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6/23/12

NEBRASKA DEPARTMENT OF
HEALTH AND HUMAN SERVICES

175 NAC 6
CDHS

TITLE 175 HEALTH CARE FACILITIES AND SERVICES LICENSURE

CHAPTER 6 CHILDREN'S DAY HEALTH SERVICE (CDHS)

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TITLE 175 HEALTH CARE FACILITIES AND SERVICES LICENSURE

CHAPTER 6 CHILDREN'S DAY HEALTH SERVICE (CDHS)

6-001 SCOPE AND AUTHORITY: These regulations govern the licensure of a Children's Day Health Service. The regulations are authorized by and implement the Health Care Facility Licensure Act, Neb. Rev. Stat. §§ 71-401 to 71-467.

6-001.01 These regulations apply to all Children's Day Health Services which is a person or any legal entity that provides specialized care and treatment, including an array of social, medical, rehabilitation, or support services for a period of less than 24 consecutive hours in a community-based group program for twenty or more persons under twenty-one years of age who require such services due to:

1. Medical dependence;
2. Birth trauma;
3. Congenital anomalies;
4. Developmental disorders; or
5. Functional impairment

In addition to the CDHS licensure requirements outlined in this chapter, in order to operate as a CDHS, the following requirements must be met:

1. Hold an active license as a Child Care in accordance with child care licensing regulations;
2. Hold an active Ambulatory Health Care Occupancy Permit from the State Fire Marshal or delegated authority, or the occupancy permit specified by the State Fire Marshal or delegated authority; and
3. Only admit a person when the CDHS can meet the person's needs through the provision of one or more of the following services: skilled nursing care, mental health, or rehabilitation.

Throughout these regulations, the term "patient" is used. When a patient is under 19 years of age, the parent is responsible for decisions about patient care and treatment to be provided by the CDHS.

6-001.02 These regulations do not apply to services provided under the Developmental Disabilities Services Act.

6-002 DEFINITIONS

Abuse means any knowing, intentional, or negligent act or omission on the part of an individual which results in physical, sexual, verbal, or emotional abuse, unreasonable confinement, cruel punishment, exploitation, or denial of essential care, treatment, or services to a patient.

Activities of daily living (See definition of "Care".)

Administrator means the operating officer for the children's day health service and may include individuals with titles such as administrator, chief executive officer, manager, superintendent, director, or similar designation.

Applicant means the individual, government, corporation, partnership, limited liability company, or other form of business organization who applies for a license.

Basic therapeutic care means basic health care procedures, including, but not limited to, measuring vital signs, applying hot and cold applications and nonsterile dressings, and assisting with, but not administering, internal and external medications which are normally self-administered. Basic therapeutic care does not include health care procedures which require the exercise of nursing or medical judgment.

Biological means any virus, therapeutic serum, toxin, antitoxin, or analogous product applicable to the prevention, treatment, or cure of disease or injuries of humans.

Bylaws or equivalent means a set of rules adopted by a CDHS to govern the service's operation.

Care means the exercise of concern or responsibility for the comfort, welfare, and habilitation of persons, including a minimum amount of supervision and assistance with or the provision of personal care, activities of daily living, health maintenance activities, or other supportive services. For purposes of this definition:

1. Activities of daily living means transfer, ambulation, exercise, toileting, eating, self-administering medication, and similar activities;
2. Health maintenance activities means noncomplex interventions which can safely be performed according to exact directions, which do not require alteration of the standard procedure, and for which the results and individual responses are predictable; and
3. Personal care means bathing, hair care, nail care, shaving, dressing, oral care, and similar activities.

Chemical restraint means a psychopharmacologic drug that is used for discipline or convenience and is not required to treat medical symptoms.

Child Abuse or Neglect means knowingly, intentionally, or negligently causing or permitting a minor child to be:

1. Placed in a situation that endangers his or her life or physical or mental health;

2. Cruelly confined or cruelly punished;
3. Deprived of necessary food, clothing, shelter, or care;
4. Left unattended in a motor vehicle if such minor child is six years of age or younger;
5. Sexually abused; or
6. Sexually exploited by allowing, encouraging, or forcing such person to solicit for or engage in prostitution, debauchery, public indecency, or obscene or pornographic photography, films, or depictions

Children's Day Health Service means person or any legal entity which provides specialized care and treatment, including an array of social, medical, rehabilitation, or other support services for a period of less than 24 consecutive hours in a community-based group program to 20 or more persons under 21 years of age who require such services due to medical dependence, birth trauma, congenital anomalies, developmental disorders, or functional impairment.

Children's day health aide means an individual who is employed by a CDHS to provide personal care, assistance with the activities of daily living, and basic therapeutic care to CDHS patients.

Children's day health aide services means the use of a trained, supervised paraprofessional to provide personal care, assistance with activities of daily living and/or basic therapeutic care to patients of a CDHS.

Community-based means services provided outside the patient's home and in a manner that encourages the patient's involvement in the community.

Complaint means an expression of a concern or dissatisfaction.

Completed application means an application that contains all the information specified in 175 NAC 6-003 and includes all required attachments, documentation, and the licensure fee.

Department means the Division of Public Health of the Department of Health and Human Services.

Developmental disorder means a disorder that interrupts normal development in childhood.

Device means an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent, or other similar or related article, including any component, part, or accessory, which is prescribed by a licensed practitioner and dispensed by a pharmacist or other individual authorized by law to do so.

Direct supervision means that the responsible practitioner is physically present in the patient care and treatment area(s) or with the CDHS patients when out of the CDHS for transport or offsite activities.

Direction and monitoring means, for the purpose of medication administration, the acceptance of responsibility for observing and taking appropriate action regarding any desired effects, side effects, interactions and contraindications associated with the medication. Direction and monitoring can be done by a:

1. Competent individual for himself or herself;
2. Caretaker; or
3. Licensed practitioner.

Director means the Director of Public Health of the Division of Public Health.

Drug means substances as defined in Neb. Rev. Stat. § 71-1,142.

Emotional abuse means humiliation, harassment, threats of punishment, deprivation, or other actions causing mental anguish.

Emotional neglect means information indicates that the child is suffering or has suffered severe negative emotional effects due to failure to provide opportunities for normal experience that produce feelings of being loved, wanted, secure and worthy. Lack of such opportunities may impair the child's ability to form healthy relationships with others.

Employee means an employee of the CDHS or, if the CDHS is a subdivision of an agency or organization, an employee of the agency or organization who is assigned to the CDHS.

Exploitation means the taking of property of a patient by means of undue influence, breach of a fiduciary relationship, deception, extortion, or by any unlawful means.

Five rights means getting the right drug to the right recipient in the right dosage by the right route at the right time.

Food Code means the Nebraska Food Code as defined in Neb. Rev. Stat. § 81-2,244.01 and as published by the Nebraska Department of Agriculture, except for compliance and enforcement provisions.

Foreign when applied to corporations means all those created by authority other than that of the State of Nebraska.

Functional impairment means serious limitation(s) a patient has which substantially interfere with or limit role functioning in major life activities, as determined through an assessment by a practitioner credentialed under the Uniform Credentialing Act whose scope of practice includes care and treatment applicable to the functional impairment.

Governing authority means, depending on the organizational structure, an owner(s), a board of directors or other governing members of the licensee, or state, county, or city officials appointed by the licensee.

Grievance means a written expression of dissatisfaction which may or may not be the result of an unresolved complaint.

Health maintenance activities (See definition of "Care".)

Intravenous therapy means initiating and monitoring therapy related to substances that are administered intravenously.

Licensee means the individual, government, corporation, partnership, limited liability company, or other form of business organization legally responsible for the operation of the CDHS and to whom the Department has issued a license.

Licensed Independent Mental Health Practitioner (LIMHP) means an individual holding an active license as a LIMHP under the Uniform Credentialing Act.

Licensed Mental Health Practitioner (LMHP) means an individual holding an active license as an LMHP under the Uniform Credentialing Act. An associated certificate in social work, professional counseling, and/or marriage and family therapy is necessary only if the individual wishes to represent himself/herself as a Social Worker, Certified Professional Counselor, and/or Certified Marriage and Family Therapist.

1. A person who is licensed as a mental health practitioner and certified as a master social worker may use the title Licensed Clinical Social Worker (LCSW).
2. A person who is licensed as a mental health practitioner and certified as a professional counselor may use the title Licensed Professional Counselor (LPC).
3. A person who is licensed as a mental health practitioner and certified as a marriage and family therapist may use the title Licensed Marriage and Family Therapist (LMFT).

Licensed practical nurse or LPN means an individual holding an active license as an LPN under the Uniform Credentialing Act.

Major Mental Disorder See 172 NAC 94.

Medical dependence means a medically fragile individual who requires specialized care and treatment by practitioner as prescribed by a physician.

Medical services means those services that address the health concerns and/or needs of patients, including complex interventions, within the scope of practice of the licensed practitioner.

Medication means any prescription or non-prescription drug intended for treatment or prevention of disease or to affect body functions in humans.

Medication administration includes, but is not limited to:

1. Providing medications for another person according to the five rights;
2. Recording medication provision; and
3. Observing, monitoring, reporting, and otherwise taking appropriate actions regarding desired effects, side effects, interactions, and contraindications associated with the medication.

Medication aide see definition for medication aide in Neb. Rev. Stat. § 71-6721.

Medication provision means the component of the administration of medication that includes giving or applying a dose of medication to an individual and includes helping an individual in giving or applying such medication to himself or herself.

NAC means the Nebraska Administrative Code, the compiled regulations of all state agencies maintained by the Secretary of State.

Neglect means a failure to provide care, treatment, or services necessary to avoid physical harm or mental anguish of a patient. See also emotional neglect and physical neglect.

New construction means a CDHS or a distinct part of a CDHS in which care and treatment is to be provided and which is enlarged, remodeled, or altered in any fashion or is built from the ground up on or after the effective date of 175 NAC 6.

Non-prescription drug means a drug or device which can be sold without a prescription and meets the requirements defined in Neb. Rev. Stat. § 71-1,142.

Occupational therapist means an individual holding an active license as an occupational therapist under the Uniform Credentialing Act.

Occupational therapy services see definition for occupational therapy in Neb. Rev. Stat. § 38-2510.

Parent means the natural parent, adoptive parent, step parent, guardian, or other legally responsible individual for an individual under 19 years of age.

Patient means a child or young adult under the age of 21 years who has been admitted into a Children's Day Health Service. When a patient is under 19 years of age, the parent is responsible for decisions about patient care and treatment to be provided by the CDHS.

Personal care (See definition of "Care".)

Personal care aide means an individual who is employed by a CDHS to provide personal care, assistance with the activities of daily living, or both to CDHS patients.

Personal care aide services means the use of a trained, supervised paraprofessional to provide personal care, assistance with activities of daily living, or both to patients of a CDHS. Personal care aide services do not include basic therapeutic care.

Pharmacist means an individual holding an active license as a pharmacist under the Uniform Credentialing Act.

Physical abuse means hitting, slapping, pinching, kicking, or other actions causing pain or injury to the body or substantial risk of bodily injury. Information indicates the existence of an injury that is unexplained, not consistent with the explanation given, or is non-accidental.

Physical neglect means information indicates the failure to provide basic needs or a safe and sanitary environment for the child.

Physical restraint means any manual method or physical or mechanical device, material, or equipment attached or adjacent to the patient's body that s/he cannot remove easily and that restricts freedom of movement or normal access to his or her own body.

Physical therapist means an individual holding an active license as a physical therapist under the Uniform Credentialing Act.

Physical therapy services see definition for physical therapy or physiotherapy in Neb. Rev. Stat. § 38-2914.

Physician means an individual holding an active license as a physician under the Uniform Credentialing Act.

Practitioner means an individual holding an active credential under the Uniform Credentialing Act.

Premises means a facility, the facility's grounds and each building or grounds on contiguous property used for administering and operating a facility.

Prescribing practitioner means any podiatrist, dentist, physician, osteopathic physician, advanced practice registered nurse, or physician assistant licensed to prescribe, diagnose, and treat as provided in the Uniform Credentialing Act.

Prescription drug means a drug or device which requires a prescription prior to being dispensed, and meets the requirements defined in Neb. Rev. Stat. § 38-2841.

PRN means an administration scheme in which a medication is not routine, is taken as needed, and requires assessment for need and effectiveness.

Qualified inspector means a professional architect or engineer licensed to practice in Nebraska, an official or employee of a local jurisdiction authorized by that jurisdiction to make inspections of particular building equipment or systems, or an individual certified by a nationally recognized organization to make such inspections.

Registered nurse or RN means an individual holding an active license as an RN under the Uniform Credentialing Act.

Respiratory care see definition in Neb. Rev. Stat. § 38-3205.

Respiratory care practitioner means an individual holding an active license as a respiratory care practitioner under the Uniform Credentialing Act.

Sexual abuse means sexual harassment, sexual coercion, or sexual assault or any information which indicates any sexually oriented act, practice, contact, or interaction with a patient.

Skilled nursing care means skilled nursing services that:

1. Are ordered by a physician and included in the plan of care approved by the physician for the patient; and
2. Can be provided in this state only by or under the direct supervision of a registered nurse to assure the safety of the patient and to achieve the medically desired result.
3. Criteria for skilled nursing services and need for skilled services must include but not be limited to:
 - a. Services of such complexity that they can be safely and effectively performed only by or under the direct supervision of a registered nurse;
 - b. Services not normally requiring skilled nursing care, but which, because of special medical complications, become skilled nursing services because they must be performed or supervised by a registered nurse; and
 - c. The above services when needed to prevent a patient's further deterioration or preserve a patient's current capabilities even if recovery or medical improvement is not possible.

Skilled nursing care services (See skilled nursing care.)

Social services means activities designed to promote the social well-being of the patient.

Specialized care and treatment means care and treatment provided at a level requiring a practitioner and/or under the direction of a practitioner for one or more of the following services: skilled nursing care, speech-language pathology, occupational therapy, physical therapy, or mental health.

Speech-Language Pathologist means an individual holding an active license as a speech-language pathologist under the Uniform Credentialing Act

Speech-Language Pathology Services see definition for practice of speech-language pathology in Neb. Rev. Stat. § 38-508.

Staff means an individual who is a direct or contracted employee of the CDHS.

Summary report means a written compilation of the pertinent facts from the clinical notes and progress notes regarding a patient's care and treatment provided by the CDHS.

Supervising Practitioner means a person who supervises a mental health service. Such person may be a psychiatrist, psychologist, or LIMHP licensed under the Uniform Credentialing Act.

Support services means those services that support personal care, provision of medications, activities of daily living, and health maintenance activities.

Treatment means a therapy, modality, product, device, or other intervention used to maintain well-being or to diagnose, assess, alleviate, or prevent a disability, injury, illness, disease, or other similar condition.

Unlicensed direct care staff means personnel who are not credentialed under the Uniform Credentialing Act or other state laws governing the practice of health care and whose primary responsibility is to provide direct care to patients. Unlicensed direct care staff includes staff

qualified as children's day health aides, personal care aides, medication aides, teachers, assistant teachers, and other personnel with this responsibility and with job titles designated by the CDHS.

Verbal abuse means the use of disparaging and derogatory terms spoken to patients or within their hearing distance.

Veterinarian means an individual holding an active license as a veterinarian under the Uniform Credentialing Act.

Volunteer means an individual who is not a direct or contracted employee of the CDHS.

6-003 LICENSING REQUIREMENTS AND PROCEDURES: Any individual or legal entity intending to establish, operate, or maintain a Children's Day Health Service (CDHS) must first obtain a license from the Department. An entity must not hold itself out as a CDHS providing services unless licensed under the Health Care Facility Licensure Act. An applicant for an initial or renewal license must demonstrate that the CDHS meets the care, treatment, and physical plant standards contained in 175 NAC 6-006 and 6-007.

6-003.01 Initial License: The initial license process occurs in two stages. The first stage consists of the applicant's submission of affirmative evidence of the ability to comply with the operational and physical plant standards contained in 175 NAC 6-006 and 6-007. The application is not complete until the Department receives documents specified in 175 NAC 6-003.01B.

The second stage consists of the Department's review of the completed application together with an inspection of the CDHS. The Department determines whether the applicant meets the standards contained 175 NAC 6 and the Health Care Facility Licensure Act.

6-003.01A Applicant Responsibilities: An applicant for an initial license must:

1. Submit a written application to the Department as provided in 175 NAC 6-003.01B;
2. Submit a written description of the services to be provided and the applicant's:
 - a. Capacity to provide the services;
 - b. Population to be served; and
 - c. Organizational structure in place to manage the CDHS and provide the services;
3. Hold a license issued by the Department under the Child Care Licensing Act;
4. Comply with the applicable codes, guidelines, and standards specified in 175 NAC 6-006 and 175 NAC 6-007; and
5. Notify the Department at least 30 days prior to planned occupancy of a CDHS.

6-003.01B Application Requirements: The applicant may construct an application or obtain an application form from the Department. The application must include:

1. Full name of the CDHS to be licensed, street and mailing address, telephone and facsimile number, if any;
2. Type of health care facility or service to be licensed and a description of service(s) to be provided;
3. Name of the administrator;
4. Name(s) and address(es) of the owner(s);
5. Ownership type;
6. Mailing address(es) for the owner(s);
7. Preferred mailing address for receipt of official notices from the Department;
8. List of names and addresses of all persons in control of the CDHS. The list must include all individual owners, partners, limited liability company members, parent companies, if any, and members of boards of directors owning or managing the operations and any other persons with financial interests or investments in the CDHS. In the case of publicly held corporations, only those stockholders who own 5% or more of the company's stock must be listed;
9. Legal name of the individual or business organization (government, corporation, partnership, limited liability company, or other type) to whom the license should be issued and a statement that the individual or organization accepts the legal responsibility for compliance with 175 NAC 6;
10. Applicant's federal employer identification number, if not an individual;
11. Applicant's Social Security number if the applicant is an individual.
12. Whether patients dependent on life-support equipment will be included in the CDHS patient population;
13. Number of estimated annual unduplicated patient admissions;
14. Signature(s) of:
 - a. The owner, if the applicant is an individual or partnership;
 - b. Two of its members, if the applicant is a limited liability company;
 - c. Two of its officers, if the applicant is a corporation; or
 - d. The head of the governmental unit having jurisdiction over the CDHS to be licensed, if the applicant is a governmental unit;
15. Copy of the registration as a foreign corporation filed with the Nebraska Secretary of State, if applicant is a foreign corporation;
16. Schematic plans;
17. For new construction, construction plans completed in accordance with The Engineers and Architects Regulation Act, Neb. Rev. Stat. §§ 81-3401 to 81-3455. Construction plans must include the following:
 - a. Project name; description of the project with quantity and floor area information on bed, care, treatment, toileting, changing, and bathing areas, dining, and activity locations; building systems; medical equipment; street address; and contact person;

- b. Site plan, floor plans, elevations, wall and building sections, construction details, plumbing and electrical diagrams, construction component schedules;
 - c. Complete list of names, titles and telephone numbers of other authorities reviewing or inspecting the construction;
 - d. Upon Department request, any additional information that may be required for review, such as structural and mechanical calculations, electrical system calculations, and product and equipment information; and
 - e. Certification, if any, from a licensed architect or engineer that the construction plans and any revisions meet the requirements of 175 NAC 6-007;
 - f. An applicant may construct a project description and/or certification document, or obtain a form from the Department;
18. Planned occupancy date;
 19. Copies of zoning approval from the relevant jurisdiction;
 20. Certificate of Occupancy as required in 175 NAC 6-001 and Fire Inspection Approval issued by the State Fire Marshal or delegated authority;
 21. Copy of the Child Care License; and
 22. Required licensure fee specified in 175 NAC 6-004.09.

6-003.01B1 Citizenship/Qualified Alien Status: If the applicant is an individual owner, in order to comply with the requirements of Neb. Rev. Stat. §§ 4-108 to 4-114, the applicant must attest that s/he is a citizen of the United States of America or that s/he is a qualified alien under the Federal Immigration and Nationality Act and is lawfully present in the United States. The applicant must provide his/her immigration status and alien number, and agree to provide a copy of his/her United States Citizenship and Immigration Services (USCIS) documentation upon request.

6-003.01B1a Verification: For any applicant who has attested that s/he is a qualified alien under the paragraph above, eligibility must be verified through the Systematic Alien Verification for Entitlements Program. Until verification of eligibility is made, the attestation may be presumed to be proof of lawful presence unless the verification is required under another provision of state or federal law.

6-003.01C Department Responsibilities: The Department will:

1. Review the application for completeness;
2. Provide notification to the applicant of any information needed to complete the application;
3. Confirm, either by Department review or by accepting certification from an architect or engineer, that the schematic plans and, if new construction, the construction plans meet the standards of 175 NAC 6-007;
4. Upon receipt of all requested information, conduct an on-site inspection in accordance with 175 NAC 6-005 prior to issuance of a license; and

5. Issue or deny a license based on the results of the initial inspection.

6-003.02 Renewal Licenses

6-003.02A Licensee Responsibilities: The licensee must submit a written application to the Department. The licensee may construct an application or obtain an application form from the Department. The application must include:

1. Full name of the CDHS to be licensed, street and mailing address, telephone and facsimile number, if any;
2. Type of health care facility or service to be licensed and service(s) to be provided;
3. Name of the administrator;
4. Name(s) and address(es) of the CDHS owner(s);
5. Ownership type;
6. Mailing address(es) for the owner(s);
7. Preferred mailing address for receipt of official notices from the Department;
8. List of names and addresses of all persons in control of the CDHS. The list must include all individual owners, partners, limited liability company members, parent companies, if any, and members of boards of directors owning or managing the operations and any other persons with financial interests or investments in the CDHS. In the case of publicly held corporations, only those stockholders who own 5% or more of the company's stock must be listed;
9. Legal name of the individual or business organization (government, corporation, partnership, limited liability company, or other type) to whom the license should be issued and a statement that such individual or organization accepts the legal responsibility for compliance with 175 NAC 6;
10. Applicant's federal employer identification number, if not an individual;
11. Applicant's Social Security number if the applicant is an individual;
12. Whether patients dependent on life-support equipment will be included in the CDHS patient population;
13. Number of unduplicated patient admissions in the past year;
14. Signature(s) of:
 - a. The owner, if the applicant is an individual or partnership;
 - b. Two of its members, if the applicant is a limited liability company;
 - c. Two of its officers, if the applicant is a corporation; or
 - d. The head of the governmental unit having jurisdiction over the CDHS to be licensed, if the applicant is a governmental unit;
15. Certificate of Occupancy and Fire Inspection Approval issued by the State Fire Marshal or delegated authority dated within the 18 months prior to the license expiration date; and
16. Required licensure fee as specified in 175 NAC 6-004.09.

6-003.02A1 Citizenship/Qualified Alien Status: If the applicant is an individual owner, in order to comply with the requirements of Neb. Rev. Stat. §§ 4-108 to

4-114, the applicant must attest that s/he is a citizen of the United States of America or that s/he is a qualified alien under the Federal Immigration and Nationality Act and is lawfully present in the United States. The applicant must provide his/her immigration status and alien number, and agree to provide a copy of his/her United States Citizenship and Immigration Services (USCIS) documentation upon request.

6-003.02A1a Verification: For any applicant who has attested that s/he is a qualified alien under the paragraph above, eligibility must be verified through the Systematic Alien Verification for Entitlements Program. Until verification of eligibility is made, the attestation may be presumed to be proof of lawful presence unless the verification is required under another provision of state or federal law.

6-003.02B Department Responsibilities: The Department will:

1. Send a notice of expiration and an application for renewal to the licensee's preferred mailing address not later than 30 days prior to the expiration date. The licensure renewal notice specifies:
 - a. Date of expiration;
 - b. Fee for renewal;
 - c. License number; and
 - d. Name and address of the CDHS;
2. Issue a renewal license when it determines that the licensee has submitted a completed renewal application;
3. Send to each licensee that fails to renew its license a second notice, which is the final notice and specifies that:
 - a. The licensee failed to pay its renewal fees or submit an application or both;
 - b. The license has expired;
 - c. The Department will suspend action for 30 days following the date of expiration;
 - d. Upon receipt of the renewal fee and completed renewal application, the Department will issue the renewal license; and
 - e. Upon failure to receive the renewal fee and completed renewal application, the license will be lapsed; and
4. Place the license on lapsed status for nonpayment of fees if the licensee fails to renew the license. During this time, the CDHS may not operate. The license remains in lapsed status until it is reinstated.

6-003.02C Refusal to Renew: See 175 NAC 6-008.01 and 6-008.02 for grounds and procedures for the Department's refusal to renew a license.

6-003.03 Reinstatement from Lapsed Status: A CDHS requesting reinstatement of its lapsed license must submit to the Department an application for reinstatement and pay the required licensure fee specified in 175 NAC 6-004.09. The application must conform to the requirements specified in 175 NAC 6-003.02.

6-003.03A The Department will review the application for completeness and will decide if an onsite inspection is needed to determine compliance with the operation, care, treatment, and physical plant requirements of 175 NAC 6-006 and 6-007. The decision is based on the following factors:

1. The length of time that has transpired from the date the license was placed on lapsed status to the date of the reinstatement application; and
2. Whether the CDHS has provided care or treatment from the site under a license that is different from the lapsed license.

6-003.03B When the Department decides that a reinstatement inspection is warranted, it will conduct an inspection in accordance with 175 NAC 6-005.

6-003.03C When the Department decides that a reinstatement inspection is not warranted, it will reinstate the license.

6-003.03D Refusal to Reinstater: See 175 NAC 6-008.01 and 6-008.02 for grounds and procedures for the Department's refusal to reinstate a lapsed license.

6-004 GENERAL REQUIREMENTS

6-004.01 Separate License: An applicant must obtain a separate license for each type of facility or service that the applicant seeks to operate. All buildings in which care and treatment is provided must comply with 175 NAC 6-006 and 6-007. A single license may be issued for a CDHS operating in separate buildings or structures on the same premises under one management.

If the applicant seeks to operate more than one type of service or facility licensed under the Health Care Facility Licensure Act on the same premises, the CDHS must hold a separate license, as required, for each type of service and provide the different types of service in separate and distinct parts of the premises or identify CDHS patients and the hours receiving CDHS services in the Patient Roster specified in 175 NAC 6-006.21.

6-004.02 Single License Document: The Department may issue one license document that indicates the various types of health care facilities or services for which the entity is licensed.

6-004.03 Effective Date and Term of License: A CDHS license expires on December 31 of each year.

6-004.04 License Not Transferable: A license is issued only for the premises and persons named in the application and is not transferable or assignable. Change of ownership (sale, whether of stock, title, or assets, lease, discontinuance of operations), or for a facility, a change of premises, terminates the license. If there is a change of ownership and the CDHS remains on the same premises, the inspection in 175 NAC 6-005 is not required. If there is a change of premises, the CDHS must pass the inspection specified in 175 NAC 6-005.

6-004.05 Licensed Capacity: The number of patients in care at any one time must not exceed the licensed capacity of the CDHS. Licensed capacity will be determined by the Department based on available space, the capacity authorized under the facility's Child Care license, and the capacity authorized by the State Fire Marshal or delegated authority. If there is a conflict in the capacity authorized by the Child Care license and the capacity authorized by the State Fire Marshal, or the State Fire Marshal's delegated authority, whichever number is smaller will be the licensed capacity of the CDHS.

6-004.06 Change of Ownership or Premises: The licensee must notify the Department in writing ten days before a CDHS is sold, leased, discontinued, or moved to a new location.

6-004.07 Notification: An applicant or licensee must notify the Department in writing by electronic mail, facsimile, or postal service:

1. At least 30 working days prior to the date it wishes to increase the capacity for which it is licensed;
2. To request a single license document;
3. To request simultaneous facility or service licensure inspections for all types of licensure held or sought;
4. To request a change to or addition of services provided;
5. When new construction is to occur. Such notification must be submitted by a Nebraska-licensed architect or engineer prior to the beginning of the new construction and include the following information:
 - a. The name, address, and the type of facility or service where the new construction is to occur;
 - b. A description of the new construction, including location, size, and purpose of the new construction;
 - c. That construction plans for the new construction have been completed by a Nebraska-licensed architect or engineer in accordance with the Health Care Facility Licensure Act and 175 NAC 6-007; and
 - d. The estimated time for completion of the new construction;
6. Within 24 hours of any patient death that occurred due to a patient's suicide, a violent act, or the patient's leaving the CDHS without staff knowledge when departure presented a threat to the safety of the individual or others;
7. Within 24 hours if the CDHS has reason to believe that a patient death was due to abuse or neglect by staff;
8. Within 24 hours of any fire requiring fire department response; and
9. Within 24 hours of an accident or natural disaster resulting in damage to the physical plant and having a direct or immediate adverse effect on the health, safety, and security of individuals. This must include a description of the well-being of the CDHS patients and the steps being taken to assure patient safety, well-being, and continuity of care and treatment. The notification may be made by telephone if the accident or natural disaster has affected the capacity of the CDHS to communicate.

6-004.08 Information Available to Public: The licensee must make available for public inspection upon request, licenses, license record information, and inspection reports. This information may be displayed on the licensed premises.

6-004.09 Fees: The licensee must pay the fees for licensure and services as set forth below:

1. Initial licensure fee: \$650
2. Renewal licensure fee:
 - a. 1 to 50 unduplicated patient admissions in the past year: \$525
 - b. 51 to 200 unduplicated patient admissions in the past year: \$675
 - c. 201 or more unduplicated patient admissions in the past year: \$750
3. Duplicate license: \$10
4. Refunds for denied applications:
 - a. If the Department did not conduct an inspection, the Department will refund the license fee except for an administrative fee of \$25.
 - b. If the Department conducted an inspection, the license fee is not refunded.

6-005 INSPECTIONS: To determine compliance with operational, care, treatment, and physical plant standards, the Department inspects the CDHS prior to and following licensure. The Department determines compliance through initial on-site inspections, review of schematic and construction plans, and reports of qualified inspectors. Re-inspections are conducted by on-site inspection or review of documentation requested by the Department.

6-005.01 Initial Inspection: The Department will conduct an announced initial on-site inspection to determine compliance with 175 NAC 6-006 and 6-007. The inspection will be conducted within 30 working days, or later if requested by the applicant, of receipt of a completed application for an initial license. The Department will provide a copy of the inspection report to the CDHS within ten working days after completion of an inspection.

6-005.02 Results of Initial Inspection

6-005.02A When the Department finds that the applicant fully complies with the requirements of 175 NAC 6-006 and 6-007, the Department will issue a license.

6-005.02B When the Department finds that the applicant has complied substantially but has failed to comply fully with the requirements of 175 NAC 6-006 and 6-007 and the failure(s) would not pose an imminent danger of death or physical harm to patients in the CDHS, the Department may issue a provisional license. The provisional license:

1. Is valid for up to one year; and
2. Is not renewable.

6-005.02C When the Department finds the applicant has one or more violations that create no imminent danger of death or serious physical harm and no direct or immediate adverse relationship to the health, safety, or security of the patients in the CDHS, the Department may send a letter to the CDHS requesting a statement of compliance. The letter must include:

1. A description of each violation;
2. A request that the CDHS submit a statement of compliance within ten working days; and
3. A notice that the Department may take further steps if the statement of compliance is not submitted.

6-005.02D The statement of compliance must indicate any steps that have been or will be taken to correct each violation and the estimated time to correct each violation. Based on the statement of compliance, the Department will take one of the following actions:

1. If the CDHS submits and implements a statement of compliance that indicates a good faith effort to correct the violations, the Department will issue either a regular license or a provisional license; or
2. If the CDHS fails to submit and implement a statement of compliance that indicates a good faith effort to correct the violations, the Department may deny the license.

6-005.02E When the Department finds the applicant fails to meet the requirements of 175 NAC 6-006 and 6-007 and the failure(s) would create an imminent danger of death or serious physical harm, the Department will deny the license.

6-005.03 Physical Plant Inspections: An onsite inspection to determine conformity with construction plans and compliance with 175 NAC 6-007 must be conducted prior to use or occupancy.

6-005.03A On-site progress inspection of the physical plant by qualified inspectors for conformity to construction documents and compliance with code requirements may occur at any time after construction has begun and prior to the concealment of essential components.

6-005.03B A completion certificate prepared by a licensed architect or engineer that verifies that the physical plant meets the requirements of 175 NAC 6-007 and that the CDHS is complete and ready for occupancy must be submitted to the Department.

6-005.03B1 The verification may be submitted on a form provided by the Department or on a form constructed by the architect or engineer and it must state:

1. The name, address, telephone, and the Nebraska license number of the architect or engineer completing the verification;

2. The name, address, and the type of facility or service to which the verification pertains;
3. That a qualified inspector conducted the inspection of the building structure and plumbing rough-in prior to the time these were concealed;
4. That the new construction, care and treatment room sizes, handrails, grab bars, hardware, building systems, protective shielding, privacy curtains, appropriate room finishes, and other safety equipment are completed in accordance with applicable codes and regulations; and
5. That the CDHS is furnished, cleaned, and equipped for the care and treatment to be performed in compliance with 175 NAC 6-007 and is approved for use and occupancy.

6-005.03B2 The verification must have attached to it:

1. Copies of documents from other authorities having jurisdiction verifying that the CDHS meets the codes specified in 175 NAC 6-007.03A, and approved for use and occupancy;
2. Copies of certifications and documentation from equipment and building system installers verifying that all equipment and systems installed are operating and approved for use and occupancy; and
3. Schematic floor plans documenting actual room numbers and titles, bed locations, capacity, and life safety information.

6-005.04 Compliance Inspections: The Department may, following the initial licensure of a CDHS, conduct an unannounced onsite inspection at any time as it deems necessary to determine compliance with 175 NAC 6-006 and 6-007. Any inspection may occur based on random selection or focused selection.

6-005.04A Random Selection: Each year the Department may inspect up to 25% of all licensed Children's Day Health Services based on a random selection of licensed Children's Day Health Services.

6-005.04B Focused Selection: The Department may inspect a CDHS when the Department is informed of one or more of the following:

1. An occurrence resulting in patient death or serious physical harm;
2. An occurrence resulting in imminent danger to or the possibility of death or serious physical harm to patients;
3. An accident or natural disaster resulting in damage to the physical plant and having a direct or immediate adverse effect on the health, safety, and security of patients;
4. The passage of five years without an inspection;
5. A complaint alleging violation of the Health Care Facility Licensure Act or 175 NAC 6;

6. Complaints that, because of their number, frequency, or type, raise concerns about the maintenance, operation, or management of the CDHS;
7. Financial instability of the licensee or of the licensee's parent company;
8. Outbreaks or recurrent incidents of physical health problems at a CDHS such as dehydration, pressure sores, or other illnesses;
9. Change of services, management or ownership;
10. Change of status of any license or permit that is required for CDHS licensure as outlined in 175 NAC 6-001.01; or
11. Any other event that raises concerns about the maintenance, operation, or management of the CDHS.

6-005.05 Results of Compliance Inspections

6-005.05A When the inspection reveals repeat violations, violations that create imminent danger of death or serious physical harm or have a direct or immediate adverse effect on the health, safety, or security of patients in the CDHS, the Department will review the inspection findings within 20 working days after the inspection. If the evidence from the inspection supports the findings, the Department will impose discipline in accordance with 175 NAC 6-008.03.

6-005.05B When the inspection reveals one or more violations that create no imminent danger of death or serious physical harm and no direct or immediate adverse effect on the health, safety, or security of patients in the CDHS, the Department may request a statement of compliance from the CDHS. The statement of compliance must indicate any steps that have been or will be taken to correct each violation and the estimated time to correct each violation. Based on the statement of compliance, the Department will take one of the following actions:

1. If the CDHS submits and implements a statement of compliance that indicates a good faith effort to correct the violations, the Department will not take any disciplinary action against the license; or
2. If the CDHS fails to submit and implement a statement of compliance, the Department will initiate disciplinary action against the CDHS license, in accordance with 175 NAC 6-008.

6-005.06 Re-inspections

6-005.06A The Department may conduct re-inspections to determine if a CDHS fully complies with the requirements of 175 NAC 6-006 and 6-007:

1. After the Department has issued a provisional license;
2. Before a provisional license is converted to a regular license;
3. Before a disciplinary action is modified or terminated; or
4. After the Department receives a statement of compliance or a plan of correction for cited violations.

6-005.06B Following a re-inspection, the Department may:

1. Convert a provisional license to a regular license;
2. Affirm that the provisional license is to remain effective;
3. Modify a disciplinary action in accordance with 175 NAC 6-008.02 ; or
4. Grant full reinstatement of the license.

6-006 STANDARDS OF OPERATION, CARE, AND TREATMENT: The CDHS must be organized in a manner consistent with the size, resources, and type of services to ensure patient health and safety. The major organizational structure must include a governing authority, an administrator, and staff.

6-006.01 Governing Authority: The CDHS must have a governing authority which assumes full legal responsibility for determining, implementing, and monitoring policies governing the total operation and maintenance of the CDHS. The governing authority must approve written policies and procedures and ensure the policies and procedures are followed so as to provide quality health care.

The governing authority must ensure that all services provided are consistent with accepted standards of practice. The governing authority is responsible for all services provided by the CDHS whether the services are provided directly by CDHS staff, volunteers, or by a provider under contract to the CDHS.

The CDHS must:

1. Have bylaws, rules, or its equivalent which delineate how the governing authority conducts its business and are updated as necessary;
2. Designate a qualified administrator as described in 175 NAC 6-006.02;
3. Oversee the management and fiscal affairs of the CDHS;
4. Adopt, revise, and approve written policies and procedures for the operation and administration of the CDHS as needed, including but not limited to:
 - a. Range of services to be provided;
 - b. Personnel qualifications, policies and procedures, and job descriptions;
 - c. Criteria for admission, discharge; and transfer of patients, which ensures only individuals whose needs can be met by the CDHS or by providers of services under contract to the CDHS will be admitted as patients;
 - d. Policies and procedures describing the method to obtain and incorporate physician orders into the plan of care;
 - e. Patient care policies and procedures; and
 - f. Policies and procedures requiring each staff member or volunteer of the CDHS to report any evidence of abuse, neglect, or exploitation of any patient in accordance with Neb. Rev. Stat. § 28-711 of the Child Protection Act or, in the case of a patient who has reached age 19, in accordance with Neb. Rev. Stat. § 28-372 of the Adult Protective Services Act. The CDHS must ensure any abuse, neglect, or exploitation is reported;
5. Maintain sufficient documentation to demonstrate that the requirements of 175 NAC 6 are met; and

6. Records required by 175 NAC 6 must be available for inspection and copying by authorized representatives of the Department.

The CDHS must organize, manage, and administer its resources to assure that each patient admitted for services receives the necessary level of care and treatment in a manner consistent with the patient's needs and as directed by the patient's physician and/or supervising practitioner.

6-006.02 Administration: The governing authority must select an administrator to carry out the policies and directives of the governing authority and to be responsible for the day-to-day management of the CDHS. The governing authority must define the duties and responsibilities of the administrator in writing. Whether employed, elected, contracted, or appointed, the administrator must report and be directly responsible to the governing authority in all matters related to the maintenance, operation, and management of the CDHS.

6-006.02A Administrator Qualifications: The administrator must have training and experience with a health care program where specialized care and treatment, as defined at 175 NAC 6-002, was provided, preferably in a pediatric health care setting. The administrator must be a(n):

1. Physician;
2. Registered nurse (RN) who meets the Director of Nursing requirements at 175 NAC 6-006.10D; or
3. An individual with:
 - a. A bachelor's degree in health care administration, mental health practice, speech-language pathology, physical therapy, occupational therapy, or related field; and
 - b. Three years or more of full-time work experience in health care or mental health administration or as a practitioner in one of these fields.

6-006.02B Administrator Responsibilities: The administrator is responsible for the management of the CDHS to the extent authority is delegated by the governing authority. An individual who is equally qualified in experience and education as the administrator must be designated in writing to act in the absence of the administrator. The Administrator or the administrator's written designee must be available to CDHS staff during all hours of operation. The administrator is responsible to:

1. Oversee and be responsible for the provision and coordination of patient services;
2. Organize and direct the ongoing functions of the CDHS;
3. Maintain communication between the governing authority and staff;
4. Employ qualified personnel in accordance with job descriptions;
5. Establish, implement and revise as necessary, written personnel policies and procedures and job descriptions for all personnel;
6. Maintain appropriate personnel and administrative records;

7. Provide orientation for new staff and volunteers, scheduled in-service education programs, and opportunities for continuing education of the staff;
8. Ensure the completion, maintenance, and submission of reports and records as required by the Department; and
9. Establish planned hours of operation during which patient care and treatment will be provided, and ensure daily oversight of staff and patient scheduling so that qualified staff are available to meet each patient's needs.

6-006.03 Staff and Volunteer Requirements: The CDHS must maintain a sufficient number of staff with the required experience, orientation, training, and demonstrated competency to meet the needs of all patients accepted for care and treatment. The CDHS must have job descriptions for each staff position that include minimum qualifications for the position.

Before staff members are scheduled to care for patients, their qualification must be assessed through orientation, training, and demonstrated competency to provide patient care and treatment as ordered by the patient's physician and/or supervising practitioner in a safe and timely manner.

6-006.03A Staff-to-Patient Ratios: In addition to meeting the minimum staff ratios required in the child care licensing regulations, the CDHS must have a system to monitor and appropriately adjust staff-to-patient ratios based on the number of patients in attendance daily and the complexity of those patients' needs. When volunteers are counted in the staff-to-patient ratios, the volunteer must meet the staff requirements for the position s/he is assuming. All volunteers must receive direct supervision by CDHS staff who meet 175 NAC 6-006 requirements to provide and supervise such services.

6-006.03B Unlicensed Direct Care Staff and Volunteers: A CDHS that uses unlicensed direct care staff or volunteers must ensure and maintain sufficient documentation to demonstrate that the following requirements are met by any unlicensed direct care staff member or volunteer who provides any of the following regulated services.

1. Children's day health aide services and personal care aide services must be provided in accordance with 175 NAC 6-006.
2. Medication aide services may only be provided in the CDHS by a registered medication aide and in accordance with 175 NAC 6-006 and 172 NAC 95 and 96.
3. Teachers/Assistant Teachers must meet qualifications in accordance with the child care licensing regulations.

6-006.03C Staffing Records: The CDHS must establish, implement and revise as necessary, written policies and procedures regarding staffing record maintenance.

1. The CDHS must maintain a daily roster of available staff for patient scheduling. This roster must include first initial and last name of the staff member, job title, license or other credential, and hours available for duty.
2. The CDHS must maintain a daily schedule of staffing/patient assignments.

6-006.04 Employment and Volunteer Eligibility: The CDHS must complete and maintain documentation of pre-employment criminal background and registry checks for each direct or contracted staff member and volunteer. The CDHS must complete and maintain documentation of employment and training records for each direct or contracted staff member and volunteer. The CDHS must maintain documentation of written contracts for patient care and treatment services provided by contracted staff.

6-006.04A Pre-employment Criminal Background Checks: The CDHS must complete pre-employment criminal background checks in accordance with 391 NAC 3.

6-006.04B Pre-employment Registry Checks: The CDHS must complete pre-employment registry checks in accordance with 391 NAC 3 and must complete pre-employment checks for adverse findings on the Nurse Aide Registry for each direct or contracted staff member and volunteer.

6-006.04C Employment & Volunteer Restrictions: A CDHS must not employ, use as a contracted staff member, or use as a volunteer, any individual who is:

1. Listed as a perpetrator on the Child abuse/neglect central register, if the individual is age 13 or older;
2. Listed as a perpetrator on the Adult protective services (APS) central registry if the individual is age 18 or older;
3. Listed as a perpetrator on the State Patrol sex offender registry;
4. Listed as a perpetrator of abuse, neglect or misappropriation of patient property on the Nurse Aide Registry; or
5. Disqualified based on criminal history as outlined in 391 NAC 3.

Any individual who meets the restrictions identified in 6-006.04C, must not be on the CDHS premises during the hours of operation, except that a parent who meets the restrictions identified in 6-006.04C may be allowed on the premises when accompanied by CDHS staff and only to pick up and drop off his/her child.

6-006.04D Employment Record: The CDHS must maintain an employment record for each (direct or contracted) staff member which includes:

1. The title of that individual's position, qualifications, and description of the duties and functions assigned to that position;
2. Evidence of licensure, certification, or approval, if required;
3. Performance evaluations made within six months of employment and annually thereafter;

4. Post-hire/pre-employment health history screening. All staff must have a health history screening after accepting an offer of employment and prior to assuming job responsibilities. A physical examination is at the discretion of the employer based on results of the health history screening; and
5. Sufficient documentation to demonstrate that the requirements of 175 NAC 6-006.04 are met.

6-006.04E Training: The CDHS must ensure all staff and volunteers receive training and demonstrate competency before independently performing job duties or assigned tasks. Records must be maintained of each orientation and in-service or other training program, including the signature of staff and volunteers attending, subject matter of the training, the names and qualifications of instructors, dates of training, length of training sessions, and any written materials provided.

6-006.04E1 Orientation: The CDHS must provide orientation and training programs for all new staff, existing staff who are given new assignments, all contract staff, and volunteers. For existing staff with job duty, title, or role changes, the staff member(s) must receive orientation and training and must demonstrate competency for all newly assigned job duties before independently performing a new duty.

The orientation program must include, but is not limited to:

1. Job duties and responsibilities;
2. Organizational structure;
3. Patient rights;
4. Patient care policies and procedures;
5. Personnel policies and procedures, including confidentiality policies; and
6. Reporting requirements for abuse, neglect, or exploitation of any patient in accordance with Neb. Rev. Stat. § 28-711 of the Child Protection Act or, in the case of a patient who has reached the age of majority, in accordance with Neb. Rev. Stat. § 28-372 of the Adult Protective Services Act.

6-006.04E2 Ongoing Training: The CDHS must provide and maintain evidence of ongoing/continuous training, in-services or continuing education for staff and volunteers counted in the staff-to-patient ratios. The CDHS must maintain sufficient records to confirm this requirement is met. Documentation for ongoing/continuous in-services or continuing education must include: the date provided, the topic/content, and participants names and job titles.

6-006.04E3 Specialized Training: The CDHS must provide training, whether part of a program or as individualized instruction of staff and volunteers, to perform particular procedures or to provide specialized care and treatment, such as the use of ventilators, mechanical lifts, and other similar devices necessary to safely provide prescribed care and treatment.

6-006.04F Contract Staff: The CDHS may contract for patient care and treatment services. Any contract with a provider must be in writing and must include, but is not limited to:

1. A statement that the contractor will accept CDHS patients only if approved by the CDHS;
2. A description of the services and the manner in which they are to be provided;
3. A statement that the contractor must be in compliance with all 175 NAC 6 requirements and must conform to all applicable CDHS policies and procedures, including those related to qualifications;
4. A statement that the contractor is responsible for participating in the development of plans of care;
5. A statement that the services are controlled, coordinated, and evaluated by the CDHS;
6. The policy and procedures for submitting clinical and progress notes, scheduling patient care and treatment, and continuing periodic patient evaluations; and
7. The policies and procedures for determining charges and reimbursement.

The CDHS must maintain documentation of all contracts between the CDHS and outside resources.

6-006.05 Patient Rights: The governing authority must establish a Bill of Rights that will be equally applicable to all patients. The CDHS must protect and promote these rights. The patient must be given a copy of the Bill of Rights before the CDHS provides services to the patient and this action must be documented by the CDHS. The patient has the right to:

1. Receive mental health services ordered by a supervising practitioner and/or receive skilled nursing care services and/or rehabilitation services ordered by a physician from CDHS practitioners and to communicate with those practitioners;
2. Participate in the planning of the patient's care and treatment, receive appropriate instruction and education regarding the plan;
3. Request information about the patient's diagnosis, prognosis, and treatment, including alternatives to care and risks involved, in terms that they can readily understand so that they can give their informed consent;
4. Refuse care and be informed of possible health consequences of this action;
5. Receive care without discrimination as to race, color, creed, sex, age, or national origin;
6. Exercise religious beliefs;
7. Be admitted for service only if the CDHS has the ability to provide safe, professional care and treatment;
8. Receive the full range of services provided by the CDHS;

9. Personal privacy and confidentiality of all records, communications, and personal information;
10. Review and receive a copy of all health records pertaining to them;
11. Receive CDHS policies and procedures for admission, discharge, transfer, and termination of services prior to admission;
12. Voice complaints/grievances and suggest changes in service or staff without fear of reprisal or discrimination and be informed of the resolution;
13. Be fully informed of CDHS policies and charges for services, including eligibility for third-party reimbursement, prior to receiving care;
14. Be free from verbal, physical, and psychological abuse and to be treated with dignity;
15. Expect all efforts will be made to ensure continuity and quality of care and treatment in the CDHS setting;
16. Have his or her person and property treated with respect;
17. Be informed, in advance, about the care and treatment to be furnished, and any changes in the care and treatment to be furnished;
18. Formulate advance directives and have the CDHS comply with the directives unless the CDHS notifies the patient of the inability to do so. Advance directives include living wills, durable powers of attorney, powers of attorney for health care, or other instructions recognized by state law that relate to the provision of medical care if the patient becomes incapacitated; and
19. Be free from chemical and physical restraints, including locked seclusion, imposed for the purposes of discipline or convenience, and not required to treat the patient's medical symptoms.

6-006.05A Advance Directives: The CDHS must comply with the requirements of Neb. Rev. Stat. §§ 30-3041 to 30-3432 (Health Care Power of Attorney Act) and §§ 20-401 to 20-416 (Rights of the Terminally Ill Act). The CDHS must inform and distribute written information to the patient in advance concerning its policies and procedures on advance directives, including a description of applicable State law.

6-006.05B Competence of Patients

6-006.05B1 When a patient is under 19 years of age, the parent is responsible for decisions about patient care and treatment to be provided by the CDHS. In the case of a patient age 19 or older adjudged incompetent or incapacitated under the laws of the State by a court of competent jurisdiction, the rights of the patient are exercised by the persons authorized under State law to act on the patient's behalf.

6-006.05B2 In the case of a patient who has not been adjudged incompetent by the State court, any person designated in accordance with State law may exercise the patient's rights to the extent provided by the law.

6-006.06 Complaints/Grievances: The CDHS must establish, implement and revise as necessary, written policies and procedures that promptly addresses complaints/grievances filed by patients. The process must include but is not limited to:

1. Policies and procedures for submission of complaints/grievances that is made available to patients;
2. Policies and procedures, including timeframes for review of complaints/grievances and provision of a response; and
3. How information from complaints/grievances and responses are utilized to improve the quality of patient care and treatment.

The CDHS must maintain records of complaints received, actions taken, and resolution.

6-006.07 Quality Assurance and Improvement: The CDHS must have a quality assurance and improvement program to review services concurrently and retrospectively in accordance with a written quality assurance/improvement plan. The results must be recorded quarterly and reported to the governing authority annually.

6-006.07A The quality assurance/improvement program must be ongoing and consist of collection and assessment of important aspects of patient care and treatment. The program must provide a mechanism to:

1. Identify problems;
2. Recommend appropriate action; and
3. Implement recommendations.

6-006.07B There must be a written quality assurance/improvement plan which must include at least the following:

1. CDHS objectives;
2. Involvement of all patient care disciplines, if more than one service is offered by the CDHS;
3. Description of how the services of the CDHS will be administered and coordinated;
4. Methodology for monitoring, evaluating, and improving the quality of care and treatment;
5. Setting of priorities for resolving problems;
6. Monitoring to determine effectiveness of action;
7. Oversight responsibility; and
8. Mechanism for review of quality assurance plan.

6-006.08 Admission and Retention Requirements: The CDHS must establish, implement and revise as necessary, written policies and procedures that encompass admission, transfer, discharge and termination of services. The policies and procedures must delineate the scope of services provided in the CDHS and identify the patient population that will be served by the CDHS.

6-006.08A Admission: The CDHS must only admit an individual when the CDHS reasonably expects that it can meet the individual's needs through the provision of one or more of the services listed in 175 NAC 6-001.01. A written service agreement, in accordance with 175 NAC 6-006.08B, must be signed by the

prospective patient before he/she is admitted to the CDHS for care and treatment and updated to meet patient needs.

6-006.08B Service Agreement: The CDHS must negotiate a written service agreement with the prospective patient. The service agreement must be signed by the prospective patient and must not conflict with the physician-approved and/or supervising practitioner-approved written plan of care. The service agreement must include:

1. A patient-specific written emergency plan identifying the patient's emergency contact information, methods of contact, and assuring continuity of the patient's external home back-up power source for life-sustaining and emergent-care equipment operation while the CDHS is responsible for the patient's care and treatment. For ventilator patients, this plan must include:
 - a. The patient's ventilator type and instructions for proper implementation and use of the external back-up power source;
 - b. The method for CDHS staff to assure, during the daily communication report, that the patient's external back-up powersource is operational and has sufficient power to operate for a minimum of 24 hours; and
 - c. Any additional information necessary to assure the patient's safety in an emergency.
2. The patient's written authorization allowing the CDHS to:
 - a. Transfer the patient for emergent care when needed; and
 - b. Release and receive patient information necessary to provide patient care and treatment as ordered by the patient's physician.
3. A list of supplies, medications, and equipment necessary for the CDHS to provide care and treatment in accordance with the patient's physician-approved written plan of care identifying which items will be provided by the CDHS and which items will be provided by the patient.
4. A written description of the CDHS procedures for communication between the patient or patient-designated caregiver and a CDHS practitioner in accordance with 175 NAC 6-006.08C.
5. A signed patient acknowledgment that the CDHS must:
 - a. Receive patient or physician notification of all changes to the patient's current physician order(s) and practitioner care plan(s) prior to accepting the patient for daily care and treatment by the CDHS;
 - b. Only accept the patient for care and treatment when the patient's instructions for his/her care and treatment are not in conflict with the physician-approved written plan of care, practitioner care plan(s) or could compromise the patient's health or safety; and
 - c. Not accept the patient for care and treatment when the patient does not bring the supplies, medications, and equipment necessary to provide care and treatment as ordered by the patient's physician and in accordance with the patient's signed service agreement.

6. A list of care/service coordinator(s) authorized by the patient to exchange patient information necessary for the CDHS to:
 - a. Coordinate the CDHS patient's care plan(s) with non-CDHS practitioner's care and treatment for the CDHS patient; and
 - b. Send written summary reports when requested by the patient.

6-006.08C Daily Communication Report: The CDHS must have an established procedure for communication between the patient and the CDHS to ensure that services are appropriately rendered/provided. Such communication must occur each time the patient is accepted for care and treatment and include:

1. Any changes in the patient's medication, care and treatment regimen, or both;
2. Any changes to the patient's health condition; and
4. The condition and availability of life-sustaining and emergent-care equipment needs for patients who require such equipment.

6-006.08D Acceptance for Daily Care and Treatment: The CDHS must exclude the patient from attendance when symptoms of illness are present as identified in 173 NAC 3, Attachment 1. The CDHS must establish, implement and revise as necessary, written policies and procedures to prevent exposure to others when patients develop symptoms of illness while at the CDHS. The policies and procedures must be consistent with prevailing professional standards and encompass aspects to protect the health and safety of patients.

6-006.08E Transfer: When the patient is transferred to another health care facility, the CDHS must provide appropriate information for continuity of the patient's care and treatment to the receiving facility with written patient consent or as permitted by law.

6-006.08F Discharge: The CDHS must provide both an oral and written notification to the patient within two working days after receipt of the physician's discharge order.

6-006.08G Termination of Services: If a CDHS wishes to terminate services for any reason other than a physician-ordered discharge or a transfer, the patient must receive both an oral and written explanation. Information regarding community resources must be given to the patient.

Patients must receive at least a two-week notice prior to termination of services. No notice prior to termination of services is required when a patient is discharged by the physician's order, or when patient services are being terminated based on non-compliance with the patient's physician-approved written plan of care, failure to pay for services, or disruptive, abusive, or uncooperative behavior to the extent that delivery of care and treatment to the patient or the ability of the CDHS to operate safely and effectively is impaired.

The CDHS must make a serious effort to address presenting problems or issues that adversely affect care and treatment prior to termination of services. The CDHS must document their efforts to address problems and issues in the patient's medical record.

6-006.09 Patient Care, Treatment, and Activities: The CDHS must establish, implement and revise as necessary, written policies and procedures that encompass all care, treatment and activities provided to patients. The policies and procedures must be consistent with prevailing professional standards, delineate the scope of services provided in the CDHS, address how physician and supervising practitioner orders will be obtained, updated and incorporated into the physician-approved/supervising practitioner-approved written plan of care initially and on an ongoing basis, and encompass aspects to protect the health and safety of patients.

6-006.09A Plan of Care: The CDHS patient must have a physician-approved and/or supervising practitioner-approved written plan of care which includes all care and treatment to be provided for the patient by the CDHS. The patient's care and treatment must follow a written plan of care which must:

1. Include physician's order when the following services are provided:
 - a. Skilled nursing care services;
 - b. Rehabilitation services; or
 - c. Respiratory care service;
2. Include a supervising practitioner's order when mental health services are provided;
3. Be developed by a:
 - a. Registered nurse for skilled nursing care services after an initial patient assessment by the registered nurse; and/or
 - b. Practitioner of the appropriate discipline for mental health practice services or rehabilitation services, after an initial patient assessment by the practitioner of the appropriate discipline;
4. Specify the scope and frequency of services to be provided by the CDHS;
5. Include a physician-approved medication list with complete medication orders for the CDHS patient including those medication(s) to be administered by the CDHS;
6. Provide for the coordination of all services to be provided by the CDHS to ensure the services complement one another and support the objectives in the plan of care;
7. Provide for coordination with any other existing plan of care for the patient from a non-CDHS practitioner identified in the patient's Service Agreement;
8. Recognize the parent and family as members of the care team;
9. Be reviewed by a registered nurse and/or a practitioner of the appropriate discipline for mental health or rehabilitation services as often as the patient's condition requires, but at least every 62 days;
10. Be reviewed, approved, and signed by the patient's physician and/or supervising practitioner every six months or when the physician-

- approved written plan of care requires a change either through a recommendation by a practitioner of the appropriate discipline or when a change in the severity of the patient's condition requires; and
11. Include a written summary report of the patient's care and treatment provided by the CDHS which must be submitted to the patient's ordering physician and/or supervising practitioner every six months or when there has been a significant change in the patient's condition.

6-006.09B Activities: The CDHS must:

1. Provide age- and developmentally-appropriate daily activities designed to promote the patient's social well-being in accordance with each patient's plan of care. Activity areas are not required, but developmentally appropriate equipment and materials must be available for patient daily use;
2. Allow flexibility with eating, toileting, sleeping, resting, and play times as needed in coordination with the patient's plan of care; and
3. When activities for patients are routinely conducted outdoors or off the premises, the CDHS must:
 - a. Develop a schedule of activities which is posted in a conspicuous place in the CDHS or given to the parents;
 - b. Obtain written permission from parents before transporting patients on field trips or leaving the CDHS; and
 - c. While patients are in the care of the CDHS, but off the CDHS premises, the CDHS must:
 - (1) Maintain staff requirements as provided in 175 NAC 6-006.03 to ensure patient care and treatment are provided as ordered in a safe and timely manner; and
 - (2) Ensure adequate supervision as required in the child care licensing regulations.

6-006.10 Nursing Services: When skilled nursing care services are provided by the CDHS, the CDHS must establish, implement and revise as necessary, written policies and procedures that delineate how nursing services are to be provided to patients in a manner that protects the health and safety of the patients.

6-006.10A: The CDHS must ensure a sufficient number of qualified nursing staff are available to provide specialized care and treatment as required in the physician-approved written plan of care and to meet the patient's needs.

6-006.10B: The CDHS must ensure a registered nurse is on duty and available to the direct care staff during all hours of operation.

6-006.10C: The CDHS must have an organized nursing service, including written job descriptions which delineate duties and responsibilities for each category of nursing staff.

6-006.10D The CDHS must have a Director of Nursing (DON) when the CDHS provides skilled nursing care services, children's day health aide services or intravenous therapy services. The DON must be available to CDHS staff during all hours of operation.

6-006.10D1 The CDHS must have an individual designated as the full-time Director of Nursing (DON). The DON must be a registered nurse with at least three years of full-time RN experience. Such experience must include providing direct patient care or supervising RNs providing direct patient care.

6-006.10D2 The DON must name and designate, in writing, a registered nurse to assume the DON responsibilities during times when the DON is unavailable to the CDHS staff. This designated RN must have two years of full-time experience in providing direct patient care as a registered nurse.

6-006.10E Skilled nursing care services must be provided by a registered nurse and/or licensed practical nurse in accordance with the physician-approved written plan of care and acceptable standards of nursing practice. Skilled nursing care services are:

1. Services of such complexity that they can be safely and effectively performed only by or under the direct supervision of a registered nurse;
2. Services not normally requiring skilled nursing care, but which, because of special medical needs or complications, become skilled nursing services because they must be performed or supervised by a registered nurse; and
3. The above services when needed to prevent a patient's further deterioration or preserve a patient's current capabilities even if recovery or medical improvement is not possible.

6-006.10F When skilled nursing care is ordered by a physician, the following specific services must be provided by a registered nurse:

1. Initial patient assessment visit;
2. Reevaluation of the patient's nursing needs;
3. Provision of services requiring specialized nursing skill;
4. Initiation of appropriate preventive and rehabilitative nursing procedures;
5. Coordination of services;
6. Direct supervision of other nursing staff; and
7. Assignment of nursing care and treatment to meet the patient's needs.

6-006.10G When skilled nursing care is ordered by a physician, the following specific services may be performed by a registered nurse or by a licensed practical nurse if s/he is under the direct supervision of a registered nurse:

1. Implementing the physician-approved written plan of care and necessary revisions to the plan. A registered nurse must review the

- plan of care as often as the severity of the patient's condition requires, but at least every 62 days;
2. Preparation of clinical and progress notes;
 3. Informing the physician and other staff of changes in the patient's conditions and needs;
 4. Teaching other nursing staff; and
 5. Teaching the patient and caregiver for the purpose of meeting nursing and other related needs.

6-006.11 Children's Day Health Aide and Personal Care Aide Services: A CDHS that employs children's day health aides (CDHA) or personal care aides (PCA) must meet the following children's day health aide and personal care aide requirements for training and testing prior to the CDHA or PCA providing care and services to patients. The CDHS must ensure the following requirements are met.

6-006.11A Employ Qualified Aides: The CDHS must only employ children's day health aides and personal care aides who meet the qualifications as required in 175 NAC 6-006.

6-006.11B In-service Program: The CDHS must provide or make available to its children's day health aides and personal care aides four hours of in-service programs per year on multiple subjects relevant to the CDHS patient population. The CDHS must maintain sufficient records to confirm this requirement is met. Documentation for in-service or continuing education must include: the date provided, the topic and content, trainer qualifications, length of the in-service program, and participants printed name, signature, job title and attendance date.

6-006.11C Permitted Acts: Children's day health aides may perform only personal care, assistance with the activities of daily living, and basic therapeutic care. A personal care aide may perform only personal care and assist with activities of daily living. Children's day health aides and personal care aides must not perform acts which require the exercise of nursing or medical judgment.

6-006.11D Requirements: A children's day health aide and a personal care aide must be listed on the Medication Aide Registry operated by the Department before being allowed to perform the provision of medication. A children's day health aide and personal care aide must only perform the provision of medication in accordance with the Medication Aide Act and in accordance with 175 NAC 6-006, & 172 NAC 95 and 96.

6-006.11E Children's Day Health Aide and Personal Care Aide Training

6-006.11E1 Children's day health aide and personal care aide training provided by the CDHS must meet the following standards with regard to training content, qualifications for instructors, and documentation of training. The training must, at a minimum, address each of the subject areas identified below and be provided under the direct supervision of an RN or LPN who holds an active nursing license from the Department and who has two years

or more of direct patient care experience as an RN or LPN, preferably in a pediatric setting.

Personal care aide training must include Items 1 through 10 below. Children's day health aide training must include Items 1 through 13 below.

1. Communication skills;
2. Observation, reporting, and documentation of patient status and the care or service furnished;
3. Adequate nutrition and fluid intake;
4. Basic infection control procedures;
5. Basic elements of body functioning and changes in body functioning that must be reported to an aide's supervisor;
6. Maintenance of a clean, safe, and healthy environment;
7. Recognizing emergencies and knowledge of emergency procedures;
8. The physical, emotional, and developmental needs of and ways to work with the populations served by the CDHS, including the need for respect of the patient, his or her privacy, and his or her property;
9. Appropriate and safe techniques in personal hygiene and grooming that include:
 - a. Nail and skin care;
 - b. Oral hygiene; and
 - c. Toileting and elimination;
10. Safe transfer techniques and ambulation;
11. Normal range of motion and positioning;
12. Reading and recording temperature, pulse, and respiration; and
13. Any other task that the CDHS may choose to have the children's day health aide perform.

Except as identified in 175 NAC 6-006.11F2, the training above will be waived for a children's day health aide or a personal care aide who:

1. Successfully completes a nurse aide/nurse assistant training course approved by the Department in accordance with 172 NAC 108 and meets the requirements at 175 NAC 6-006.11F; or
2. Has been employed by or contracted by a service that meets the definition of a CDHS and has been trained and has been providing children's day health aide services or personal care aide services for six months prior to the effective date of these regulations and meets the requirements at 175 NAC 6-006.11F.

6-006.11E2 Children's day health aide and personal care aide training must be provided under the direct supervision of an RN or LPN who has two years or more of direct patient care experience as an RN or LPN, preferably in a pediatric setting.

6-006.11E3 The CDHS must maintain sufficient documentation to demonstrate that the requirements above are met.

6-006.11F Verify Competency

6-006.11F1 The CDHS must verify and maintain records of the competency of all children's day health aides and personal care aides employed by the CDHS, prior to the aides providing services.

6-006.11F2 Any children's day health aide or personal care aide not acting as a personal care aide or a children's day health aide for a period of three years must meet the children's day health aide and/or personal care aide training requirements identified at 6-006.11E1. The CDHS must determine and verify competency of all children's day health aides and personal care aides as indicated below.

6-006.11F3 Children's Day Health Aide and Personal Care Aide Competency Evaluation Requirements

1. Children's day health aide and personal care aide competency evaluations must address each of the subjects specific to the type of aide being trained and/or evaluated as identified and listed in 175 NAC 6-006.11E1.
2. The competency evaluation must be performed by an RN who has two years or more of direct patient care experience as an RN, preferably in a pediatric setting.
3. The subject areas in 175 NAC 6-006.11E1 must be evaluated by observation and a written or oral examination.
 - a. CDHAs must demonstrate competency for Items 1-7 below. PCAs must demonstrate competency for Items 1-4 below. Observations must be made with a live patient or other individual, and must include but are not limited to:
 - (1) Safe transfer techniques and ambulation;
 - (2) Nail and skin care;
 - (3) Oral hygiene;
 - (4) Toileting and elimination;
 - (5) Reading and recording temperatures, pulse, and respiration;
 - (6) Normal range of motion and positioning; and
 - (7) Any other task that the CDHS may choose to have the children's day health aide perform
 - b. The written or oral examination must include but is not limited to:
 - (1) Communication skills;
 - (2) Observation, reporting, and documentation;

- (3) Basic infection control procedures;
- (4) Basic elements of body functioning and changes in body functioning that must be reported to the children's day health aide's supervisor;
- (5) Maintenance of a clean, safe, and healthy environment;
- (6) Recognizing emergencies and knowledge of emergency procedures;
- (7) The physical, emotional, and developmental needs of and ways to work with the population served by the CDHS, including respect for the patient, his or her privacy and property; and
- (8) Adequate nutrition and fluid intake.

6-006.11F4 A children's day health aide or personal care aide that receives an unsatisfactory on any task performed must not perform that task without direct supervision by a nurse until after s/he receives additional training in that task, is evaluated, and subsequently is evaluated as satisfactory.

6-006.11G Aide Care Plan and Supervision

6-006.11G1 Children's Day Health Aide Care Plan: An RN must make the initial evaluation of each patient for whom the physician orders children's day health aide services, an RN must devise a written aide care plan, and an RN must prepare a written plan of care for the physician's approval. The RN must review this plan of care as often as the patient's condition requires, but at least every 62 days.

6-006.11G2 Personal Care Aide Care Plan: A practitioner must make the initial evaluation of each patient for whom the physician orders personal care aide services, a practitioner must devise a written aide care plan, and a practitioner must prepare a written plan of care for the physician's approval. The practitioner must review this plan of care as often as the patient's condition requires, but at least every 62 days.

6-006.11G3 Supervision: The children's day health aide must provide services in accordance with the physician-approved written plan of care and the aide care plan under the direct supervision of the registered nurse. The personal care aide must provide services in accordance with the physician-approved written plan of care and the aide care plan under the direct supervision of the registered nurse or appropriate practitioner. The plan of care must include patient-specific written instructions for each patient's care, prepared by the supervising registered nurse for children's day health aides or prepared by the appropriate practitioner for personal care aides.

6-006.11G4 Documentation: Children's day health aide and personal care aide services must be documented in accordance with the written aide care

plan and the plan of care prepared by the RN or practitioner as required in 6-006.11G and 6-006.09A.

6-006.12 Administration or Provision of Medications: The CDHS must establish, implement and revise as necessary, written policies and procedures to ensure patients receive medications only as legally prescribed by a prescribing practitioner, in accordance with the CDHS physician-approved written plan of care, the five rights and prevailing professional standards.

6-006.12A Acceptance of Patient Instructions and Medications: The CDHS must establish, implement and revise as necessary, written policies and procedures for CDHS staff acceptance of patient medication(s), supplies, equipment, and patient instructions necessary to provide patient care, treatment and medication(s) in accordance with the physician-approved written plan of care.

6-006.12A1 Acceptance of Patient Instructions: If a conflict exists between the physician-approved written plan of care and the patient's instructions for providing care, treatment, or medication(s), the CDHS staff must contact the physician for clarification before providing the care, treatment, or medication(s).

6-006.12A2 Acceptance of Patient Medications: When accepting patient medications and related supplies necessary to provide patient care and treatment by the CDHS staff, the CDHS must:

1. Only accept medications that are clearly labeled for the CDHS patient; and
2. Only accept medications in the original manufacturer's or pharmacy's container.

6-006.12B Methods of Administration: When the CDHS is responsible for the administration of medications, it must be accomplished by the following methods:

6-006.12B1 Self-Administration of Medications: Patients may be allowed to self-administer medications, with or without supervision, when the CDHS determines that the patient is competent and capable of doing so and has the capacity to make an informed decision about taking medications in a safe manner. The CDHS must establish, implement and revise as necessary, written policies and procedures to address patient self-administration of medication, including:

1. Inclusion of the determination that the patient may self-administer medication in the patient's physician-approved written plan of care; and
2. Monitoring the plan to assure continued safe administration of medications by the patient.

6-006.12B2 Licensed Practitioner: When the CDHS uses a licensed practitioner for whom medication administration is included in the scope of practice, the CDHS must establish, implement and revise as necessary, written policies and procedures to ensure that medications are properly administered and documented in accordance with prevailing professional standards.

6-006.12B3 Provision of Medication by Other Than a Licensed Practitioner: When the CDHS uses someone other than a licensed practitioner for whom medication administration is included in the scope of practice in the provision of medications, the CDHS must only use individuals who are registered medication aides and must follow 175 NAC 6-006, & 172 NAC 95 and 96. The CDHS must establish, implement and revise as necessary, written policies and procedures as follows:

1. To ensure that medication aides who provide medications are trained and have demonstrated the minimum competency standards specified in 172 NAC 95-003;
2. To ensure that competency assessments and/or courses for medication aides are provided in accordance with the provisions of 172 NAC 96-005;
3. That specify in writing how direction and monitoring will occur when the CDHS allows medication aides to perform the routine/acceptable activities authorized by 172 NAC 95-005, and as follows:
 - a. Provide routine medication; and
 - b. Provision of medications by the following routes:
 - (1) Oral which includes any medication given by mouth including sublingual (placing under the tongue) and buccal (placing between the cheek and gum) routes and oral sprays;
 - (2) Inhalation which includes inhalers, nebulizers, and oxygen given by inhalation;
 - (3) Topical application of sprays, creams, ointments, lotions, and transdermal patches; and
 - (4) Instillation by drops, ointments, and sprays into the eyes, ears and nose;
4. That specify in writing how patient-specific direction and monitoring will occur when the CDHS allows medication aides to perform the additional activities authorized by 172 NAC 95-006, 95-008, and 95-009, which include:
 - a. Provision of PRN medication(s);
 - b. Provision of medications by additional routes which may include: gastrostomy tube, rectal, vaginal, and injections including subcutaneous, intradermal, and intramuscular; and/or

- c. Participation in direction and monitoring by observing for identified recipient responses and reporting these responses as directed;
5. That specify how competency determinations will be made before medication aides are allowed to perform routine and additional activities pertaining to medication provision;
6. That specify how patient-specific, written direction will be provided for medication aides to perform the additional activities authorized by 172 NAC 95-006, 95-008, and 95-009;
7. That specify how records of medication provision by medication aides will be recorded and maintained;
8. That specify how medication errors made by medication aides and adverse reactions to medications will be reported. The reporting must be:
 - a. Made to the identified individual responsible for direction and monitoring;
 - b. Made immediately upon discovery; and
 - c. Documented in the patient's medical records;
9. When the CDHS is not responsible for medication administration and provision, the CDHS must maintain responsibility for overall supervision, safety, and welfare of the patient;

6-006.12C Reporting of Medication Errors: The CDHS must establish, implement and revise as necessary, written policies and procedures for reporting any errors in administration or provision of prescribed medications to the patient and the patient's physician and prescribing practitioner in a timely manner upon discovery and a written report of the error prepared. Errors include any variance from the five rights.

6-006.12D Reporting of Adverse Reactions: The CDHS must establish, implement and revise as necessary, written policies and procedures for reporting any adverse reaction to a medication immediately upon discovery to the patient and the patient's physician and prescribing practitioner and document the event in the patient's medical record.

6-006.12E Verbal Orders: The CDHS must establish, implement and revise as necessary, written policies and procedures for those staff authorized to receive telephone and verbal diagnostic, therapeutic, and medication orders.

6-006.12F Storage of Medication: The CDHS must establish, implement and revise as necessary, written policies and procedures for the storage of all medications and related supplies. The CDHS must store all medications in locked areas provided solely for the storage of medications, in accordance with the child care licensing regulations, and in accordance with the manufacturer's instructions for temperature, light, humidity, or other storage instructions. The CDHS must return to the patient any unused medications when no longer needed or expired.

6-006.12G Access to Medication: The CDHS must establish, implement and revise as necessary, written policies and procedures for staff access to medications and related supplies. The CDHS must ensure that only authorized staff who are designated by the CDHS to be responsible for administration or provision of medications have access to medications.

6-006.12H Medication Record: The CDHS must establish, implement and revise as necessary, written policies and procedures for the recording of administration and provision of medication.

6-006.12H1 The CDHS must keep records in sufficient detail to assure that:

1. Patients receive the medications authorized by a prescribing practitioner; and
2. The facility is alerted to theft or loss of medication.

6-006.12H2 The CDHS must keep a separate medication administration record for each patient. This record must include:

1. Identification of the patient;
2. Name of the medication given;
3. Date, time, dosage and method of administration for each medication administered or provided; and the identification of the person who administered or provided the medication; and
4. Patient's medication allergies and sensitivities, if any.

6-006.13 Intravenous Therapy Services: The CDHS must establish, implement and revise as necessary, written policies and procedures to ensure patients receive all intravenous therapy services only as legally prescribed by a prescribing practitioner, in accordance with the CDHS physician-approved written plan of care, the five rights and prevailing professional standards.

6-006.13A All intravenous therapy services, when provided by the CDHS, must be provided by a registered nurse in accordance with the physician-approved written plan of care and prevailing standards of practice.

6-006.13B Intravenous therapy includes, but is not limited to:

1. Total parenteral nutrition (TPN);
2. Hydration therapy;
3. Chemotherapy;
4. Antibiotic therapy; and
5. Blood and blood products.

6-006.13C A registered nurse must complete an initial evaluation of each patient for whom the physician orders intravenous therapy, and must devise a written plan of

care for the physician's approval. The registered nurse must review the plan of care as often as the severity of the patient's condition requires, but at least every 62 days.

6-006.14 Medical Supplies and Equipment: When medical supplies, equipment, and appliances are provided by the CDHS for patient use while at the CDHS, the CDHS must have a process designed for routine and preventative maintenance of equipment to ensure that it is safe and works as intended. The CDHS must define in the service agreement, prior to admitting an individual to the CDHS, all supplies, equipment, and appliances the CDHS patient is expected to provide while at the CDHS.

The medical supplies and equipment in this section are intended to include such items as pulse oximetry and blood pressure machines, alcohol pads, syringes, and other similar supplies/equipment necessary to provide care and treatment as ordered by the patient's physician while at the CDHS.

6-006.14A Durable Medical Equipment: When the CDHS agrees to provide durable medical equipment for CDHS patient use, the CDHS must ensure that durable medical equipment is tested and calibrated in accordance with the manufacturer's recommendations.

6-006.14B Required Equipment: The CDHS must provide equipment adequate for meeting each patient's needs as specified in the service agreement and the patient's physician-approved written plan of care.

6-006.15 Mental Health Services: When mental health services are provided by the CDHS, the CDHS must establish, implement and revise as necessary, written policies and procedures that delineate how mental health services are to be provided. Mental health services may be provided by contracted staff or employees of the CDHS.

6-006.15A Mental Health Services means, for the purposes of these regulations, mental health practice as defined in Neb. Rev. Stat. § 38-2115 and other activities, interventions, or directives designed to address behavioral needs outlined in the patient-specific, written plan of care.

6-006.15A1 Mental health practice must be provided by an appropriately credentialed practitioner under the Uniform Credentialing Act.

6-006.15A2 When other activities, interventions, or directives designed to address behavioral needs outlined in the patient-specific, written plan of care are provided by unlicensed staff, such services must be:

1. Supervised by a licensed mental health practitioner who must:
 - a. have a minimum of two years of experience in providing mental health practice services;
 - b. assume overall responsibility and direction for all mental health services provided by the unlicensed staff; and

- c. be immediately available, during CDHS operating hours, to the CDHS staff by phone, and when required, available onsite at the CDHS; and
2. Provided in accordance with the patient-specific, written plan of care.

6-006.15B The CDHS must have an organized mental health service, including written job descriptions which delineate duties and responsibilities for each category of staff.

6-006.15C A licensed mental health practitioner must devise a patient-specific written plan of care after performing the initial patient assessment, and must review this plan of care as often as the severity of the patient's condition requires, but at least every 62 days. When a LMHP provides services which require a supervising practitioner, the supervising practitioner must sign the patient-specific, written plan of care.

6-006.16 Rehabilitation Services: When rehabilitation services are provided by the CDHS, they may be provided by contracted staff or employees of the CDHS. Rehabilitation services must be provided by an appropriately credentialed practitioner as provided in A-C below.

A patient-specific rehabilitation plan of care must be incorporated into the patient's physician-approved written plan of care. The rehabilitation practitioner, as appropriate for the rehabilitation services provided, must devise a patient-specific written plan of care after performing the initial patient assessment, and must review this plan of care as often as the severity of the patient's condition requires, but at least every 62 days.

If the patient chooses not to use the rehabilitation services furnished by the CDHS, the patient is responsible to arrange for continuation of rehabilitation services by a non-CDHS provider.

6-006.16A Speech-Language Pathology services must be provided in accordance with Neb. Rev. Stat. §§ 38-501 to 38-527, Audiology and Speech-Language Pathology Practice Act, and 172 NAC 23. Practice of speech-language pathology does not include the practice of medical diagnosis, medical treatment, or surgery.

6-006.16B Occupational therapy services must be provided in accordance with Neb. Rev. Stat. §§ 38-2501 to 38-2531 and 172 NAC 114.

6-006.16C Physical therapy services must be provided in accordance with Neb. Rev. Stat. §§ 38-2901 to 38-2929 and 172 NAC 137. Physical therapy does not include the use of roentgen rays and radium for diagnostic and therapeutic purposes, including cauterization.

6-006.17 Respiratory Care Services: A CDHS may provide respiratory care services for patients admitted to the CDHS by persons who are credentialed under the Uniform

Credentialing Act and whose scope of practice permits them to provide respiratory care services. Respiratory care services must be provided in accordance with Neb. Rev. Stat. §§ 38-3201 to 38-3216 and 172 NAC 162.

When a CDHS provides a Respiratory Care Service/Department, it must designate a medical director who must be a licensed physician who has special interest and knowledge in the diagnosis and treatment of respiratory problems. Such physician must:

1. Be an active medical staff member of a licensed health care facility;
2. Whenever possible be qualified by special training or experience in the management of acute and chronic respiratory disorders, and
3. Be competent to monitor and assess the quality, safety, and appropriateness of the respiratory care practitioners and must require that respiratory care be ordered by a physician who has medical responsibility for any patient that needs such care.

6-006.18 Social Services: The CDHS must provide activities to promote the development and utilization of patients' social skills, including such things as appropriate interaction, sharing, and cooperation.

6-006.18A The CDHS must establish, implement and revise as necessary, written policies and procedures for all social services provided including patient assessments, development of patient-specific activities, and referral to outside social services necessary to promote the patient's social well-being.

6-006.18B The CDHS must perform a social service needs assessment as part of the initial patient assessment for use in:

1. Developing a written, patient-specific plan of activities designed to promote the patient's social well-being; and
2. Referring the patient to outside resources when the patient's social service needs exceed the social services provided by the CDHS.

6-006.18C The CDHS must reassess the patient's social service needs and update their patient-specific plan of activities as often as the severity of the patient's condition requires reassessment.

6-006.18D The CDHS must maintain sufficient documentation in the patient's clinical record to demonstrate the requirements at 175 NAC 6-006.18 are met.

6-006.19 Food Services: The CDHS must ensure that the daily nutritional needs of all patients are met, including any diet ordered by the attending physician. Food service must include but is not limited to:

1. Providing food service directly or through a written agreement;
2. Ensure a staff member is trained or experienced in food management or nutrition with the responsibility of:

- a. Planning menus which meet the nutritional needs of each patient, following the orders of the patient's physician;
 - b. Supervising the meal preparation and service to ensure that the menu plan is followed;
3. Be able to meet the needs of the patient's physician-approved written plan of care; nutritional needs, and therapeutic diet; and
 4. Procure, store, prepare, distribute, and serve all food under sanitary conditions and in accordance with the Food Code.

6-006.20 Transportation Services: Transportation services, when offered by the CDHS, may be provided by contracted staff or employees of the CDHS. When transportation is provided for CDHS patients, the licensee must meet all Child Care Licensing transportation requirements in accordance with the child care licensing regulations, all applicable 175 NAC 6-006 and the following additional requirements:

1. Staff in each vehicle must have a functioning cellular telephone or other functioning two-way voice communication device with them for use in an emergency.
2. When a patient who is transported by the CDHS has a condition that requires RN observation or assessment, there must be at least two staff members on the transporting vehicle at all times, one of whom must be a registered nurse.
3. When a patient who is transported by the CDHS requires a ventilator power source, the back-up power source must be checked before transport to confirm the power source is operational and has sufficient charge to ensure uninterrupted ventilator service during transport.

6-006.21 Patient Roster and Record Keeping Requirements: The CDHS must maintain a patient roster that clearly identifies CDHS patients scheduled and accepted for care and treatment on a daily basis. When the CDHS holds multiple licenses on the same premises, the patient roster must distinguish between Child Care clients and CDHS patients and document the hours of care receiving CDHS services as specified in 175 NAC 6-004.01.

The CDHS must maintain and safeguard clinical records. Clinical records must be maintained in accordance with accepted professional standards and practice.

6-006.21A Content of Clinical Records: The clinical record must contain sufficient information to identify the patient clearly, to justify the diagnosis, care, and treatment, and to accurately document the results of care and treatment. All clinical records must contain at least the following categories of data:

1. Identification data and consent forms;
2. The patient's service agreement;
3. The name and address of the patient's physician(s);
4. The physician's and/or supervising practitioner's signed order for skilled nursing care services, rehabilitation services, and/or mental health

- services and the physician- and/or supervising practitioner's-approved written plan of care. The documents must include, when appropriate:
- a. Medical diagnosis;
 - b. Medication orders;
 - c. Dietary orders;
 - d. Activity orders;
 - e. Safety orders;
5. Initial and periodic assessments and care plan by disciplines providing services;
 - a. The CDHS must provide pertinent current and past medical history to the credentialed staff providing services on its behalf;
 6. Signed and dated admission, observation, progress, and supervisory notes;
 7. Copies of summary reports sent to the patient's physician and/or supervising practitioner's, the patient, and care/service coordinators as authorized by the patient to receive medical information;
 8. Diagnostic and therapeutic orders signed by the physician and/or supervising practitioner;
 9. Reports of treatment and clinical findings; and
 10. Discharge summary report.

6-006.21B All clinical information pertaining to the patient's care and treatment must be centralized in the patient's clinical record maintained by the CDHS.

6-006.21C Clinical records of services provided for each patient must be kept in ink, typed, or on electronic data systems.

6-006.21D Entries into the clinical record for care, treatment, and services rendered must be written within 24 hours and incorporated into the clinical record within seven working days.

6-006.21E Entries must be made by the individual providing services, must contain a statement of facts personally observed, and must be signed with full name and title. Initials may be used if identified in the clinical record.

6-006.21F All physician's and/or supervising practitioner's verbal orders for care and treatment must be signed and incorporated into the clinical record within 30 working days.

6-006.21G Clinical records must be secured in locked storage. The CDHS must establish, implement and revise as necessary, written policies and procedures regarding use and removal of records and the conditions for release of information. The patient's written consent must be required for release of information not authorized by law.

6-006.21H Retention and Destruction: Clinical records must be retained in a retrievable form for at least five years after the last discharge of the patient. In case of a minor, records must be retained for at least five years after the patient becomes

of age under Nebraska law. The records are subject to inspection by an authorized representative of the Department. Clinical records may be destroyed after five years following the last discharge date or five years after date the patient becomes of age, whichever is later.

6-006.21H1 All records must be disposed of by shredding, mutilation, burning or by other similar protective measures in order to preserve the patients' rights of confidentiality. Records or documentation of the actual fact of clinical record destruction must be permanently maintained.

6-006.21H2 Protection of Information: The CDHS must safeguard the clinical record against loss, destruction and unauthorized use. The patient has the right to confidentiality of their records maintained by the CDHS. Patient information and/or records will be released only with consent of the patient or as required by law.

6-006.21H3 Informed Consent: The CDHS must demonstrate respect for an patient's rights by ensuring that an informed consent form that specifies the type of care, treatment and services that may be provided as care and treatment during the admission has been obtained for every patient.

6-006.21I Access: Patient information and/or records will be released only with consent of the patient or as permitted by law.

6-006.22 Infection Control: The CDHS must have an infection control program to minimize sources and transmissions of infections and communicable diseases for services provided in the CDHS as follows:

1. Use of good handwashing techniques;
2. Use of safe work practices and personal protective equipment;
3. Proper handling, cleaning, and disinfection of patient care equipment, supplies and linens; and
4. Patient teaching to include information concerning infections and modes of transmission, hygienic practices, methods of infection prevention, and methods for adapting available resources to maintain appropriate hygienic practices.

6-006.23 Environmental Services: The CDHS must provide necessary housekeeping and maintenance to protect the health and safety of patients. Every building on the same premises used for care and treatment must comply with 175 NAC 6.

6-006.23A Housekeeping and Maintenance: The CDHS building and grounds must be kept clean, safe and in good repair.

1. The CDHS must provide and maintain adequate lighting, environmental temperatures and sound levels in all areas that are conducive to the care and treatment provided; and

2. All garbage and rubbish must be disposed of in a manner that prevents the attraction of rodents, flies, and all other insects and vermin. Disposal must be done in such a manner as to minimize the transmission of infectious diseases and minimize odor. The CDHS must maintain and equip the premises to prevent the entrance, harborage, or breeding of rodents, flies, and all other insects and vermin.

6-006.23B Equipment, Fixtures, Furnishings: The CDHS must establish and implement a process designed for routine and preventative maintenance of equipment, fixtures, and furnishings to ensure they are clean, safe, in good repair, and function to meet their intended use.

6-006.23C Linens: The CDHS must provide an adequate supply of bed, bath, and other linens as necessary for each patient.

1. The CDHS must maintain an adequate supply of linens and towels that are clean and in good repair;
2. The CDHS must establish, implement and revise as necessary, written policies and procedures for the storage and handling of clean and soiled linens; and
3. When the CDHS launders bed and bath linens, water temperatures to laundry equipment must exceed 160 degrees Fahrenheit. Laundry may be appropriately sanitized or disinfected by another acceptable method in accordance with the manufacturer's instructions.

6-006.23D Animals: If an animal is allowed in the CDHS, the CDHS must assure that the animal does not negatively affect any patients. The CDHS must establish, implement and revise as necessary, written policies and procedures regarding animals that include the following requirements:

1. An annual examination by a veterinarian;
2. Vaccinations as recommended by the veterinarian, which must include at a minimum current vaccination for rabies for dogs, cats, and ferrets;
3. Provision of animal care necessary to prevent the acquisition and spread of fleas, ticks, and other parasites and other insects; and
4. Responsibility for the care and supervision of the animal by CDHS staff.

6-006.23E Environmental Safety: The CDHS is responsible for maintaining the CDHS in a manner that minimizes accidents.

1. The CDHS must maintain the environment to protect the health and safety of patients by keeping surfaces smooth and free of sharp edges, mold or dirt; keeping floors free of objects and slippery or uneven surfaces and keeping the environment free of other conditions which may pose a potential risk of injury;
2. The CDHS must maintain all doors, stairways, passageways, aisles or other means of exit in a manner that provides safe and adequate access for care and treatment;

3. The CDHS must establish, revise and implement written policies and procedures to ensure hazardous or poisonous materials and medications are properly handled and stored to prevent accidental ingestion, inhalation, or consumption of the material or medication by patients
4. Separate locked storage is provided for insecticides, cleaning, polishing, sanitizing agents, and any other poisons which all must be kept separate from food items and inaccessible to children;
5. The CDHS must restrict access to any potentially hazardous medical supplies, equipment, appliances, and mechanical equipment which may pose a danger to patients;
6. Covered waterproof containers are provided for storing wet, soiled clothing; other soiled clothing must be stored in a covered container provided for that purpose;
7. Clean and adequate storage is provided for all personal items of children and staff and this storage must not be in the same storage area where food or medication is kept; and
8. Toothbrushes, if used, are distinctly marked with each patient's name.

6-006.23F Disaster Preparedness and Management: The CDHS must establish and implement disaster preparedness plans and procedures to ensure that patient care and treatment, safety, and well-being are provided and maintained during natural (tornado, flood, etc.) or other disasters, disease outbreaks, or other similar situations. The plans and procedures must address and delineate:

1. How the CDHS will maintain the proper identification of each patient to ensure that care and treatment coincide with the patient's needs. For drop-in patients, a photograph is required;
2. How the CDHS will move patients, including those with life-sustaining equipment or wheelchairs, to points of safety or provide other means of protection when all or part of the building is damaged or uninhabitable due to natural or other disaster;
3. How the CDHS will protect patients during the threat of exposure to the ingestion, absorption, or inhalation of hazardous substances or materials;
4. How the CDHS will provide food, water, medicine, medical supplies, and other necessary items for care and treatment in the event of a natural or other disaster; and
5. How the CDHS will provide for the comfort, safety, and well-being of patients in the event of power outage, to provide for:
 - a. Heating, cooling, or sewer system failure; or
 - b. Loss or contamination of water supply.

6-006.23F1 The CDHS must establish and implement disaster preparedness plans and procedures to ensure that:

1. Patients and families are educated on how to handle patient care and treatment, safety, and well-being during and following

- instances of natural (tornado, flood, etc.) and other disasters, disease outbreaks, or other similar situations;
2. Plans are in place to promptly reunite each patient with his/her parent or other emergency contact as authorized by the parent in the patient's service agreement;
 3. Staff is educated on disaster preparedness; and
 4. Staff safety is assured.

6-006.24 Emergency Care of Patients: The CDHS must establish, implement and revise as necessary, written policies and procedures for emergent medical needs of current patients in accordance with each patient's plan of care. The policies and procedures must be consistent with prevailing professional standards and encompass aspects to protect the health and safety of patients. The CDHS must have the necessary drugs, devices, biologicals, equipment, and supplies immediately available for provision of care and treatment should an emergency arise.

6-006.24A The CDHS must ensure that at least two staff members with a current CPR certification are on duty at all times.

6-006.24B The CDHS must own, maintain, and ensure that staff members are trained to use an Automated External Defibrillator.

6-007 PHYSICAL PLANT STANDARDS: All buildings on the premises of the CDHS must be designed, constructed, and maintained in a manner that is safe, clean, and functional for the specialized care and treatment to be provided. Physical plant standards are set forth below.

6-007.01 Support Areas: The CDHS may share the following support areas among detached structures on the premises.

6-007.01A Dietary: If food preparation is provided on site, the CDHS must dedicate space and equipment for the preparation of meals. CDHS food services and facilities must comply with the Food Code.

6-007.01B Laundry: The CDHS must provide laundry services. The service may be provided by contract or on-site by the CDHS.

6-007.01B1 Contract: If contractual services are used, the CDHS must have areas for soiled laundry awaiting pickup and separate areas for storage and distribution of clean laundry.

6-007.01B2 On-site: If on-site services are provided, the CDHS must have an area dedicated to laundry that is divided into separate locations for soiled and clean laundry.

6-007.01C Waste Processing: The CDHS must provide areas to collect, contain, process, and dispose of medical and general waste produced within the CDHS in a manner that prevents the attraction of rodents, flies, and all other insects and vermin, and to minimize the transmission of infectious diseases.

6-007.01D Pharmacy: If the CDHS provides pharmacy and pharmaceutical services as defined in the Pharmacy Practice Act, those services must be provided in conformance with that law.

6-007.01E Housekeeping Room: The CDHS must have a room with a service sink and space for storage of supplies and housekeeping equipment.

6-007.02 Care and Treatment Areas: The CDHS must not share the following care and treatment areas among detached structures or with other licensed health care facilities or services. Care and treatment areas must comply with the following standards.

6-007.02A Staff Areas: The CDHS must provide the following support areas for each distinct care and treatment area:

6-007.02A1 Control Point: The CDHS must have an area(s) for charting and patient records.

6-007.02A2 Medication Station: The CDHS must have a medication station for storage and distribution of drugs and routine medications. Distribution may be done from a medicine preparation room or unit, from a self-contained medicine-dispensing unit, or by another system. If used, a medicine preparation room or unit must be under visual control of nursing staff and must contain a work counter, sink, refrigerator, and double-locked storage for controlled substances.

6-007.02A3 Patient Facilities: The CDHS must have space for patient care and treatment allowing for patient privacy.

6-007.02A4 Utility Areas: The CDHS must have a work area where clean materials are assembled. The work area must contain a work counter, a hand washing fixture, and storage facilities for clean and sterile supplies. If the area is used only for storage and holding as part of a system for distribution of clean and sterile supply materials, the work counter and hand washing fixtures may be omitted. The CDHS must have separate work areas or holding rooms for soiled materials. A workroom for soiled materials must contain a fixture for disposing wastes and a hand washing sink.

6-007.02B Equipment and Supply: The CDHS must have services and space to distribute, maintain, clean, and sanitize durable medical instruments, equipment, and supplies the CDHS has agreed to provide for the CDHS patient and which are required for the care and treatment provided by the CDHS. The CDHS must have space to store equipment, wheel chairs, supplies, and linen out of the path of normal traffic.

6-007.03 Construction Standards: The CDHS must be designed, constructed, and maintained in a manner that is safe, clean, and functional for the type of care and treatment to be provided.

6-007.03A Codes and Guidelines

6-007.03A1 New Construction: New construction must comply with the following codes and guidelines to provide a safe and accessible environment that is conducive to the care and treatment to be provided:

1. Building: Building Construction Act, Neb. Rev. Stat. §§ 71-6401 to 71-6407;
2. Plumbing: Plumbing Ordinance or Code, Neb. Rev. Stat. § 18-1915;
3. Electrical: State Electrical Act, Neb. Rev. Stat. §§ 81-2101 to 81-2143;
4. Elevators: Nebraska Conveyance Safety Act, Neb. Rev. Stat. § 48-2501 to 48-2533 and Department of Labor Regulations, 230 NAC 1;
5. Boiler: Boiler Inspection Act, Neb. Rev. Stat. §§ 48-719 to 48-743;
6. Accessibility: Nebraska Accessibility Requirements, State Fire Marshal Regulations, 156 NAC 1 to 12; and
7. Energy: Nebraska Energy Code, Neb. Rev. Stat. §§ 81-1608 to 81-1626, for construction initiated on or after July 1, 2005.

6-007.03A2 All Facilities and Services: The CDHS must comply with the following applicable codes and standards to provide a safe environment:

1. Fire Codes: Nebraska State Fire Code Regulations, State Fire Marshal, 153 NAC 1; and
2. The Food Code, Neb. Rev. Stat. § 81-2,244.01, as published by the Nebraska Department of Agriculture, except for compliance and enforcement provisions.

6-007.03A3 Existing and New Facilities and Services: The CDHS must maintain all building materials and structural components so that total loads imposed do not stress materials and components more than one and one-half times the working stresses allowed in the buildings of similar structure, purpose, or location.

6-007.03B Conflicts in Standards: In situations where the referenced codes and guidelines conflict with these regulations, the adopted rules and regulations of the Department and the Nebraska State Fire Marshal must prevail.

6-007.03C Interpretations: All dimension, sizes, and quantities noted in these regulations must be determined by rounding fractions to the nearest whole number.

6-007.03D Floor Area: Floor area is the space with ceilings at least seven feet in height and excludes enclosed storage, toilets, changing, and bathing areas, corridors and halls. The space beyond the first two feet of vestibules and alcoves less than five feet in width must not be included in the required floor area. In rooms

with sloped ceilings, at least half of the ceiling must be at least seven feet in height. Areas less than five feet in height must not be included in the required floor area.

6-007.03E Dining Areas: Dining areas must:

6-007.03E1 Have adequate light and ventilation.

6-007.03E2 Have tables and chairs that accommodate the patients' needs.

6-007.03F Toilet Rooms: The CDHS must provide toilet rooms with handwashing sinks that are adequate to meet patient needs.

6-007.03G Sleeping Areas: The CDHS must meet child care licensing regulation requirements for age-appropriate sleeping surfaces and areas. The CDHS must provide areas which allow for sleeping and accommodate the care and treatment provided to the patient.

6-007.03H Corridors: The CDHS corridors must be wide enough to allow passage and be equipped as needed by the patient with safety and assistive devices to minimize injury. All stairways and ramps must have handrails.

6-007.03I Doors: The CDHS doors must be wide enough to allow passage and be equipped for privacy, safety, and with assistive devices to minimize patient injury.

6-007.03I1 All toileting, changing, and bathing area doors must provide privacy yet not create seclusion or prohibit staff access for routine or emergency care.

6-007.03I2 In new construction, all patient-used toileting, changing, and bathing areas with less than 50 square feet of clear floor area must not have doors that swing inward.

6-007.03J Outdoor Areas: The CDHS must provide an outdoor area for patient usage. The area must meet the requirements of the child care licensing regulations and must be equipped and situated to allow for patient safety, abilities, and special needs.

6-007.03K Hand Washing Sinks: The CDHS must provide a hand washing facility equipped with sink, disposable towels, and soap dispenser in areas where hands are likely to be come soiled and/or require frequent hand washing. Such areas include, but are not limited to, toileting, changing, and bathing areas, food preparation areas, and near rooms specifically designated for patient care and treatment.

6-007.03L Privacy: The CDHS must safeguard patient privacy and dignity. In new facilities the curtain layout must totally surround each care and treatment location which will not restrict access to the entrance to the room, lavatory, toilet, or enclosed storage facilities.

6-007.03M Finishes: A CDHS must provide washable room finishes in clean workrooms and food-preparation areas that have smooth, non-absorptive surfaces which are not physically affected by routine housekeeping cleaning solutions and methods. Acoustic lay-in ceilings, if used, must not interfere with infection control. Perforated, tegular, serrated cure, or highly textured tiles are not acceptable.

6-007.04 Building Systems: The CDHS must have building systems that are designed, installed and operated in such a manner as to provide for the safety, comfort, and well being of the patient.

6-007.04A Water and Sewer Systems: The CDHS must have and maintain an accessible, adequate, safe and potable supply of water. Where an authorized public water supply of satisfactory quantity, quality, and pressure is available, the CDHS must be connected to it and its supply used exclusively.

6-007.04A1 The collection, treatment, storage, and distribution potable water system of an CDHS that regularly services 25 or more individuals must be constructed, maintained, and operated in accordance with all provisions of the Nebraska Safe Drinking Water Act and Title 179 NAC, Regulations Governing Public Water Systems.

6-007.04A2 The collection, treatment, storage, and distribution potable water system of an CDHS that serves less than 25 individuals on a regular basis must be maintained and operated as if it were a public water system in accordance with the Regulations Governing Public Water Systems, Title 179 NAC 2-002, 3 and 4. The CDHS must report to the Department the result of all tests that indicate the water is in violation of the standards in 179 NAC 2-002 or 3. The CDHS must construct all water wells in accordance with 178 NAC 12, Water Well Construction, Pump Installation, and Water Well Decommissioning Standards.

6-007.04A3 The water distribution system must be protected with anti-siphon devices, and air-gaps to prevent potable water system and equipment contamination.

6-007.04A4 Continuously circulated filtered and treated water systems must be provided as required for the care and treatment equipment used in the CDHS.

6-007.04A5 Facilities must maintain a sanitary and functioning sewage system.

6-007.04B Hot Water System: The CDHS must establish and implement a process to monitor and ensure the maintenance of water temperatures to protect patients from burns and scalds due to unsafe water temperatures and to accommodate patient comfort and preferences.

The CDHS must maintain hot and cold water to all hand washing and bathing locations. The hot water system must have the capacity to provide continuous hot water not to exceed the following temperatures:

1. 115 degrees Fahrenheit at bathing area fixtures; and
2. 120 degrees Fahrenheit at hand washing fixtures.

6-007.04C Heating and Cooling Systems: The CDHS must provide a heating and air conditioning system for the comfort of the individual that is capable of maintaining the temperature in patient care and treatment areas as follows:

6-007.04C1 In existing and new facilities, the systems must be capable of producing a temperature of at least 70 degrees Fahrenheit during heating conditions and that does not exceed 85 degrees Fahrenheit during cooling conditions.

6-007.04C2 In new construction, the systems must be capable of producing a temperature of at least 75 degrees Fahrenheit during heating conditions and that does not exceed 80 degrees Fahrenheit during cooling conditions.

6-007.04C3 In new construction, central air distribution and return systems must have the following percent dust spot rated filters:

1. General areas.....30+%; and
2. Care, treatment, clean processing areas.....80+% filters.

6-007.04C4 Airflow must move from clean to soiled locations. In new construction, air movement must be designed to reduce the potential of contamination of clean areas.

6-007.04C5 Floors in locations subject to wet cleaning methods or body fluids must not have openings to the heating and cooling system.

6-007.04D Ventilation System: The CDHS must provide exhaust and clean air to prevent the concentrations of contaminants which impair health or cause discomfort to patient and staff.

6-007.04D1 Existing and new facilities must have adequate ventilation.

6-007.04D2 New construction must provide a mechanical exhaust ventilation system for windowless toilets, changing and bathing areas, laundry rooms, housekeeping rooms, kitchens, and similar rooms at ten air changes per hour (ACH).

6-007.04D3 New construction must provide mechanical ventilation system(s) capable of providing ACH as follows:

1. Care and treatment5 ACH; and

2. Respiratory isolation.....15 ACH.

6-007.04E Electrical System: The CDHS must have an electrical system that has sufficient capacity to maintain the care and treatment services that are provided and that properly grounds care and treatment areas.

6-007.04E1 New construction and new facilities must have ground fault circuit interrupters protected outlets in wet areas and within six feet of sinks.

6-007.04E2 All facilities must provide minimum illumination levels as follows:

1. General purpose areas5 foot candles;
2. General corridors10 foot candles;
3. Personal care and dining areas20 foot candles;
4. Reading and activity areas30 foot candles;
5. Food preparation areas40 foot candles;
6. Hazardous work surfaces50 foot candles;
7. Treatment and care locations70 foot candles; and
8. Examination task lighting100 foot candles.

Light levels are measured at 30 inches above the floor in multiple areas in the room being evaluated and the readings are averaged.

6-007.04F Call Systems: When call systems are used, they must be operable from patient-used toileting, changing, and bathing areas. The system must transmit a receivable (visual, audible, tactile or other) signal to on-duty staff which readily notifies and directs the staff to the location where the call was activated.

6-007.04F1 When call systems are used in new construction, the call system must have dedicated emergency call devices which allow activation by a patient from toilet areas.

6-007.04F2 When call systems are used in locations where patients are unable to activate the call, a dedicated staff assist or code call device must promptly summon other staff for assistance. When wireless call systems are used, they must have dedicated devices in all patient occupied central toilet and bathing locations to promptly summon staff to the call location.

6-007.05 Waivers: The Department may waive any provision of these regulations relating to construction or physical plant requirements of a CDHS upon proof by the licensee satisfactory to the Department (a) that such waiver would not unduly jeopardize the health, safety, or welfare of the patients served by the CDHS, (b) that such provision would create an unreasonable hardship for the CDHS, and (c) that such waiver would not cause the State of Nebraska to fail to comply with any applicable requirements of Medicare or Medicaid so as to make the state ineligible for the receipt of all funds to which it might otherwise be entitled.

6-007.05A Unreasonable Hardship: In evaluating the issue of unreasonable hardship, the Department will consider the following:

1. The estimated cost of the modification or installation;
2. The extent and duration of the disruption of the normal use of patient areas at the CDHS resulting from construction work;
3. The estimated period over which the cost would be recovered through reduced insurance premiums and increase reimbursement related to costs;
4. The availability of financing; and
5. The remaining useful life of the building.

6-007.05B Waiver Terms and Conditions: A waiver may be granted under such terms and conditions and for such period of time as are applicable and appropriate to the waiver. Terms and conditions and period of waiver include but are not limited to:

1. Waivers that are granted to meet the special needs of a patient remain in effect as long as required by the patient.
2. Waivers may be granted for a period of time that ends at the time the conditions of approval no longer exist.
3. Waivers may be granted to permit a CDHS time to come into compliance with the physical plant standards for a period of one year. Upon submission of proof of ongoing progress, the waiver may be continued for an additional year.
4. An applicant or licensee must submit any request for waiver of any construction or physical plant requirements specified in 175 NAC 6-007.

6-007.05C Denial of Waiver: If the Department denies a CDHS's request for waiver, the CDHS may request an administrative hearing as provided in the Administrative Procedure Act (APA) and the Department's rules and regulations adopted and promulgated under the APA.

6-008 DENIAL, REFUSAL TO RENEW, OR DISCIPLINARY ACTION

6-008.01 Grounds for Denial, Refusal to Renew, or Disciplinary Action

6-008.01A The Department may deny or refuse to renew a CDHS license for failure to meet the requirements for licensure, including:

1. Failing an inspection specified in 175 NAC 6-005;
2. Having had a license revoked within the two-year period preceding an application; or
3. Any of the grounds specified in 175 NAC 6-008.01B.

6-008.01B The Department may take disciplinary action against a CDHS license for any of the following grounds:

1. Violation of any of the provisions of the Health Care Facility Licensure Act or regulations adopted and promulgated under the Act;
2. Committing, permitting, aiding, or abetting the commission of any unlawful act;
3. Conduct or practices detrimental to the health or safety of a CDHS patient or staff;
4. A report from an accreditation body or public agency sanctioning, modifying, terminating, or withdrawing the accreditation or certification of the CDHS;
5. Failure to allow an agent or employee of the Department access to the CDHS for the purposes of inspection, investigation, or other information collection activities necessary to carry out the duties of the departments;
6. Discrimination or retaliation against a CDHS patient or staff who has submitted a complaint or information to the Department;
7. Discrimination or retaliation against a CDHS patient or staff who has presented a grievance or information to the office of the state long-term care ombudsman;
8. Failure to allow a state long-term care ombudsman or an ombudsman advocate access to the CDHS for the purposes of investigation necessary to carry out the duties of the office of the state long-term care ombudsman as specified in 15 NAC 3;
9. Violation of the Emergency Drug Box Act;
10. Failure to file a report of payment made or action taken due to a liability claim or an alleged violation, as required by Neb. Rev. Stat. § 38-1,127;
11. Violation of the Medication Aide Act; or
12. Failure to file a report of suspected abuse or neglect as required by Neb. Rev. Stat. § 28-372 and 28-711.

6-008.02 Procedures for Denial, Refusal to Renew, or Disciplinary Action

6-008.02A If the Department determines to deny, refuse renewal of, or take disciplinary action against a license, the Department will send a notice to the applicant or licensee by certified mail to the last address shown on its records. The notice will state the determination, including a specific description of the nature of the violation and the statute or regulation violated, and the type of disciplinary action pending.

6-008.02B The denial, refusal to renew, or disciplinary action becomes final 15 days after the mailing of the notice unless the applicant or licensee, within the 15-day period, makes a written request to the Director for an:

1. Informal conference with a representative peer review organization;
2. Informal conference with the Department; or
3. Administrative hearing.

6-008.02C Informal Conference

6-008.02C1 At the request of the applicant or licensee, the peer review organization or the Department will hold an informal conference within 30 days of the receipt of the request. The conference may be held in person, or by other means, at the request of the applicant or licensee.

If the pending action is based on an inspection, the Department's representative at the informal conference will not be the individual who did the inspection.

6-008.02C2 Within 20 working days of the conference, the peer review organization or the Department representative will report in writing to the Department the conclusion regarding whether to affirm, modify, or dismiss the notice and the specific reasons for the conclusion, and provide a copy of the report to the Director and the applicant or licensee.

6-008.02C3 If the applicant or licensee successfully demonstrates at the informal conference that the deficiencies should not have been cited in the notice, the Department will remove the deficiencies from the notice and rescind any sanction imposed solely as a result of those cited deficiencies.

6-008.02C4 Within ten working days after receiving the report under 175 NAC 6-008.02C2, the Department will consider the report and affirm, modify, or dismiss the notice and state the specific reasons for the decision, including, if applicable, the specific reasons for not adopting the conclusion of the peer review organization or the Department representative as stated in the report. The Department will provide the applicant or licensee with a copy of the decision by certified mail to the last address shown in the Department's records.

6-008.02C5 If the applicant or licensee contests the affirmed or modified notice, the applicant or licensee must submit a request for hearing in writing to the Director within five working days after receipt of the statement.

6-008.02C6 The Department will collect a fee from any applicant or licensee requesting an informal conference with a representative peer review organization to cover all costs and expenses associated with the conference.

6-008.02D Administrative Hearing

6-008.02D1 When an applicant or a licensee contests a notice of denial, refusal to renew, or disciplinary action and requests a formal hearing, the Department will hold a hearing in accordance with the Administrative Procedure Act (APA) and 184 NAC 1.

6-008.02D2 On the basis of evidence presented at the hearing, the Director will affirm, modify, or set aside the determination. The Director's decision will:

1. Be in writing;

2. Be sent by registered or certified mail to the applicant or licensee; and
3. Become final 30 days after mailing unless the applicant or licensee, within the 30-day period, appeals the decision.

6-008.02D3 An applicant or a licensee's appeal of the Director's decision must be in accordance with the APA.

6-008.03 Types of Disciplinary Action

6-008.03A The Department may impose any one or a combination of the following types of disciplinary action against the license:

1. A fine not to exceed \$10,000 per violation;
2. A prohibition on admissions or re-admissions, a limitation on enrollment, or a prohibition or limitation on the provision of care or treatment;
3. A period of probation not to exceed two years during which the CDHS may continue to operate under terms and conditions fixed by the order of probation;
4. A period of suspension not to exceed three years during which the CDHS may not operate; and
5. Revocation. The licensee may not apply for a license for a minimum of two years after the effective date of the revocation.

6-008.03B In determining the type of disciplinary action to impose, the Department will consider:

1. The gravity of the violation, including the probability that death or serious physical or mental harm will result;
2. The severity of the actual or potential harm;
3. The extent to which the provisions of applicable statutes, rules, and regulations were violated;
4. The reasonableness of the diligence exercised by the facility or service in identifying or correcting the violation;
5. Any previous violations committed by the CDHS; and
6. The financial benefit to the CDHS of committing or continuing the violation.

6-008.03C If the licensee fails to correct a violation or to comply with a particular type of disciplinary action, the Department may take additional disciplinary action as described in 175 NAC 6-008.03A.

6-008.03D Temporary Suspension or Temporary Limitation: If the Department determines that CDHS patients are in imminent danger of death or serious physical harm, the Director may:

1. Temporarily suspend or temporarily limit the CDHS license, effective when the order is served upon the CDHS. If the licensee is not involved

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- in the daily operation of the CDHS, the Department will mail a copy of the order to the licensee, or if the licensee is a corporation, to the corporation's registered agent;
2. Order the immediate removal of patients; and
 3. Order the temporary closure of the CDHS pending further action by the Department.

The Department will simultaneously institute proceedings for revocation, suspension, or limitation of the license, and will conduct an administrative hearing no later than ten days after the date of the temporary suspension or temporary limitation.

6-008.03D1 The Department will hold a hearing in accordance with the Administrative Procedure Act (APA) and the Department's rules and regulations adopted and promulgated under the APA. Either party may subpoena witnesses, who must be allowed fees at the rate prescribed by Neb. Rev. Stat. §§ 33-139 and 33-139.01.

6-008.03D2 If a written request for continuance of the hearing is made by the licensee, the Department will grant a continuance, which may not exceed 30 days.

6-008.03D3 On the basis of evidence presented at the hearing, the Director will:

1. Order the revocation, suspension, or limitation of the license; or
2. Set aside the temporary suspension or temporary limitation.

If the Director does not reach a decision within 90 days of the date of the temporary suspension or temporary limitation, the temporary suspension or temporary limitation will expire.

6-008.03D4 Any appeal of the Department's decision after hearing must be in accordance with the APA.

6-008.04 Reinstatement from Disciplinary Probation, Suspension, and Re-licensure Following Revocation

6-008.04A Reinstatement at the End of Probation or Suspension

6-008.04A1 Reinstatement at the End of Probation: A license may be reinstated at the end of probation after the successful completion of an inspection, if the Department determines an inspection is warranted.

6-008.04A2 Reinstatement at the End of Suspension: A license may be reinstated at the end of suspension following:

1. Submission of an application to the Department for renewal that conforms to the requirements of 175 NAC 6-003.02;
2. Payment of the renewal fee as specified in 175 NAC 6-004.09; and
3. Successful completion of an inspection.

The Department will reinstate the license when it finds, based on an inspection as provided for in 175 NAC 6-005, that the CDHS is in compliance with the operation, care, treatment, and physical plant requirements of 175 NAC 6-006 and 6-007.

6-008.04B Reinstatement Prior to Completion of Probation or Suspension

6-008.04B1 Reinstatement Prior to the Completion of Probation: A licensee may request reinstatement prior to the completion of probation and must meet the following conditions:

1. Submit a petition to the Department stating:
 - a. The reasons why the license should be reinstated prior to the probation completion date; and
 - b. The corrective action taken to prevent recurrence of the violation(s) that served as the basis of the probation; and
2. Successfully complete any inspection the Department determines necessary.

6-008.04B2 Reinstatement Prior to Completion of Suspension: A licensee may request reinstatement prior to the completion of suspension and must meet the following conditions:

1. Submit a petition to the Department stating:
 - a. The reasons why the license should be reinstated prior to the suspension completion date; and
 - b. The corrective action taken to prevent recurrence of the violation(s) that served as the basis of the suspension;
2. Submit a written renewal application to the Department as specified in 175 NAC 6-003.02;
3. Pay the renewal fee as specified in 175 NAC 6-004.09; and
4. Successfully complete an inspection.

6-008.04B3 The Director will consider the petition submitted and the results of any inspection or investigation conducted by the Department and:

1. Grant full reinstatement of the license;
2. Modify the probation or suspension; or
3. Deny the petition for reinstatement.

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6-008.04B4 The Director's decision is final 30 days after mailing the decision to the licensee unless the licensee requests a hearing within the 30-day period. The requested hearing must be held according to rules and regulations of the Department for administrative hearings in contested cases.

6-008.04C Re-Licensure After Revocation: A CDHS license that has been revoked is not eligible for re-licensure until two years after the date of revocation.

6-008.04C1 A CDHS seeking re-licensure must apply for an initial license and meet the requirements for initial licensure in 175 NAC 6-003.01.

6-008.04C2 The Department will process the application for relicensure in the same manner as specified in 175 NAC 6-003.01.

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