

**WEST VIRGINIA
SECRETARY OF STATE
JOE MANCHIN, III
ADMINISTRATIVE LAW DIVISION**

Form #3 ■

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2001 JUL 24 A 11:03

OFFICE WEST VIRGINIA
SECRETARY OF STATE

**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE
AND
FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE**

AGENCY: Department of Health & Human Resources Bureau for Public Health TITLE NUMBER: 64

CITE AUTHORITY: §16 - 5R - 5

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

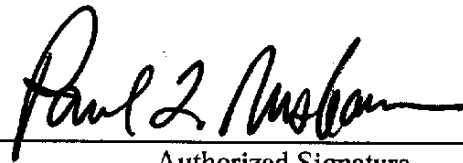
TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: 85

TITLE OF RULE BEING PROPOSED: Alzheimer's/Dementia

Special Care Units and Programs

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE FOR THEIR REVIEW.



Authorized Signature

\$11.40

DATE: July 24, 2001

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: Department of Health and Human Resources/Bureau for Public Health

LEGISLATIVE RULE TITLE: ~~Alzheimer's/ Dementia Special Care Units and Programs~~

1. Authorizing statute(s) citation § 16-5R-5

2. a. Date filed in State Register with Notice of Hearing

June 19, 2001

b. What other notice, including advertising, did you give of the hearing?

A Memorandum was sent to Providers who may participate;

Provider associations, interested state agencies and advocacy groups

c. Date of Hearing(s) Comment period from June 19, 2001- July 19, 2001.

d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.

Attached x No comments received _____

e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing: (be exact)

July 24, 2001

f. Name and phone number(s) of agency person(s) to contact for additional information:

John Wilkinson 558-0050

Dorcus Eskew 558-0050

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

N/A

b. Date of hearing: _____

c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

d. Attach findings and determinations and reasons:

Attached _____

BRIEF SUMMARY OF THE RULE

The proposed rule, Alzheimer's/Dementia Special Care Units and Programs, establishes minimum standards for inspection and operation of these facilities in the areas of administration; human resources; admission, transfer and discharge; assessments and plans of care; behavior management, social services; activities; physical facilities; and other items or considerations deemed necessary to ensure the health, safety and welfare of the residents, in accordance with West Virginia Code §16-5R-1 *et seq.*

STATEMENT OF CIRCUMSTANCES WHICH REQUIRE THE PROPOSED RULE

The proposed rule, Alzheimer's/Dementia Special Care Units and Programs, is being offered for legislative approval in accordance with West Virginia Code § 16-5R-5, which requires the secretary of the department of health and human resources to develop rules setting minimum standards for the care and treatment of persons with Alzheimer's disease and related dementia in facilities claiming to offer an Alzheimer's/dementia special care unit or program.

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Alzheimer's/Dementia Special Care Units and Programs

Type of Rule: Legislative Interpretive Procedural

Agency: Department of Health and Human Resources
 Contact: John M. Wilkinson 558-0050
 Ann Spaner 558-2971

Address: Building 3, Room 206
 1900 Kanawha Boulevard, E.
 Charleston, W. Va. 25305

1. Effect of the Proposed Rule	ANNUAL		FISCAL YEAR		
	Increase	Decrease	Current	Next	Thereafter
Estimated Total Cost	\$	\$	\$	\$1,713	\$1,713
Personal Services				\$1,213	\$1,213
Current Expense				\$ 500	\$ 500
Repairs & Alterations					
Equipment					
Other					
Revenue					

2. Explanation of above estimates.

Personal Services

100 maximum estimated annual surveys of Medicaid funded facilities listed in the bill X 0.5 additional hours for one surveyor per survey including benefits \$1,213

{Average Surveyor hourly rate \$17.58 Employee Benefits added @ 38% of personal services
 100 surveys X 0.5 hours per survey X \$17.58 avg hourly surveyor rate X 1.38 fringe benefits}

Current Expense

100 maximum estimated licenses per year X \$5.00 per license for printing and postage \$500

3. Objectives of this rule:

The proposed rule, Alzheimer's/Dementia Special Care Units and Programs, establishes minimum standards for inspection and operation of these facilities in the areas of administration; human resources; admission, transfer and discharge; assessments and plans of care; behavior management, social services; activities; physical facilities; and other items or considerations deemed necessary to ensure the health, safety and welfare of the residents, in accordance with West Virginia Code §16-5R-1 *et seq.*

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

This rule will cost the Office of Health Facility Licensure and Certification approximately \$1,713 per year to provide licenses to the providers of these services.

B. Economic Impact on Political Subdivisions; Specific Industries; Specific Groups of Citizens.

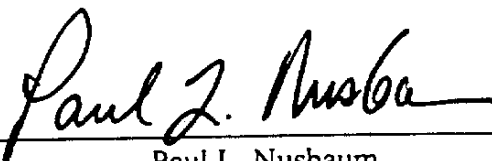
The Alzheimer Special Care Standards Act requires the Secretary of DHHR to propose rules that set minimum standards for the care and treatment of persons with Alzheimer's disease and other dementia in facilities which offer to provide a special program or special unit and which advertises itself as doing so. There may be a cost of meeting these standards for any provider who does not already meet the minimums established.

C. Economic Impact on Citizens/Public at Large.

There may be cost to consumers of these services to the extent that the providers who do not already meet the minimums pass these additional costs on to consumers.

Date:

Signature of Agency Head or Authorized Representative



Paul L. Nusbaum

Department of Health and Human Resources

**TITLE 64
LEGISLATIVE RULES
DIVISION OF HEALTH
DEPARTMENT OF HEALTH AND HUMAN RESOURCES**

**SERIES 85
ALZHEIMER'S/DEMENTIA SPECIAL CARE UNITS AND PROGRAMS**

PROPOSED RULE

**64CSR85
PROPOSED RULE**

**PROPOSED RULE
TITLE 64
LEGISLATIVE RULES
DIVISION OF HEALTH
DEPARTMENT OF HEALTH AND HUMAN RESOURCES**

**SERIES 85
ALZHEIMER'S/DEMENTIA SPECIAL CARE UNITS AND PROGRAMS**

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TITLE 64
LEGISLATIVE RULES
DIVISION OF HEALTH
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
OFFICE WEST VIRGINIA
SECRETARY OF STATE

SERIES 85
ALZHEIMER'S/DEMENTIA SPECIAL CARE UNITS AND PROGRAMS

§64-85-1. General.

1.1. Scope. -- This legislative rule prescribes specific standards and procedures to provide for the health, safety, and protection of the rights and dignity of individuals served by alzheimer's/dementia special care units and programs. This rule shall be read in conjunction with WV Code § 16-5R-1 *et seq.*

1.2. Authority. -- WV Code §§16-1-4 and 16-5R-5(a).

1.3. Filing Date. --

1.4. Effective Date. --

1.5. Applicability. -- This rule applies to facilities who advertise, market or otherwise promote the facility as providing special care units or programs for persons who have alzheimer's disease or a related dementia. The use of advertising terms such as "medication reminders or assistance," "meal and activity reminders or assistance," "activities of daily living reminders or assistance," "supervised environment" or "short-term memory loss, confusion, or forgetfulness" will not trigger a requirement for compliance with this rule.

1.6. Enforcement. -- This rule is enforced by the secretary of the West Virginia department of health and human resources or his or her lawful designee.

§64-85-2. Definitions.

2.1. Activities of daily living -- The activities that individuals generally perform regularly in the course of maintaining their physical selves, such as eating, dressing, oral hygiene, toileting, personal grooming, and moving themselves from one location to another, as for example, in moving from a bed to a chair, or from one (1) room to another.

2.2. Advertise. -- To make publicly and generally known, usually by printed notice or broadcast.

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2.3. Alzheimer's/Dementia Special Care Units and Programs

2.3.a. Alzheimer's/Dementia Special Care Programs. -- Any licensed facility, as defined in this rule, that provides specialized services, for a specified number of hours, for residents with a diagnosis of alzheimer's disease or a related dementia; and that advertises, markets, or otherwise promotes the facility as providing specialized alzheimer's/dementia care services.

2.3.b. Alzheimer's/Dementia Special Care Units. -- Any licensed facility, as defined in this rule, that provides specialized services, twenty-four (24) hours per day, in a specialized unit in the facility, for residents with a diagnosis of alzheimer's disease or related dementia; and that advertises, markets, or otherwise promotes the facility as providing a specialized unit for residents requiring alzheimer's/dementia care services.

2.4. Alzheimer's disease. -- A progressive, neurodegenerative disease characterized by a loss of function and death of nerve cells in several areas of the brain, leading to loss of mental functions such as memory and learning. This disease is considered to be the most common form of dementia.

2.5. Dementia. -- A deterioration of intellectual function and other cognitive skills, leading to a decline in the ability to perform activities of daily living.

2.6. Department. -- The department of health and human resources.

2.7. Disclosure. -- The disclosure required by WV Code § 16-5R-4, which is a written document prepared by the facility and provided to individuals and their families, prior to admission of the resident, to disclose the form of care or treatment provided that distinguishes it as being especially applicable to, or suitable for, such individuals.

2.8. Facility. -- Any nursing home or facility, residential board and care home, personal care home, residential care community, assisted living facility, adult congregate living facility, home health agency, adult day care center, hospice or adult foster home situated or operating in this state.

2.9. Legal Representative¹. --

2.9.a. A conservator, temporary conservator or limited conservator appointed

¹ Owners and administrators should note that the various types of legal representatives do not necessarily have the lawful authority to act on behalf of the resident in all matters that may require action by a legal representative. For example, a conservator may have responsibility for financial affairs, but not personal affairs, such as medical care.

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pursuant to the West Virginia guardianship and conservatorship act, WV Code, § 44A-1-1 *et seq.*, within the limits set by the order;

2.9.b. A guardian, temporary guardian or limited guardian appointed pursuant to the West Virginia guardianship and conservatorship act, WV Code, § 44A-1-1 *et seq.*, within the limits set by the order;

2.9.c. An individual appointed as committee or guardian prior to June 9, 1994, within the limits set by the appointing order and WV Code § 44A-1-2(d);

2.9.d. An individual having a medical power of attorney pursuant to the West Virginia health care decisions act, WV Code §16-30-1 *et seq.*, within the limits set by the law and the appointment;

2.9.e. An individual named as representative payee under the United States social security act, title 42 U.S.C. §301 *et seq.*, within the limits of the payee's legal authority;

2.9.f. A health care surrogate appointed pursuant to the West Virginia health care decisions act, WV Code §16-30-1 *et seq.*, within the limits set by the appointment;

2.9.g. An attorney in fact appointed with power of attorney under common law or pursuant to uniform durable power of attorney, WV Code §39-4-1 *et seq.*, within the limits set by the appointment; or

2.9.h. An individual lawfully appointed in a similar or like relationship of responsibility for a resident under the laws of this state, or another state or legal jurisdiction, within the limits of the applicable statute and appointing authority; and

2.9.i. Who has no financial ties to the health care facility.

2.10. Market. -- To expose for sale or promotion. This includes but is not limited to individual letters written to prospective users/purchasers of services, brochures and advertisements.

2.11. Promote. -- To advocate the adoption or use of; to try to sell or popularize by publicity.

2.12. Resident. -- An individual living in an alzheimer's/dementia special care unit, or an individual that is provided services of a facility offering an alzheimer's/dementia special care program.

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2.13. Secretary. -- The secretary of the state department of health and human resources or his or her lawful designee.

§64-85-3. State Administrative Procedures.

3.1. General licensing provisions.

3.1.a. A facility that proposes to advertise, market, or otherwise promote the facility as providing a specialized unit for residents requiring alzheimer's/dementia care services in an alzheimer's/dementia special care unit or program shall first obtain an additional license from the secretary, to operate the special care unit or program.

3.1.b. A facility shall be previously licensed or eligible for license as a health care facility in accordance with West Virginia law, to operate an alzheimer's/dementia special care unit or program. The requirements of this rule are to be met in addition to any other applicable federal or state law and rule.

3.1.c. The facility shall make application to the secretary, prior to operation and on an annual license renewal application, on a form provided by the department. The applicant shall complete, sign and date the application.

3.1.d. The applicant shall submit a disclosure and application for approval, completed on forms prescribed by the secretary.

3.1.e. The secretary may, at his or her discretion, deny the application, if the facility is the subject of enforcement action by the department or has a history of noncompliance.

3.1.f. Prior to occupancy, the applicant shall submit architectural plans for an alzheimer's/dementia special care unit, including any new additions or renovations, to the secretary and state fire marshal for approval.

3.2. Inspections

3.2.a. The secretary, during the facility's state licensure surveys, shall evaluate compliance with this rule and verify the accuracy of the facility's disclosure statement.

3.2.b. The secretary shall conduct complaint investigations regarding the alzheimer's/dementia special care unit or program in accordance with the applicable state licensing provisions for the facility.

3.3. Non-Compliance

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3.3.a. In the event an alzheimer's/dementia special care unit or program fails to comply with the standards of this rule, the secretary shall cite noncompliance and enforce penalties in accordance with the applicable state licensing provisions of the facility and this rule.

3.3.b. Any facility that fails to maintain substantial compliance with this rule is prohibited from advertising, marketing or promoting the facility as providing specialized alzheimer's or dementia care services.

§64-85-4. Human Resources.

4.1. Qualifications, Orientation and Training

4.1.a. A designated staff member shall be responsible for the coordination of the alzheimer's/dementia special care unit or program. The coordinator shall:

4.1.a.1. Coordinate as needed outside psychiatric and psychosocial services to assist with behavior modification plans;

4.1.a.2. Advocate for resident rights;

4.1.a.3. Ensure individualized interventions are provided to allow residents to express feelings resulting from the disease process, lost roles and life status;

4.1.a.4. Obtain and utilize a listing of community resources available to residents and family members, including alzheimer's networks; and

4.1.a.5. Offer monthly educational and family support group meetings.

4.1.b. The coordinator shall meet the minimum qualifications which include:

4.1.b.1. A license or degree as a health related professional;

4.1.b.2. A minimum of one year working directly with dementia or Alzheimer's care/patients; and

4.1.b.3. Completion of at least a thirty (30) hour training course by a nationally recognized alzheimer's/dementia care giving resource or association, or have comparable training and experience.

4.1.c. All assigned staff members shall complete a minimum of thirty (30) hours of training on the care of residents with alzheimer's disease and related dementia. Staff shall have a minimum of fifteen (15) hours of documented training prior to supervised direct hands on

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resident care. An additional fifteen (15) hours of training shall be completed prior to unsupervised direct care. Supervision shall be provided by a staff person who has completed the entire training. Training shall include at a minimum:

- 4.1.c.1. Facility philosophy and resident care policies;
- 4.1.c.2. Nature, stages, and treatment of alzheimer's disease and related dementia;
- 4.1.c.3. Positive therapeutic interventions and activities;
- 4.1.c.4. Communication techniques;
- 4.1.c.5. Behavior management;
- 4.1.c.6. Medication management;
- 4.1.c.7. Therapeutic environmental modifications;
- 4.1.c.8. Individualized comprehensive assessments and care plans;
- 4.1.c.9. The role of the family and their need for support;
- 4.1.c.10. Staff burnout prevention; and
- 4.1.c.11. Abuse prevention.

4.1.d. A minimum of eight (8) hours of documented annual training shall be provided to all staff on the topics in 4.1.c. of this rule.

4.1.e. The facility shall maintain and utilize an orientation manual and policies and procedures specific to the alzheimer's/dementia special care unit or program.

4.2 Staffing Requirements

4.2.a. The alzheimer's/dementia special care unit or program shall provide sufficient numbers of direct care staff to provide care and services during all hours of operation to meet the physical, mental and psychosocial needs and to promote the highest practicable level of well-being of each resident.

4.2.b. The alzheimer's/dementia special care unit or program shall provide staffing at no less than an average of two and twenty-five one-hundredths (2.25) hours of direct

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care personnel time per resident per day, or during the hours of operation, or as required by the facility's state licensure rule if more demanding.

4.2.b.1. When the resident census is greater than five (5) residents, a minimum of two (2) direct care personnel shall be present.

4.2.b.2. "Available" or "on call" staff shall not be calculated into the minimum staffing hours required.

4.2.c. Licensed nurses. A licensed nurse shall be available on-site if any resident requires nursing procedures, including as needed (PRN) injections, or as required by the facility's state licensure rule, if more restrictive.

4.2.d. Direct care staff shall not have housekeeping, laundry, food preparation or maintenance duties as their primary responsibilities. The unlicensed direct care staff included in the minimum staffing shall not be responsible for medication administration during the day or evening shift, including a facility that participates in 64CSR60 "Medication Administration By Unlicensed Personnel".

4.2.e. The secretary may require staffing above the specified minimum requirement if necessary to meet the resident's needs.

§64-85-5. Admission, Transfer and Discharge.

5.1. Each facility shall have a written policy of pre-admission screening, admission, transfer and discharge procedures, including an explanation of the level of care the facility is licensed to provide and the conditions that may necessitate a resident's transfer or discharge.

5.2. Admission criteria shall include a signed and dated physician's diagnosis of alzheimer's disease or related dementia, a description of any behavioral, personality and physical symptoms, history and physical exam, and treatment plan.

5.3. Admission decisions shall be based on the facility's ability to meet the individual's needs, state licensure limitations on the facility's level of care, and the availability of licensed nursing staff to provide care.

5.4. Prior to admission, the facility shall provide a copy and an explanation of the disclosure statement to the resident and/or legal representative. A copy of this disclosure, signed and dated by the resident and/or legal representative, shall be maintained in the resident's record.

§64-85-6. Assessments and Plans of Care.

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6.1. Within three (3) days of admission, the unit coordinator, with input from at least the resident and/or legal representative, shall review the immediate care needs of the resident and establish a preliminary care plan.

6.2. Within seven (7) days of admission an interdisciplinary team including unit coordinator, social worker, activities director, direct care staff and registered nurse and other professional disciplines as appropriate, shall have completed an initial assessment of a new resident which includes at a minimum: a social history; family supports; level of activities of daily living functioning; cognitive level; behavioral impairment; and nutritional status, including weight and nutritional requirements.

6.3. Within twenty-one (21) days of admission the interdisciplinary team and the resident and/or legal representative, shall develop a written individualized care plan, signed by each member of the alzheimer's/dementia special care unit or program staff, resident and/or legal representative which shall:

6.3.a. Reflect the resident as a person, with family history and interests;

6.3.b. Accurately describe specific needs, choices, problems and any inappropriate behaviors;

6.3.c. Describe specific desired outcomes and specific interventions to be used to achieve the desired outcomes;

6.3.d. Support the individual toward as much independence as possible;

6.3.e. Include opportunities for resident choice and self management; and

6.3.f. Contain the job title of staff who are to be primarily responsible for implementing the care plan.

6.4. A copy of the care plan must be available to all staff to ensure consistent implementation.

6.5. Resident care shall be provided in accordance with the care plan.

6.6. The interdisciplinary team shall review, evaluate for effectiveness and revise the resident's assessment and care plan at least quarterly or more frequently as indicated by the changing needs of the resident.

§64-85-7. Behavior Management

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7.1. The alzheimer's/dementia special care unit or program shall conduct and document an ongoing evaluation of any resident with behaviors, which are persistent and constitute sources of distress or dysfunction to the resident, or present a danger to the resident or others. The evaluation shall determine the following:

- 7.1.a. Baseline of the intensity, duration, and frequency of the behavior;
- 7.1.b. Antecedent behaviors and activities;
- 7.1.c. Recent changes or risk factors in the resident's life;
- 7.1.d. Environment factors such as time of day, staff involved, noise, levels etc.;
- 7.1.e. Medical status;
- 7.1.f. Staffing patterns at times of inappropriate behavior;
- 7.1.g. Alternative, structured activities or behaviors that have been successful or unsuccessful in the past; and
- 7.1.h. Effectiveness of behavioral management approaches.

7.2. Psychotropic/behavioral modifying medication. The facility will implement a less restrictive, systematic, non-medication behavioral management approach to assist the resident prior to obtaining orders for psychotropic/behavioral modifying medications.

7.3. The facility shall ensure that any resident receiving a psychotropic/behavioral modifying medication shall:

- 7.3.a. Have that medication administered in a dose based on the age recommendations of the individual;
- 7.3.b. Have a diagnosed and documented condition justifying the use of the medication;
- 7.3.c. Receive daily monitoring for any side effects or adverse reaction to the medication;
- 7.3.d. Have adverse findings reported to the resident's physician immediately; and
- 7.3.e. Have periodic dose reductions in the medication in an attempt to

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discontinue the medication unless the physician has determined that a dose reduction is contraindicated, based on the resident's condition.

7.4. A registered professional nurse or other appropriate licensed health care professional shall evaluate all residents receiving antipsychotic/behavioral modifying medications monthly to assess the resident's functional level, identify potential adverse effects of the medication and consult with the resident's physician to determine if the medication should be continued.

7.5. The resident's physician shall document in the resident's medical record every six (6) months a reassessment and determination for the continued use of the medications and reasons a dose reduction would be contraindicated.

§64-85-8. Social Services.

8.1. A licensed social worker or licensed professional counselor shall be responsible for providing the alzheimer's/dementia special care unit or program with the following services:

8.1.a. A comprehensive social assessment of each resident which includes in addition the following:

8.1.a.1. Preferred name;

8.1.a.2. Past places of residence;

8.1.a.3. Family support system, with names and telephone numbers;

8.1.a.4. Past employment status, career history, and educational level;

8.1.a.5. Place of birth;

8.1.a.6. Childhood history (i.e. rural or city, religion, lifestyle, culture);

8.1.a.7. Languages spoken;

8.1.a.8. Names of parents, children, siblings and legal representative;

8.1.a.9. Names of pets; and

8.1.a.10. Adult daily routines (i.e. hour of rising and sleep, habits, etc.);

8.1.b. Participation in resident interdisciplinary care planning;

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§64-85-9. Activities

9.1. The alzheimer's/dementia special care unit and program shall provide activities appropriate to the needs of the individual residents. The residents' routine should be developed and structured seven (7) days per week and incorporate the possible need for therapeutic programming twenty four (24) hours per day in an alzheimer's/dementia special care unit and during the hours of operation of the alzheimer's/dementia special care program.

9.2. The activities program shall be directed by a person who is a therapeutic recreation specialist, occupational therapist, or activities professional with the following qualifications:

9.2.a. Two years of experience in a social or recreational program in the past five years, one of which was full-time in a resident activities program in a health care setting; and

9.2.b. Has demonstrated the ability to provide for an ongoing program of activities designed to meet the residents needs; and

9.2.c. Has completed a training course approved by the state; and

9.2.d. Has completed the training required in 4.1.c. of this rule.

9.3. At least one employee per shift shall be responsible for activities programming with the assistance, participation and coordination of all direct care staff.

9.4. Activities programming shall:

9.4.a. Be provided to large and small groups, and on an individual basis;

9.4.b. Be geared toward long term memory rather than short term memory;

9.4.c. Provide multiple short activities to work with short attention spans;

9.4.d. Provide experiences with animals, nature, and children;

9.4.e. Provide opportunities for physical, social and emotional outlets;

9.4.f. Provide activities that create a feeling of usefulness; and

9.4.g. Be appropriate and meaningful for each resident, by respecting their cognitive level, beliefs, culture, values, and life experience.

9.5. Planned and spontaneous group and individual activities shall be provided in the

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following areas at least daily:

- 9.5.a. Gross motor activities (i.e. exercise, dancing, gardening, cooking, etc.);
- 9.5.b. Self care activities (i.e. dressing, personal hygiene, grooming, etc.);
- 9.5.c. Social activities (i.e. spiritual, intellectual, relationships/social, games, music, etc.); and
- 9.5.d. Sensory and memory enhancement activities (i.e. auditory, scent, taste, and tactile stimulation, and reminiscing, etc.)

9.6. The alzheimer's/dementia special care unit or program shall offer the following activities at least weekly at a minimum and within specified time periods:

- 9.6.a. Crafts (i.e. decorations, pictures, painting, etc.); and
- 9.6.b. Outdoor activities, as weather permits (i.e. walking outdoors, field trips, etc.)

9.7. The alzheimer's/dementia special care unit or program shall offer the following activities at least monthly:

- 9.7.a. Seasonal and holiday activities

§64-85-10. Physical Environment.

10.1. The alzheimer's/dementia special care unit and alzheimer's/dementia special care program site shall be designed to accommodate residents with dementia in a non-institutional home-like environment. The design and environment shall assist residents in their activities of daily living; enhance their quality of life, reduce tension, agitation, and problem behaviors; and promote their safety.

10.2. In addition to the physical design standards required for the facility's license, an alzheimer's/dementia special care unit and program site shall have the following:

- 10.2.a. A floor plan design with limited access to the designated area so that visitors and staff do not pass through the unit to get to other areas of the facility;
- 10.2.b. A multipurpose room(s) for dining, group and individual activities and family visits which complies with the facility's applicable licensing requirements for common space;

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10.2.c. Security measures to provide for the safety of wandering residents that are as unobtrusive as possible;

10.2.d. High visual contrasts between floors and walls, and doorways and walls in resident use areas. Except for fire exits, door and access ways may be designed to minimize contrast to obscure or conceal areas the residents should not enter;

10.2.e. Non-reflective floors, walls and ceilings which minimize glare;

10.2.f. Evenly distributed lighting which minimizes glare and shadows and is designed to meet specific needs of the residents;

10.2.g. A monitoring or nurses' station, which includes a communication system such as a telephone or two-way voice actuated call system to the main staff station of the facility, and space for charting and storage for resident records; and

10.2.h. Secured outdoor space and walkways which allow residents to ambulate but prevent undetected egress.

10.2.h.1. Outdoor areas must have fencing or barriers that prevent elopement and do not have features that pose a threat to resident safety.

10.2.h.2. Walkways shall meet the accessibility requirements of the Americans with Disabilities Act (ADA) structural building codes.

10.3. The alzheimer's/dementia special care unit and alzheimer's/dementia special care program (as applicable) shall:

10.3.a. Provide freedom of movement for the residents to common areas, to their personal spaces, and shall not lock residents out of or inside their rooms;

10.3.b. Provide plates and eating utensils which provide visual contrast between them and the table and that maximize the independence of the individual residents;

10.3.c. Provide comfortable chairs, in the common use area, including chairs that allow for gently rocking or gliding;

10.3.d. Encourage and assist residents to decorate and furnish their rooms in accordance with their personal preferences;

10.3.e. Individually identify resident's rooms to assist residents in recognizing their room based on each resident's cognitive level;

64CSR85 PROPOSED RULE

falls;
10.3.f. Keep corridors and common use areas free of objects which may cause

10.3.g. Be free of toxic plants; and

10.3.h. Only use public address systems in the unit (if one exists) for emergencies

10.4. The alzheimer's/dementia special care unit or program shall develop policies and procedures to deal with residents who may wander so as to prevent egress and shall include actions to be taken in case a resident elopes.

10.5. If locking devices are used on exit doors, the locking devices shall be electronic and release when the following occurs:

10.5.a. Activation of the fire alarm or sprinkler system;

10.5.b. Power failure to the facility; and

10.5.c. Passing a key button/key pad located at the exits for routine use by staff for service.

10.6. If key pads are used to lock and unlock exits:

10.6.a. Directions for their operations shall be posted on the outside of the door to allow individuals access to the unit;

10.6.b. Staff shall be trained in the methods of releasing the locking device.

10.7. All locking devices and keypad locks shall meet all applicable fire safety requirements.

§64-85-11. Penalties.

11.1. Civil Penalties.

11.1.a. For violations of this rule, the secretary shall administer the civil penalties in the West Virginia Code and rules applicable to the facility.

11.1.b. Upon completion of a report of inspection, the secretary shall determine what, if any, civil penalties are to be imposed pursuant to the West Virginia Code and this rule, and any rule applicable to the primary facility and issue citations. Supplemental penalties shall be assessed for a facility's failure to correct continuing violations: Provided, that where

64CSR85 PROPOSED RULE

supplemental penalties have been assessed for continued failure to correct a violation of a non-life threatening nature, the secretary shall, prior to issuing a written citation, notify the licensee or non-licensed operator by registered or certified mail, return receipt requested, that civil penalties will be imposed on a date to be specified by the secretary unless the corrective actions specified by the secretary are implemented in an acceptable manner.

11.1.c. The secretary shall issue all citations in writing and shall include at least the following:

11.1.c.1. The penalty;

11.1.c.2. A description of the nature of the violation, fully stating the specific statutory provision and the manner in which the licensee or non-licensed operator violated that statutory provision or provision of the rule; and

11.1.c.3. The basis upon which the secretary assessed the penalty and selected the amount of civil money penalty, as well as the basis for the calculations.

11.1.d. The name of any resident jeopardized by the violation shall not be specified in the citation.

11.1.e. Each day a violation continues after the date by which correction was required by an approved plan of correction, or if an approved plan of correction was not submitted, the date on which the plan was due shall constitute a separate violation.

11.1.f. In both determining to assess a civil penalty and in fixing the amount of civil penalty to be imposed for violations, the secretary shall consider the gravity of the violation, which shall include:

11.1.f.1. The degree of substantial probability that death or serious physical harm will result and, if applicable, did result from the violation;

11.1.f.2. The severity of serious physical harm most likely to result, and if applicable, that did result from the violation; and

11.1.f.3. The extent to which the provisions of the applicable statutes or regulations were violated.

11.1.g. If a licensee or a non-licensed operator does not plan to contest a citation which imposes a penalty, he or she shall submit to the secretary, within ten (10) business days after the issuance of the citation, the total sum of the penalty assessed.

64CSR85 PROPOSED RULE

11.1.h. If a licensee or a non-licensed operator desires to contest a citation which imposes a penalty or the date specified for correction of a violation, he or she shall, within ten (10) business days after service of the citation or specification of time in which violations are to be corrected, serve upon the secretary, either personally or by registered or certified mail, the licensee's or non-licensed operator's written notice pursuant to West Virginia Department of Health and Human Resources Administrative Rules, Rules of Procedure for Contested Case Hearings and Declaratory Rulings, 64CSR1.

11.1.i. The assessments for penalties and for costs of legal action taken under the relevant W.Va. Code for the facility shall have monthly interest assessed at two percent (2%) on the last day of each month in which occurs the thirtieth (30th) day after receipt of notice of such assessment or after the month in which occurs the thirtieth (30th) day after receipt of the secretary's final order following a hearing, whichever is later.

11.1.i.1. All such assessments against a facility that are unpaid shall be added to the facility's licensure fee and may be filed as a lien against the property of the licensee or operator of the facility.

11.1.j. The secretary shall, in a civil judicial proceeding, recover any unpaid assessment which : (a) has not been contested under the applicable Code section within thirty (30) days of receipt of notice of such assessment; (b) has been affirmed under the applicable Code section and not appealed within thirty (30) days of receipt of the secretary's final order; or (c) has been affirmed on judicial review, as provided in the applicable Code section.

11.1.j.1. All money collected by assessments of civil penalties or interest shall be paid into a special resident benefit account and shall be applied by the secretary only for the protection of the health or property of residents of facilities operated within the State of West Virginia, including: payment for costs of relocation of residents to other facilities; operation of a home pending correction of deficiencies or closure; and reimbursement of residents for personal funds lost.

11.2. Suspension or Revocation of the License.

11.2.a. The secretary may suspend or revoke the current license of the Alzheimer's unit or program, if he or she finds evidence of one (1) or more of the following:

11.2.a.1. Failure to provide to prospective patients or their legal representatives, in writing, the form of care or treatment specific to alzheimer's residents that contains the information set forth on West Virginia Code § 16-5R-4(c)(1-6).

11.2.a.2. Continued facility advertising, marketing, or other promoting as a specialized Alzheimer or dementia care unit after receiving notice that the unit or program does

64CSR85 PROPOSED RULE

not meet department standards.

11.2.a.3. Failure to be in substantial compliance with the standards set forth in this rule or the rule applicable to the primary facility.

11.2.b. The secretary shall consider all available evidence at the time of the determination, including the history of the facility, unit or program and the applicant in complying with this rule, notices of violations which have been issued to the facility and the applicant, findings of surveys and inspections, and any evidence provided by the facility, unit or program, residents, law enforcement officials, and other interested individuals.

11.3. Ban on New Admissions. Reduction in Bed Capacity.

11.3.a. In addition to all other actions and penalties specified in this rule, the secretary shall have the authority to ban new admissions by order until further notice by the secretary or reduce the bed capacity of the unit or both, when on the basis of inspection he or she determines that:

11.3.a.1. There is an immediate and serious threat to one or more residents; or

11.3.a.2. There are poor care outcomes resulting in an avoidable decline in a resident's condition; or

11.3.a.3. There has been a decline in the functional abilities of one or more residents resulting from neglect or abuse; and

11.3.a.4. An admission ban or reduction in bed capacity or both would place the facility, unit or program in a position to render adequate care.

11.3.b. The secretary shall notify a licensee of an admissions ban or reduction in bed capacity or both, stating the terms of the order, the reasons thereof and the date set for compliance.

11.3.c. In addition to all other actions and penalties specified by law and this rule, the secretary has the authority to revoke a license which has been obtained through the use of fraud and subterfuge.

§64-85-12. Administrative Due Process.

12.1. Administrative due process and remedies for actions taken under this rule, are set forth in the division of health procedural rule, Rules of Procedure for Contested Case Hearings

64CSR85 PROPOSED RULE

and Declaratory Rulings, 64CSR1 and Articles 4 and 5 of the State Administrative Procedures Act, WV Code Chapter 29A.

PUBLIC COMMENTS AND DEPARTMENT RESPONSES

ALZHEIMER'S/DEMENTIA SPECIAL CARE UNITS AND PROGRAMS

64 CSR 85

A public comment period on the proposed rule was held beginning June 19, 2001 and ending July 19, 2001. Comments were received from:

1. Long Term Care Ombudsman Program and the Behavioral Health Advocates
2. Angela Booker, NHA, Heartland of Beckley
3. Terry Shobe, NHA, Grant County Nursing Home
4. Donald Black, NHA, Cortland Acres
5. Candy Fannin, Administrator, Quarry Manor
6. Roger Topping, NHA, Princeton Health Care Center
7. Connie Hudson, CTRS, Arthur B. Hodges Center
8. Robin Sutphin, NHA, Marmet Health Care.

Comments are summarized below and the Department's responses and changes to the proposed rule are detailed.

General Comment: One comment offers support for the rule based on the observation that services offered by various providers of Alzheimer's and dementia care varies greatly. The comment expresses appreciation that facilities must now meet standards of care and must provide these standards in writing to residents and families.

Response: No change to the proposed rule is required.

General Comment: One comment offers opposition to the rule based on the cost and amount of time required to implement thirty (30) hours of training for the coordinator in a facility that has already trained this person, and to provide an hour long monthly in-service for staff without an increase reimbursement to nursing homes. The comment states that the training required for the coordinator is not thoroughly detailed and also expresses concern that the facility will have two (2) surveys for the same area at the same time.

Response: The consensus of the advisory committee participating in the development of the rule was that thirty (30) hours of training for the coordinator of the unit was reasonable. An individual who is serving as coordinator of a facility can certainly provide documentation of any training and experience they have had for review to meet the training requirement.

A facility may incur additional costs if they are not currently providing services in accordance with the standards contained in the rule.

The content of the coordinator training was purposefully written in a manner to allow those persons with previous Alzheimer's care experience and training to utilize it to meet the requirement.

The requirements of this rule will be reviewed for a unit or program during a facility's annual survey and will not require an additional survey to be conducted.

No change to the proposed rule is required.

General Comment: One comment offers support for the rule, stating it is needed for this fast growing area of health care, and is written in a flexible manner to meet the needs of any participating licensed facility. The comment also states the rule should be more precise with regards to facilities developing a "program of care" but not having a physical facility.

Response: The specific standards of the rule apply to both Alzheimer's Special Care Units and Programs except where the standard specifies it is not applicable to Programs. No change to the proposed rule is required.

General Comments: There were general comments relating to typographical and grammatical errors identified, which did not change the content of the rule. Additionally, feedback was

received from agency staff, including legal staff, who have reviewed the rule and made a number of suggestions to identify typographic, section numbering, grammatical errors and sections which required clarification to some language used.

Response: Changes were made as requested.

§ 2.3.a. Comment: Facilities are currently required to provide scheduled activities to meet resident needs, including those of residents with Alzheimer's disease. Does posting a monthly activities calendar, that contains activities for these residents constitute advertising or promoting the facility as providing specialized Alzheimer's programming?

Response: No. An activities calendar listing monthly activities alone would not be considered advertisement, promotion, or marketing of an Alzheimer's/Dementia Special Care Unit or Program.

§ 2.4. Comment: The subsection describes Alzheimer's as a disease "that destroys brain cells" and the comment is questioning if the current theory is really proven and suggests using a standardized definition.

Response: The definition will be changed to reflect the definition used by the Alzheimer's Association.

§ 2.7. Comment: The subsection defines Director as the secretary of DHHR rather than the Director of OHFLAC; isn't this a duplication of 2.4. Why use the two definitions if you want to refer to the same person? It is confusing.

Response: The term "Director" will be eliminated from the definition section. The words referring to the director that are interchangeable with the term secretary will be changed in the rule to "secretary".

§ 3.1.a. Comment: Will there be an additional charge to the facility for the license? Will the state send an additional license to the facility in addition to the existing license?

Response: There will not be an additional charge. The department has not yet determined if a separate license or an addendum to the existing license will be issued. No change to the rule is required.

§ 3.1.c. Comment: This section addresses facilities who apply for an application "prior to operation." What about facilities who specialize in Alzheimer's disease that are already in existence. Does the language suggest that they will be grand-fathered in and do not need to meet

the approval application requirements?

Response: If a unit or facility advertises that they provide Alzheimer's care, they will be required to apply when the rule goes into effect. Those facilities or units in existence will be required to comply with this rule. There is no provision for grand-fathering. No change to the rule is required.

§ 3.1.d. Comment: The word "statement" seems to have been omitted from the phrase "disclosure statement".

Response: The word "statement" was purposefully omitted from the Rule because WV Code § 16-5R-1 et seq. uses the term "disclosure" without the word "statement". This requirement will remain as written.

§ 3.1.e. Comment: The subsection gives the Director the authority to deny applications based on prior or current experiences with "the facility". What if the owner/operator of the facility has a negative track record abut applies to open a new specialized facility? Will the director have discretion to deny that application too or is the slate wiped clean each time he or she opens a new facility under a new name?

Response: The secretary does have the discretion to deny application for new facilities if the owner/operator has a history of non-compliance. No change to the rule is required.

§ 3.2.a. Comment: The term "of" is unnecessary.

Response: The term will be deleted.

§ 3.3.a. Comment: The phrase "In the event an" seems to be missing a word like "that".

Response: The sentence was not amended because the change is not necessary to understand the meaning of the section.

§ 3.3.b. Comment: Concern is expressed that the language "meet the requirements of this rule" is unclear and questions if a facility received a deficiency, would they be prohibited from advertising their specialized Alzheimer's services?

Response: The language is being changed to state "maintain substantial compliance with this rule." Any enforcement would parallel that required by the facility's licensure rule. In most cases the facility would have an opportunity to correct any deficiencies prior to a determination being made that they could no longer advertise.

§ 4.1.a. Comment: In regards to the unit/program coordinator, would it make sense to include “keeping up with preferred practices for the treatment of Alzheimer’s disease” among the responsibilities?

Response: The requirement noted under section 4.1.d. provides the opportunity for all staff to receive training in current standards of practice for care of those individuals with Alzheimer’s disease.

§ 4.1.b.3. Comment: Will a corporate training that is provided to the facility be recognized as a nationally recognized Alzheimer’s training?

Response: A nationally recognized Alzheimer’s/dementia care giving resource or association would include organizations such as the Alzheimer’s Association. Comparable training and experience would be evaluated on an individual basis, by review of course content and instructor’s credentials. No change to the rule is required.

§ 4.1.d. Comment: The subsection prescribes a minimum of eight (8) hours of training for “all staff”. This would logically seem to refer to only those staff who work on the unit or in the program but it could arguably be read to suggest this applies more broadly to all staff that work in the facility.

Response: The rule only applies to the unit or program and those employees working on the unit or in the program or to any staff within a facility that may be asked to work on the unit or in the program. No change to the rule is required.

§ 4.2.b.1. Comment: Does this requirement mean that every five (5) residents need a minimum of two (2) direct care staff.

Response: No. This requirement allows a minimum of one (1) direct care staff if there are no more than five (5) residents in the unit or program. After the census exceeds five (5) residents, the minimum staffing acceptable is specified in 4.2.b. as no less than an average of two and twenty-five one-hundredths (2.25) hours of direct care personnel time per resident per day, or during the hours of operation, or as required by the facility’s state licensure rule if more demanding. No change to the rule is required.

§ 4.2.d. Comment: The subsection states that unlicensed staff may not administer meds “during the day or evening shift”. Since facilities have three shifts, does this suggest that it would be permissible for such staff to administer medication during night shifts?

Response: The requirement notes that for facilities who participate in the requirements of 64CSR60, direct care staff shall not be included in the minimum staffing ratio during the day or

evening shift, if they are responsible for medication administration. Direct care staff who administer medications could be responsible for medication administration on the night shift and still be counted in the staffing ratio. The rationale for this, is that very few medications are administered during the night. No change to the rule is required.

§ 6.3.f. Comment: The subsection states that each person's care plan "shall contain the discipline of staff." This seems to refer to including description of why staff have been disciplined rather than describing their education and experience. Please rephrase to make this clearer.

Response: The term "discipline" will be changed to state "job title" of staff.

§ 6.4. Comment: Shouldn't care plans be available to the resident and /or their representative too?

Response: Under 6.3., the participation of the resident and/or their legal representative in care planning is required. The availability to review the resident record, including the care plan, is currently a right of such parties under the resident rights requirements of the licensure rules for all facilities involved. No change to the rule is required.

§ 7.1.g. Comment: Does the evaluation of activities or behaviors that have worked or not, refer to strategies that have been successful/unsuccessful for the LTC facility or for the individual resident or both?

Response: This would apply to any information about the resident that may be beneficial in planning or implementing an effective plan of care. No change is necessary to the rule.

§ 7.2. Comment: What are facilities to do with residents who enter the facility on psychotropics that seem to offer them substantial benefit and wish to stay on their medications?

Response: The resident can stay on their medication if the physician complies with the requirements of 7.3. The requirements outlined under this section would require justification for medication use, monitoring and periodic dose reductions as required. No change is necessary to the rule.

§ 7.5. Comment: Would it not be beneficial to the resident to have more frequent reassessments of medications?

Response: Although this requires documentation by the physician every six (6) months, it does not relinquish the fact that assessments are to be conducted on a daily basis . Under 7.3.c and

7.3.d., daily monitoring is required, problems are to be reported, and revision to the plan of care made as necessary to promote the resident at their highest functional capacity. No change is required in the rule.

§ 9.3. Comment: If a facility has another staff member, i.e. certified nursing assistant on the unit that assists with activities, does there need to be an activities person present on the unit twenty-four (24) hours a day?

Response: No, an activities professional does not have to be staffed twenty-four (24) hours a day. A direct care staff person can be designated to be responsible for the coordination of activities programming on shifts when an activities professional is not scheduled. No change to the rule is required.

APPALACHIAN LEGAL SERVICES

LONG-TERM CARE OMBUDSMAN PROGRAM

922 Quarrier Street, 4th Floor, Charleston, WV 25301
(304) 343-4481 Ext. 35 Toll Free: 1-800-834-0598
FAX: (304) 345-5934

REGION I

YWCA
1100 Chapline Street
Wheeling, WV 26003
233-6331

REGION II

WV Legal Services Plan
327 Ninth Street
Parkersburg, WV 26101-4709

July 12, 2001

REGION III

Appalachian Legal Services
922 Quarrier Street, 4th Floor
Charleston, WV 25301
343-4481 ext. 31

John M. Wilkinson
Office of Health Facility Licensure and Certification
350 Capitol Street, Room 206
Charleston, West Virginia 25301

REGION IV

Appalachian Legal Services
910 Fourth Avenue, Suite 301
Huntington, WV 25701
522-1901

Dear Mr. Wilkinson:

Enclosed find comments about proposed rule for Alzheimer's Special Care Unit or Program. These comments are based on a review by both the staffs of the Ombudsman Program, including the State Ombudsman, and the Behavioral Health Advocates. The comments follow:

REGION V

P.O. Box 546
Keyser, WV 26726
788-6770

REGION VI

P. O. Box 1174
Buckhannon, WV 26201

REGION VII

P.O. Box 2985
Elkins, WV 26241
636-4463

Subsection 2.4 - The subsection describes Alzheimer's as a disease "that destroys brain cells." This appears to be the current theory but do we really know this for sure yet? Given the many unanswered questions, is there a more standardized definition available that focuses more on effects than cause?

REGION VIII

Appalachian Legal Services
1428 Main Street
Princeton, WV 24740
425-9138

Subsection 2.7 - The subsection defines the Director as the secretary of DHHR (rather than the Director of OHFLAC); isn't this duplicative of subsection 2.14? Why use two definitions if you want to refer to the same person? This becomes especially confusing in subsection 11; (11.1 for example, both terms are used with the "Director" determining "what if any civil penalties are to be imposed" and "civil penalties will be imposed on a date to be specified by the secretary...").

Sponsored by: Bureau of Senior Services

Subsection 3.1.c - This subsection addresses facilities who apply for an application "prior to operation." What about facilities who specialize in Alzheimer's disease that are already in existence? Are there any? If so, does this language suggest that they will be grandfathered in and do not need to meet the approval application requirements?

Subsection 3.1.d - The word "statement" seems to have been omitted from the phrase "disclosure statement."

Subsection 3.1.e - The subsection gives the Director the authority to deny applications based on prior or current experiences with "the facility." What if the owner/operator of the facility has a negative track record but applies to open a new specialized facility? Will the Director have discretion to deny that application too or is the slate wiped clean each time he or she opens a new facility under another name?

Subsection 3.2.a - The word "of" may have been unintentionally included between the phrases "and verify" and "the accuracy."

Subsection 3.3.a - The phrase "In the event an" seems to be missing a word like "that" to make it a more complete sentence. In addition, it would appear that the phrase "it for" seems to be needed following the phrase "shall cite."

Subsection 4.1.a - The subsection lists the responsibilities of the unit/program coordinator. Wouldn't it make sense to include "keeping up with preferred practices for the treatment of Alzheimer's disease" among this person's responsibilities?

Subsection 4.1.d - The subsection prescribes a minimum of 8 hours of training for "all staff." This would logically seem to refer to only those staff who work on the unit or in the program but it could arguably be read to suggest this applies more broadly to all staff that work in the facility.

Subsection 4.2.d - The subsection states that unlicensed staff may not administer meds "during the day or evening shift." Since facilities have three shifts, does this suggest that it would be permissible for such staff to administer medications during night shifts?

Subsection 6.3.f - The subsection states that each person's care plan "shall contain the discipline of staff." This phrase might be rephrased to be a bit clearer. At first glance, this seems to refer to including descriptions of why staff have been disciplined rather than describing their education and experience.

Subsection 6.4 - This subsection requires that copies of care plans be available to all staff implementing the plan. While this certainly makes sense, wouldn't it also be useful to simultaneously require that such plans are available to the resident and/or their representative too?

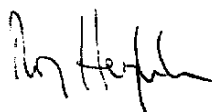
Subsection 7.1.g - This subsection includes an evaluation of activities or behaviors that have worked, or not, in the past. Does this refer to strategies that have been successful/unsuccessful for the LTC facility or for the individual resident or both?

Subsection 7.2 - This subsection directs the facility to implement "non-medication behavioral management approaches" to assisting residents. While this philosophy is certainly to be applauded, what are programs to do with residents who enter the facility on psychotropics that seem to offer them substantial benefit and wish to stay on their meds? Also, there appear to be commas needed before and after the word "systematic."

Subsection 7.5 - This subsection requires medication reassessments by physicians every 6 months. Given what we've learned about the way psychotropic medications may interact with elderly folks, wouldn't more frequent reassessments be useful, i.e., every 3 months?

Subsection 11.1.c.3 - There appears to be a comma omitted after the phrase "civil money penalty" and before the phrase "as well as."

Very truly yours,



Roy Herzbach
Ombudsman Supervisor

RH:dk

FAX

Date 07/19/2001

Number of pages including cover sheet 2

TO: John Wilkerson
OHFLAC
350 Capital Street
Charleston, WV 25301-3718

Phone 304-558-0050
Fax Phone 304-558-2515

FROM: Angela Booker, NHA Jeffrey
Stewart, Admin Assit
Heartland of Beckley
100 Heartland Drive
Beckley, WV 25801

Phone 1-304-256-1650
Fax Phone 1-304-256-1657

CC:

REMARKS: Urgent For your review Reply ASAP Please Comment

REMARKS: [Empty text area for remarks]

July 17, 2001

Ref: 64CSR85 Proposed Rule
Series 85
Alzheimer's/ Dementia Special Care Units & Programs

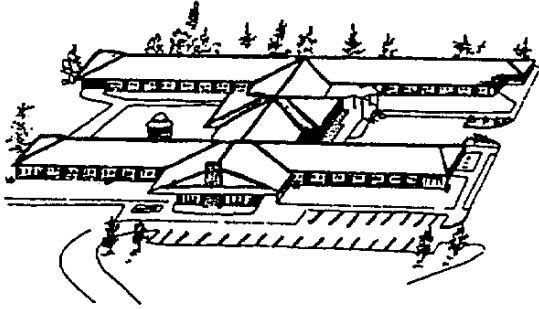
Submission for Comment Period expiring July 19, 2001

- 3.1.a. Obtaining an additional license from the secretary. to operate the special care unit or program:
 - Will there be an additional charge to the facility for this license?
 - Will the state send an additional license to the facility in addition to the existing license?

- 4.1.b.3. Completion of at least a 30 hour training course by a nationally recognized alzheimer's:
 - Will a Corporate training that is provided to a facility be recognized as a nationally recognized Alzheimer's training?
 - If so, will the Corporation need to submit a copy of their training for approval?
 - If Corporate training is not recognized, who would be considered as a nationally recognized Alzheimer trainer?

- 9.3 At least one employee per shift shall be responsible for activities programming with the assistance:
 - If a facility has another staff member, i.e. C N A on the unit that assist with activities, does there need to be an Activities person present on the unit 24 hours/day?

Grant County Nursing Home



27 Early Avenue

Petersburg, WV 26847

Phone 304-257-4233

July 18, 2001

Office of Health Facility Licensure
and Certification
350 Capitol Street Room 206
Charleston WV 25301-3718

RECEIVED
01 JUL 19 PM 2:12
WV DHR-OHFLAC

RE: Proposed Legislative Rule
Alzheimer/Dementia Special
Care Units and Programs

Dear Mr. Wilkinson:

We are concerned about the staffing requirement under Human Resources §64-85-4 in Section 4.2.6.1 on page 7 stating: "When the resident census is greater than five (5) residents, a minimum of two (2) direct care personnel shall be present".

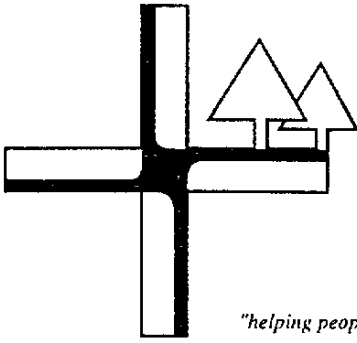
If this is relating that every 5 residents needs a minimum of 2 direct care staff then this would be very difficult to achieve due to today's and future predictions of CNAs not being available to meet present long term care staffing requirements.

To meet today's and future staffing demands higher medicaid reimbursement would likely be one vital necessity to achieve this staffing requirement if the Legislature adopts these regulations.

Thank you for the opportunity to address our concerns in this matter.

Sincerely,

Terry Shobe
Administrator



"helping people age in healthy, affordable, and meaningful ways"

CORTLAND ACRES

HC 60, Box 98
Thomas, WV 26292
304-463-4181
Fax 304-463-4190

July 17, 2001

RECEIVED
01 JUL 19 PM 2:09
WV DHR-OHFLAC

John M. Wilkinson
OHFLAC
350 Capitol St., Room 206
Charleston, WV 25301

Dear Mr. Wilkinson:

I am writing regarding the proposed rule Series 64, Title 85 which relates to the Alzheimer's/Demential special care units.

Cortland has participated by providing the professional support each time the committee had a study/work session. We support the need to have this type of care receive special attention.

However, I personally from my administrative position cannot support the proposed draft. There are items such as the 30 hours of training required for the directors that will be costly and time consuming. Our program has been in place for several years and we have already schooled this person. Additional training is not thoroughly detailed. The hour long monthly in-service for all staff associated with the delivery of care is another costly item. If there were increased reimbursements for the new requirements, I would reconsider my position, but John, you know that this doesn't always happen. The concept of having two surveys for the same area at the same time is awkward. Facilities feel threatened just hearing the term 'survey' and having 'civil penalties' mentioned in a proposed rule is unsettling.

I feel that we are reaching a time when we need to be encouraging facilities to consider this type of program. I fear that with this type of regulatory surveillance, development will be impeded.

I would be interested in reviewing the data supporting the need for this rule. Thank you for this opportunity to speak my feelings.

I end with a question. How many complaints have you had without these regulations regarding programs which are in place?

Sincerely,

Donald C. Black /lv

Donald C. Black, PT
Administrator

Attention: Mr. John Wilkinson **Date:** 07/19/01

Company: OHFLAC **No. of Pages:** 2

Fax Number: 558-2515

From: Candy Fannin

Company: Quarry Manor

Fax Number: 925-8311

Subject: Standards for Alzheimer's Care

Comments: Letter of comments regarding the new standards.

July 19, 2001

Mr. John Wilkinson
Director
c/o OHFLAC
Bureau for Public Health
350 Capitol Street, Room 26
Charleston, WV 25301-3718

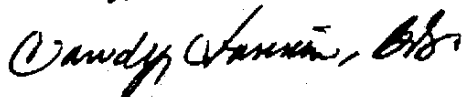
Dear Mr. Wilkinson:

My name is Candy Fannin and I am the Administrator of Quarry Manor, a personal care home located in Kanawha City. I have had the opportunity to review the new standards for Alzheimer's care which was sent out for public comment. On behalf of myself and the staff of Quarry Manor, we wanted to let you know that we support these standards and believe that our Alzheimer's population deserves the protection provided by these standards.

These standards are greatly needed for Alzheimer's services because of the rapid growth in that health care sector. The range of services offered by the various providers of Alzheimer's and dementia services differ greatly. I truly appreciate the fact that although these standards apply to any licensed provider who wishes to provide services to Alzheimer's residents, the standards have been written with the flexibility to meet the needs of any licensed provider of care.

Facing placement for a loved one is never an easy task but now the public can be assured that if a facility is advertising Alzheimer's services, that facility must now meet certain standards of care and that these standards of care must be provided in writing to any prospective resident and/or their responsible party. As an individual who works with families and residents every day I know this should make the decision for selecting a facility easier for them. With only one parent living, I would want the very best for my mother.

Sincerely,



Candy Fannin, B.S.
Adminstrator



315 COURTHOUSE ROAD
PRINCETON, WEST VIRGINIA 24740
(304) 487-3458

RECEIVED

01 JUL 19 PH 2:12

WV DHR-OHFLAC

July 6, 2001

John Wilkinson
DHHR, BPH
350 Capitol Street, Room 206
Charleston, WV 25301

Re: Proposed Alzheimer's Rules

Dear John,

I have a concern with a particular section of the proposed Alzheimer's rules. The section in question is section 3.3, Non-Compliance and, in particular, 3.3.b.. The section states "any facility that fails to meet the requirements of this rule is prohibited from advertising, marketing, or promoting the facility as providing specialized Alzheimer's or dementia care services." My concern is when is a facility considered to have failed to meet the requirements of this rule? Given the following scenario, a facility receives one "B" level deficiency on the Alzheimer's unit during a survey, has the facility "failed to meet the requirements of the rule". Would the facility then be prohibited from advertising, marketing, and promoting their specialized Alzheimer's services/programs? Wouldn't this penalty be too severe given the level of the deficiency?

I am sorry that I did not think to address this issue during the meetings you conducted on the proposed rule. I enjoyed working with you, your staff, and others on the development of this rule. I look forward to hearing from you about my concern.

Respectfully,

Roger F. Topping, N.H.A.
Roger F. Topping, N.H.A.
Princeton Health Care Center



Arthur B. Hodges Center, Inc.

500 Morris Street
Charleston, West Virginia 25301
(304) 345-6560

Date: July 19, 2001
To: John Wilkinson
DHHR, BPH
From: Connie Hudson, CTRS
Director Activities/
Recreation Therapy
RE: Proposed Legislative Rule
Alzheimer/Dementia Special Care Units and Programs
Series 64, Title 85

Enclosed are comments regarding the proposed rule on Alzheimer/
Dementia Special Care Units and Programs. We appreciate the
opportunity to voice our opinions and concerns.

Comments:

1. 2.3.a. - Alzheimer's/Dementia Special Care Programs. -
Any licensed facility, as defined in this rule, that
provides specialized services, for a specified number of
hours, for residents with a diagnosis of Alzheimer's
disease or related dementia; and that advertises, markets,
or otherwise promotes the facility as providing specialized
Alzheimer's/Dementia care services:

Facilities are required by Federal Law to provide programs to meet the needs of residents that are diagnosed with Alzheimer's disease or related dementia whether or not they have a Specialized Alzheimer's/Dementia Unit. These programs are reflected on the monthly Activity Calendar. Would this not be a form of advertisement or promoting the facility as providing specialized Alzheimer's/Dementia programming which as stated before is a Federal requirement.

Federal Regulation: 483.15 Quality of Life,
F Tag 248

A Facility must care for its residents in a manner and in an environment that promotes maintenance or enhancement of each resident's quality of life.

(f) Activities

(1) The facility must provided for an ongoing program

of activities designed to meet, in accordance with the comprehensive assessment, the interest and the physical, mental and psychosocial well being of each resident.

2. 4.2.b.1. - When the resident census is greater than five (5) residents, a minimum of two (2) direct care personnel shall be present.

Six (6) Staff times eight (8) hours equals forty-eight (48) hours. Forty-eight (48) hours divided by six (6) residents equals eight (8) hours per patient day. This far exceeds the two and twenty five one hundreds (2.25) hours of direct care personnel time per resident per day.

3. 9.3. - At least one employee per shift shall be responsible for activities programming with the assistance, participation and coordination of all direct care staff.

I agree that at least one (1) employee per day and evening shift should be responsible for activities programming with the assistance, participation and coordination of all direct care staff. However, I question the need for an activity employee for the midnight shift. Direct care staff could be trained to provide activities on this shift.

July 19, 2001



RECEIVED

01 JUL 20 PM 2:13

OHFLAC

Mr. John Wilkinson, Director
OHFLAC
West Virginia Department of Health & Human Resources
350 Capitol Street
Room 208
Charleston, WV 25301-3718
RE: Alzheimer's Proposed Rule

Dear Mr. Wilkinson:

On behalf of Marmet Health Care Center, Inc., I would like to share the following comments with respect to the proposed Alzheimer Rule:

1. The legislation provided much needed regulations for both Alzheimer's services and the advertisement of Alzheimer's services.
2. Providing care for individuals with Alzheimer's and other forms of dementia is one of the fastest growing areas in health care.
3. Our Alzheimer's population in West Virginia deserve the protection provided by these regulations.
4. Although these regulations apply to any licensed facility who wishes to provide services to Alzheimer's residents, the regulations have been written with the flexibility to meet the needs of any licensed facility for care.
5. If these regulations become effective, the public will be assured that if a facility is advertising Alzheimer's services are provided, they must now meet certain standards of care, which must be provided in writing to any prospective resident and/or their responsible party.
6. The regulations should be more precise with regard to facilities developing a "program of care" but not having the physical facility.
7. The regulations should address specific standards to help guide facilities in the development of a "program of care".

Thank you for the opportunity to comment on this important matter. A special thank you to all of the task force members who contributed many hours to this effort.

Sincerely,

A handwritten signature in black ink that reads "Robin Sutphin, NHA".

Robin Sutphin, NHA
Administrator

SPECIAL CARE FOR SPECIAL PEOPLE