curtains or other means shall be provided to cover the viewing panels when privacy is desired.

(b) In new construction, a sink equipped for hand-washing and a toilet shall be provided in each private patient room. In multi-bed rooms at least one sink and one toilet for each six beds shall be provided. Individual wall-hung toilet facilities with private curtains or another means of safeguarding privacy may be substituted for a toilet room.

(c) In new construction, all beds shall be arranged to permit visual observation of the patient by the nursing staff from the nursing station. In existing facilities, if visual observation is not possible from the nursing station, sufficient staffing or television monitoring shall permit continuous visual observation of the patient.

(d) In new construction, the dimensions and clearances in special care unit patient rooms shall be as follows: single bed rooms shall have minimum dimensions of 10 feet by 12 feet, multi-bed rooms shall have minimum side clearances between beds of at least seven feet, and in all rooms the clearance at each side of each bed shall be not less than three feet six inches and the clearance at the foot of each bed shall be not less than four feet.

(2) Psychiatric units: The requirements for patient room under Paragraph (8) of Subsection B of 7.7.2.40 NMAC apply to patient rooms in psychiatric nursing units and psychiatric hospital except as follows:

(a) in new construction or remodeling, a staff emergency call system shall be included. When justified by psychiatric program requirements and with the approval of the licensing authority, call cords from wall-mounted stations of individual patients rooms may be removed;

(b) doors to patient rooms and patient toilet room doors may not be lockable from the inside;

(c) patients' clothing and personal items may be stored in a separate designated area which is locked;

(d) moveable hospital beds are not required for ambulatory patients.

(3) Surgical and recovery facilities must:

(a) have at least one room equipped for surgery and used exclusively for this purpose;

(b) have a scrub room or scrub area adjacent to the surgery room used exclusively for this purpose;

(c) have a clean-up or utility room;

(d) have a storage space for sterile supplies;

(e) have means for calling for assistance in an emergency in each operating room;

(f) have housekeeping facilities adequate to maintain the operating room or rooms;

(g) have a flash sterilizer, unless sterilization facilities are accessible from the surgery area;

(h) be located and arranged to prevent unrelated traffic through the suite;

(i) ensure the room or rooms for post-anesthesia recovery of surgical patients shall at a minimum contain a medications storage area, hand-washing facilities and sufficient storage space for needed supplies and equipment; and

(j) have available oxygen and suctioning equipment in the operating suite and recovery rooms.

(4) Labor and delivery.

(a) The labor and delivery unit shall be located and arranged to prevent unrelated traffic through the unit.

(b) Facilities within the labor and delivery unit shall include: at least one room equipped as a delivery room and used exclusively for obstetrical purposes, a scrub-up room adjacent to the operative delivery unit if operative deliveries are performed, a clean-up or utility room with a flush-rim clinical sink, and a separate janitor's closet with room for housekeeping supplies for the unit.

(c) In new construction, in addition to lightning for general room illumination, adjustable examination and treatment lights shall be provided for each labor bed.

(d) The following equipment shall be available: sleeping unit for each infant, and a clock.

(e) Space for necessary housekeeping equipment in or near the nursery is required.

(f) An examination area and work space for each nursery shall be provided.

(5) Isolation nursery.

(a) If an isolation nursery is provided in new construction: the isolation nursery shall be within the general nursery area and may not open directly to another nursery, and access to the isolation nursery shall be through an anteroom which shall have at least a sink equipped for hand-washing, gowning facilities, an enclosed storage space for clean linen and equipment and a closed hamper for disposal of refuse.

(b) A private patient room with hand-washing facilities may be used as an isolation nursery.

(6) Postpartum lounge area: The lounge and dining room when provided for maternity patients shall be separate from other areas.

L. Other Physical Environment

(1) Thresholds and expansion joint: Thresholds and expansion joint covers shall be flush with the floor surface to facilitate the use of wheelchairs and carts, and as may be required by OSHA. Expansion and seismic joints shall be constructed to restrict the passage of smoke.

(2) Emergency fuel and water: The hospital shall make provisions for obtaining emergency fuel and water supplies.

(3) Emergency lighting system: The emergency lighting system and equipment shall be tested at least monthly.

(4) Diagnostic and therapeutic facilities, supplies and equipment: Diagnostic and therapeutic facilities supplies and equipment shall be sufficient in number and in good repair to permit medical and nursing staffs to provide an acceptable level of patient care.

(5) Walls and ceilings: The walls and ceilings shall be kept in good repair. Loose, cracked or peeling wallpaper and paint of walls and ceilings shall be replaced or repaired. Washable ceilings shall be provided in surgery rooms, delivery rooms, janitor closets and utility rooms.

(6) Floors: All floor materials shall be easy to clean and have wear and moisture resistance appropriate for the location. Floors in areas used for food preparation or food assembly shall be water-resistant and grease-proof and shall be kept clean and in good repair.

(7) Cords: Electrical cords shall be maintained in good repair.

(8) Carpeting.

(a) Carpeting may not be installed in rooms used primarily for food preparation and storage, dish and utensil washing, cleaning of linen and utensils, storage of janitor supplies, laundry processing, hydrotherapy, toiling and bathing, resident isolation or patient examination.

(b) Carpeting, including any underlying padding, shall have a flame spread rating permitted by the national fire protection association's national fire codes. Certified proof by the manufacturer of this test for the specific product shall be available in the facility. Certification by the installer that the material installed is the product referred to in the test shall be obtained by the facility. Carpeting may not in any case be applied to walls except where flame spread rating can be shown to be twenty-five (25) or less.

(9) Acoustical tile: Acoustical tile shall be non-combustible and non-asbestos.

(10) Wastebaskets: Wastebaskets shall be made of non-combustible materials.

(11) Fire report: All incidents of fire in a facility shall be reported in writing to the licensing authority within 72 hours of the incident.

M. Maintenance. The hospital must maintain written evidence of routine maintenance performed for the facility, supplies and equipment to ensure an acceptable level of safety and quality.

[7.7.2.40 NMAC - Rp, 7.7.2.40 NMAC, 06-15-04]

7.7.2.41 OTHER REQUIREMENTS:

A. Anatomical Gifts. The hospital will adopt and implement organ and tissue donation policies and procedures to assist the medical, surgical and nursing staff in identifying and evaluating potential organ or tissue donors.

(1) Organ bank, means a facility certified by CMS for storage of human body parts.

(2) Decedent, means a deceased individual who made a gift of all or part of his body.

(3) Donor, means an individual who makes a gift of all or part of his body.

(4) Eye bank, means any non-profit agency which is organized to procure eye tissue for the purpose of transplantation or research and which meets the medical standards set by the eye bank association of America.

(5) Organ procurement agency, means any non-profit agency designated by the health care financing administration to procure and place human organs and tissues for transplantation, therapy, or research.

(6) Part, includes organs, tissues, eyes, bones, arteries, blood, other fluids and other portions of human body.

(7) Person, means an individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association or any other legal entity.

(8) State, includes any state, district, commonwealth territory, insular possession and any other area subject to the legislative authority of the United States of America.

B. Procedures.

(1) The organ and tissue donation policy and procedure shall conform to the CMS Conditions of Participation for organ and tissue donations.

(2) All physician and hospital personnel shall make every reasonable effort to carry out the organ and tissue donation policy and procedure adopted by the hospital so that the wishes of a donor may be conveyed to an appropriate local organ procurement agency or eye bank and the necessary donation documents may be properly executed.

(3) Consent from next of kin. Persons authorized to donate anatomical gifts on behalf of the decedent shall conform with the Uniform Anatomical Gift Act, N.M. Laws 2000, Chapter 54, or applicable subsequent statutes.

(4) Every hospital shall develop and implement a policy and procedure for the determination of brain death pursuant to Section 12-2.4 NMSA 1978.

(5) Laws pertaining to notification of the office of the medical investigator shall be complied with in all cases of reportable deaths.

(6) The requirements of this section apply only to acute-care hospitals and limited services hospitals in New Mexico.

[7.7.2.41 NMAC - Rp, 7.7.2.41 NMAC, 06-15-04]

7.7.2.42 RELATED REGULATIONS AND CODES: Hospitals subject to these requirements 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). [Recompiled as 7.1.7 NMAC]

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

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

D. Building, fire, electrical, plumbing and mechanical codes; the most current edition, adaptation by the state of New Mexico.

E. The current edition of the AIA guidelines for construction and design of hospitals and healthcare facilities, adopted in the state of New Mexico.

[7.7.2.42 NMAC - Rp, 7.7.2.42 NMAC, 06-15-04]

HISTORY OF 7.7.2 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the state records center & archives under HED 89-1 (PHD), New Mexico Regulations Governing General and Special Hospitals, filed April 25, 1989.

HISTORY OF REPEALED MATERIAL: 7 NMAC 7.2, Requirements for General and Special Hospitals (filed 10-18-1996) repealed 6-01-2000.

7.7.2 NMAC, Requirements for General and Special Hospitals (filed 04-27-2000) repealed 07-01-2004.

Other History:

HED 89-1 (PHD), New Mexico Regulations Governing General and Special Hospitals (filed April 25, 1989) renumbered, reformatted and replaced by 7 NMAC 7.2, Requirements for General and Special Hospitals, effective 10-31-96.

7 NMAC 7.2, Requirements for General and Special Hospitals (filed October 18, 1996) replaced by 7.7.2 NMAC, Requirements for General and Special Hospitals, effective 06-01-2000.
7.7.2 NMAC, Requirements for General and Special Hospitals (filed 04-27-2000) replaced by 7.7.2 NMAC, Requirements for Acute Care, Limited Services and Special Hospitals, effective 06-15-2004.