

441—81.11(249A) Conditions of participation for nursing facilities. All nursing facilities shall enter into a contractual agreement with the department that sets forth the terms under which they will participate in the program.

81.11(1) Procedures for establishing health care facilities as Medicaid facilities. All survey procedures and certification process shall be in accordance with department of health and human services publication “State Operations Manual” (as amended to August 1, 2024).

81.11(2) Medicaid provider agreements.

a. The health care facility shall be recommended for certification by the department of inspections, appeals, and licensing for participation as a nursing facility before a provider agreement may be issued. All survey procedures and certification process shall be in accordance with department of health and human services publication “Providers Certification State Operations Manual” as amended to August 1, 2024. The effective date of a provider agreement may not be earlier than the date of certification.

b. When it becomes necessary for the department to cancel or refuse to renew a Title XIX provider agreement, federal financial participation may continue for 30 days beyond the date of cancellation, if the extension is necessary to ensure the orderly transfer of residents.

81.11(3) Distinct part requirement. All facilities that provide nursing facility care and also provide other types of care shall set aside a distinct or identifiable part for the provision of the nursing facility care.

a. The distinct part shall meet the following conditions:

(1) The distinct part shall meet all requirements for a nursing facility.

(2) The distinct part shall be identifiable as a unit such as a designated group of rooms, an entire ward or contiguous wards, wings, floor, or building. It shall consist of all beds and related facilities in the unit for whom payment is being made for nursing facility services. It shall be clearly identified and licensed by the department of inspections, appeals, and licensing.

(3) The appropriate personnel shall be assigned to the identifiable unit and shall work there regularly. Immediate supervision of staff shall be provided in the unit at all times by qualified personnel as required for licensure.

(4) The distinct part may share such central services and facilities as management services, dietary services, building maintenance and laundry with other units.

(5) When members of the staff share time between units of the facility, written records shall be maintained of the time assigned to each unit.

b. Hospitals participating as nursing facilities shall meet all of the same conditions applicable to freestanding nursing facilities.

c. Nothing herein shall be construed as requiring transfer of a resident within or between facilities when in the opinion of the attending physician the transfer might be harmful to the physical or mental health of the resident. The opinion of the physician shall be recorded on the resident’s medical chart and stands as a continuing order unless the circumstances requiring the exception change.

81.11(4) Civil rights. The nursing facility shall comply with Title VI of the Civil Rights Act of 1964 (as amended to August 1, 2024) in all areas of administration including admissions, records, services and physical facilities, room assignments and transfers, attending physicians’ privileges and referrals. Written statements of compliance shall be available to residents, employees, attending physicians and other members of the public.

81.11(5) Resident rights. The resident has a right to a dignified existence, self-determination and communication with and access to persons and services inside and outside the facility. A facility shall protect and promote the rights of each resident in accordance with 42 CFR 483.10 (as amended to August 1, 2024).

81.11(6) Admission, transfer and discharge rights.

a. Definition. Transfer and discharge includes movement of a resident to a bed outside of the certified facility whether that bed is in the same physical plant or not. Transfer and discharge does not refer to movement of a resident to a bed within the same certified facility.

b. Transfer or discharge requirements. The facility shall permit each resident to remain in the facility, and not transfer or discharge the resident, in accordance with 42 CFR 483.15 (as amended to August 1, 2024).

81.11(7) *Resident behavior and facility practices.*

a. Restraints. The resident has the right to be free from any physical or chemical restraints imposed for purposes of discipline or convenience and not required to treat the resident's medical symptoms.

b. Abuse. The resident has the right to be free from verbal, sexual, physical, or mental abuse, corporal punishment, and involuntary seclusion.

c. Staff treatment of residents. The facility shall develop and implement written policies and procedures that prohibit mistreatment, neglect, and abuse of residents and misappropriation of resident property.

(1) Facility staff shall not use verbal, mental, sexual, or physical abuse, including corporal punishment, or involuntary seclusion of residents. The facility shall not employ persons who have been found guilty by a court of law of abusing, neglecting or mistreating residents or who have had a finding entered into the state nurse aide registry concerning abuse, neglect, mistreatment of residents or misappropriation of their property.

The facility shall report any knowledge it has of actions by a court of law against an employee, which would indicate unfitness for service as a nurse aide or other facility staff to the state nurse aide registry or licensing authorities.

(2) The facility shall ensure that all alleged violations involving mistreatment, neglect or abuse including injuries of unknown source and misappropriation of resident property, are reported immediately to the administrator of the facility or to other officials (including the department of inspections, appeals, and licensing) in accordance with state law through established procedures.

(3) The facility shall have evidence that all alleged violations are thoroughly investigated and shall prevent further potential abuse while the investigation is in progress.

(4) The results of all investigations conducted by facility staff shall be reported to the administrator or the administrator's designated representative or to other officials (including the department of inspections, appeals, and licensing) in accordance with state law within five working days of the incident and if the alleged violation is verified, take appropriate corrective action.

81.11(8) *Quality of life.* A facility shall care for its residents in a manner and in an environment that promotes maintenance or enhancement of each resident's quality of life in accordance with 42 CFR 483.10 (as amended to August 1, 2024).

a. Activities. The facility shall provide for an ongoing program of activities designed to meet, based on the comprehensive assessment, the interests and the physical, mental, and psychosocial well-being of each resident in accordance with 42 CFR 483.24(c) (as amended to August 1, 2024).

b. Social services.

(1) The facility shall provide medically related social services to attain or maintain the highest practicable physical, mental, or psychosocial well-being of each resident.

(2) A facility with more than 120 beds shall employ a qualified social worker on a full-time basis in accordance with 42 CFR 483.70(p) (as amended to August 1, 2024).

c. Environment. The facility shall provide a safe, clean, comfortable and homelike environment in accordance with 42 CFR 483.10(i) (as amended to August 1, 2024).

81.11(9) *Resident assessment.* The facility shall conduct initially and periodically a comprehensive, accurate, standardized, reproducible assessment of each resident's functional ability in accordance with 42 CFR 483.20(a) through (j) (as amended to August 1, 2024).

a. Use of independent assessors. If the department or the department of inspections, appeals, and licensing determines, under a survey or otherwise, that there has been a knowing and willful certification of false statements in a resident assessment, the department or the department of inspections, appeals, and licensing may require that resident assessments under this paragraph be conducted and certified by individuals who are independent of the facility and who are approved by the department or the department of inspections, appeals, and licensing for a period specified by the agency.

b. Comprehensive care plans. The facility shall develop a comprehensive care plan for each resident in accordance with 42 CFR 483.21(b) (as amended to August 1, 2024).

c. Discharge summary. When the facility anticipates discharges, a resident shall have a discharge summary in accordance with 42 CFR 483.21(c)(2) (as amended to August 1, 2024).

d. Preadmission resident assessment. The facility shall conduct prior to admission a resident assessment of all persons seeking nursing facility placement. The assessment information gathered shall be similar to the data in the minimum data set (MDS) resident assessment tool.

81.11(10) Quality of care. Each resident shall receive and the facility shall provide the necessary care and services to attain or maintain the highest practicable physical, mental and psychosocial well-being, in accordance with the comprehensive assessment and plan of care. A facility shall ensure that residents receive treatment in accordance with 42 CFR 483.24 and 483.25 (as amended to August 1, 2024).

a. Behavioral health services. Based on the comprehensive assessment of a resident, the facility shall ensure that residents receive and the facility must provide the necessary behavioral health care and services to attain or maintain the highest practicable physical, mental, and psychosocial well-being in accordance with 42 CFR 483.40 (as amended to August 1, 2024).

b. Unnecessary drugs. Each resident's drug regimen shall be free from unnecessary drugs in accordance with 42 CFR 483.45(d) and (e) (as amended to August 1, 2024).

c. Medication errors. The facility shall ensure that it meets the standards set forth in 42 CFR 483.45(f) (amended to August 1, 2024).

81.11(11) Nursing services. In accordance with 42 CFR 483.35 (as amended to August 1, 2024), the facility shall have sufficient nursing staff to provide nursing and related services to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident, as determined by resident assessments and individual plans of care.

81.11(12) Dietary services. In accordance with 42 CFR 483.60 (as amended to August 1, 2024), the facility shall provide each resident with a nourishing, palatable, well-balanced diet that meets the daily nutritional and special dietary needs of each resident.

81.11(13) Physician services. In accordance with 42 CFR 483.30 (as amended to August 1, 2024), a physician shall personally approve in writing a recommendation that an individual be admitted to a facility. Each resident shall remain under the care of a physician.

81.11(14) Specialized services. When indicated, specialized services shall be provided to residents as follows:

a. Specialized rehabilitative services. Specialized rehabilitative services shall be provided by qualified personnel under the written order of a physician in accordance with 42 CFR 483.65 (as amended to August 1, 2024).

b. Specialized services for mental illness. "Specialized services for mental illness" means services provided in response to an exacerbation of a resident's mental illness that:

- (1) Are beyond the normal scope and intensity of nursing facility responsibility;
- (2) Involve treatment other than routine nursing care, supportive therapies such as activity therapy, and supportive counseling by nursing facility staff;
- (3) Are provided through a professionally developed plan of care with specific goals and interventions;
- (4) May be provided only by a specialized licensed or certified practitioner;
- (5) Are expected to result in specific, identified improvements in the resident's psychiatric status to the level before the exacerbation of the resident's mental illness; and
- (6) May include:
 1. Acute inpatient psychiatric treatment. When inpatient psychiatric treatment may be prevented through specialized services provided in the nursing facility, services provided in the nursing facility are preferred.
 2. Initial psychiatric evaluation to determine a resident's diagnosis and to develop a plan of care.
 3. Follow-up psychiatric services by a psychiatrist to evaluate resident response to psychotropic medications, to modify medication orders and to evaluate the need for ancillary therapy services.
 4. Psychological testing required for a specific differential diagnosis that will result in the adoption of appropriate treatment services.
 5. Individual or group psychotherapy as part of a plan of care addressing specific symptoms.
 6. Any clinically appropriate service that is available for which the member meets eligibility criteria.

c. Specialized services for intellectual disability. “Specialized services for intellectual disability” means services that:

- (1) Are beyond the normal scope and intensity of nursing facility responsibility;
- (2) Involve treatment other than routine nursing care, supportive therapies such as activity therapy, and supportive counseling by nursing facility staff;
- (3) Are provided through a professionally developed plan of care with specific goals and interventions;
- (4) Must be supervised by a qualified intellectual disability professional; and
- (5) May include:
 1. A functional assessment of maladaptive behaviors.
 2. Development and implementation of a behavioral support plan.
 3. Community living skills training for members who desire to live in a community setting and for whom community living is appropriate as determined by the Level II evaluation. Training may include adaptive behavior skills, communication skills, social skills, personal care skills, and self-advocacy skills.

81.11(15) Dental services. In accordance with 42 CFR 483.55 (as amended to August 1, 2024), the facility shall assist residents in obtaining routine and 24-hour emergency dental care.

81.11(16) Pharmacy services. In accordance with 42 CFR 483.45 (as amended to August 1, 2024), the facility shall provide routine and emergency drugs and biologicals to its residents or obtain them under an agreement. The nursing facility may permit a certified medication aide to administer drugs, but only under the general supervision of a licensed nurse.

81.11(17) Infection control. In accordance with 42 CFR 483.80 (as amended to August 1, 2024), the facility shall establish and maintain an infection control program designed to provide a safe, sanitary, and comfortable environment in which residents reside and to help prevent the development and transmission of disease and infection.

81.11(18) Physical environment. In accordance with 42 CFR 483.90 (as amended to August 1, 2024), the facility shall be designed, constructed, equipped and maintained to protect the health and safety of residents, personnel and the public.

81.11(19) Administration. In accordance with 42 CFR 483.70(a) through (d) (as amended to August 1, 2024), a facility shall be administered in a manner that enables it to use its resources effectively and efficiently to attain or maintain the highest practicable physical, mental and psychosocial well-being of each resident.

a. Required training of nurse aides.

(1) Definitions.

“*Licensed health professional*” means a physician; physician associate; nurse practitioner; physical, speech or occupational therapist; registered professional nurse; licensed practical nurse; or licensed or certified social worker.

“*Nurse aide*” means any person providing nursing or nursing-related services to residents in a facility who is not a licensed health professional, a registered dietitian, or someone who volunteers to provide these services without pay.

(2) General rule. A facility shall not use any person working in the facility as a nurse aide for more than four months, on a permanent basis in accordance with the exceptions and provisions specified in 42 CFR 483.25(d) (as amended to August 1, 2024).

b. Proficiency of nurse aides. The facility shall ensure that nurse aides are able to demonstrate competency in skills and technique necessary to care for residents’ needs, as identified through resident assessments, and described in the plan of care.

c. Staff qualifications. Staff qualifications must be met in accordance with 42 CFR 483.70(f) (as amended to August 1, 2024).

d. Use of outside resources. If the facility does not employ a qualified professional person to furnish a specific service to be provided by the facility, the facility shall have that service furnished to residents by a person or agency outside the facility under an arrangement described in Section 1861(w) of the Omnibus Budget Reconciliation Act of 1987 or an agreement described in 42 CFR 483.70(g) (as amended to August 1, 2024).

e. Medical director. The facility shall designate a physician to serve as medical director in accordance with 42 CFR 483.70(h) (as amended to August 1, 2024).

f. Laboratory, radiology, and other diagnostic services. The facility shall provide or obtain clinical laboratory, radiology, and other diagnostic services to meet the needs of its residents in accordance with 42 CFR 483.50 (as amended to August 1, 2024).

g. Clinical records. The facility shall maintain clinical records on each resident in accordance with 42 CFR 483.70(i) (as amended to August 1, 2024).

h. Disaster and emergency preparedness.

(1) The facility shall have detailed written plans and procedures to meet all potential emergencies and disasters, such as fire, severe weather, and missing residents.

(2) The facility shall train all employees in emergency procedures when they begin to work in the facility, periodically review the procedures with existing staff, and carry out staff drills using those procedures.

i. Transfer agreement. The facility shall have in effect a written transfer agreement with one or more hospitals approved for participation under the Medicare and Medicaid programs in accordance with 42 CFR 483.70(j) (as amended to August 1, 2024).

j. Quality assessment and assurance. A facility shall maintain a quality assessment and assurance committee in accordance with 42 CFR 483.75(g) through (i) (as amended to August 1, 2024).

k. Disclosure of ownership.

(1) The facility shall comply with the disclosure requirements of 42 CFR 420.206 and 455.104 (as amended to August 1, 2024).

(2) The facility shall provide written notice to the department of inspections, appeals, and licensure at the time of change, if a change occurs in:

1. Persons with an ownership or control interest.
2. The officers, directors, agents, or managing employees.
3. The corporation, association, or other company responsible for the management of the facility.
4. The facility's administrator or director of nursing.

(3) The notice specified in subparagraph (2) above shall include the identity of each new individual or company.

[ARC 9279C, IAB 5/14/25, effective 7/1/25; Editorial change: IAC Supplement 6/10/26]