

Nursing Homes Regulation 1996

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New South Wales

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Nursing Homes Regulation 1996



New South Wales

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Nursing Homes Regulation 1996*.

2 Commencement

This Regulation commences on 1 September 1996.

3 Definitions

(1) In this Regulation:

admission form means an admission form referred to in clause 13.

approved means approved for the time being by the Director-General, either generally or in any particular case or class of cases.

clinical records means clinical records referred to in Schedule 1.

Director-General means the Director-General of the Department of Health.

resident's representative means:

(a) if the resident is under the age of 16 years—a parent or guardian having the legal custody of the resident, or

(b) if the resident is under guardianship—the resident's guardian, or

(c) if the resident has died—the executor or administrator of the resident's estate,

and includes any other person who, according to approved guidelines, is the resident's representative.

the Act means the *Nursing Homes Act 1988*.

(2) In this Regulation, a reference to a Form is a reference to a Form set out in Schedule 2.

4 Notes

The explanatory note and table of contents do not form part of this Regulation.

Part 2 Licensing of nursing homes

5 Licensing standards

- (1) For the purposes of section 4 of the Act, the standards specified in Schedule 1 are prescribed.
- (2) The licensee must conduct the nursing home in accordance with the provisions of Schedule 1 applicable to the nursing home.

Maximum penalty: 5 penalty units.

- (3) The licensee is not guilty of an offence under this clause if the licensee:
 - (a) was not aware of the circumstances giving rise to the alleged offence, and
 - (b) could not reasonably be expected to have been aware of those circumstances.
- (4) A contravention of a provision of Schedule 1 by any person other than the licensee does not constitute an offence under this Regulation.

6 Applications for licences

For the purposes of section 5 of the Act:

- (a) the prescribed form of application is Form 1, and
- (b) the prescribed application fee is \$675.

7 Annual licence fees

For the purposes of section 14 of the Act, the prescribed annual licence fee for a nursing home licensed to accommodate a number of persons within a range specified in Column 1 of the Table to this clause is the fee specified opposite that range in Column 2 of that Table.

Table

Column 1	Column 2
Number of persons licensed to be accommodated	Licence fee
	\$
Fewer than 40	1,235
40-49	1,715
50-59	2,205

60-69	2,700
70-79	3,215
80-89	3,685
90-99	4,160
100 or more	4,665

8 Transfer of licence

For the purposes of section 15 of the Act:

- (a) the prescribed form of application is Form 2, and
- (b) the prescribed application fee is \$675.

9 Alterations or extensions

For the purposes of section 16 of the Act, the prescribed form of application is Form 3.

10 Application for review of Director-General's decision

For the purposes of section 25 of the Act, the prescribed form of application is Form 4.

11 Chief nurse of nursing home

- (1) For the purposes of section 37 (1) of the Act, the prescribed qualifications to be held by a registered nurse who carries out the duties of chief nurse are:
 - (a) current registration on List "A" of the Register kept under the [Nurses Act 1991](#), and
 - (b) 5 years' post-basic or post-graduate nursing experience, and
 - (c) 2 years' full-time administrative experience in a position of, or more senior than that of, nursing unit manager in a hospital or nursing home.
- (2) For the purposes of section 37 (2) of the Act, the prescribed number of days is 7.
- (3) For the purposes of section 37 (4) of the Act, the prescribed particulars in respect of a person who carries out the duties of chief nurse are particulars of the person's current authority to practise.

12 Register of residents

- (1) For the purposes of section 41 (1) of the Act, the prescribed form for a register of residents is a series of forms, each form being in or to the effect of Form 5, completed in respect of each resident and maintained in strict admission date order.
- (2) For the purposes of section 41 (2) (e) of the Act, the prescribed particulars to be

entered in the register of residents are such of the particulars required to complete Form 5 as are relevant to a nursing home.

- (3) For the purposes of section 41 (3) of the Act, a particular required to be entered in the register of residents must be entered by the licensee:
- (a) in the case of a particular relating to the admission of a resident, at the time of admission of the resident, and
 - (b) in the case of a particular relating to the separation of a resident, at the time the person ceases to be a resident, and
 - (c) in either case:
 - (i) in such manner as may be directed by the senior nurse on duty at the nursing home at the time the particulars are obtained, and
 - (ii) subject to subparagraph (i), by hand or by use of an approved electronic data processing system.

13 Records

- (1) The licensee must keep, in respect of each resident:
- (a) an admission form, in or to the effect of the approved form, and
 - (b) such other records as are referred to in Schedule 1.

Maximum penalty: 5 penalty units.

- (2) Such records may be kept by hand or by use of an approved electronic data processing system.

Part 3 Disclosure of pecuniary interests

14 Definition of “pecuniary interest”

- (1) For the purposes of this Part:

pecuniary interest in a nursing home means any one or more of the following interests:

- (a) a pecuniary interest in the licence to conduct the nursing home, being:
 - (i) an interest as the holder of the licence to conduct the nursing home, or as one of the holders of such a licence, or
 - (ii) an interest in any corporation (other than a public company) which is the licensee of the nursing home, or
 - (iii) a holding of 5 per cent or more of the issued share capital of a public

company which is the licensee of the nursing home,

- (b) a pecuniary interest in the premises on which the nursing home is conducted, being:
 - (i) an interest (whether at law or in equity) in the premises at which the nursing home is conducted, or
 - (ii) an interest in any corporation (other than a public company) which has any interest (whether at law or in equity) in the premises at which the nursing home is conducted, or
 - (iii) a holding of 5 per cent or more of the issued share capital of any public company which has any interest (whether at law or in equity) in the premises at which the nursing home is conducted,
- (c) a pecuniary interest in the services provided to the nursing home, being:
 - (i) an interest in any clinical or administrative services provided to the nursing home (other than an interest being fees from medical or dental services provided by the person to any resident in the nursing home), or
 - (ii) an interest in any corporation (other than a public company) which has an interest in any clinical or administrative services provided to the nursing home, or
 - (iii) a holding of 5 per cent or more of the issued share capital of any public company which has an interest in any clinical or administrative services provided to the nursing home.

relative of a practitioner means the spouse, de facto partner, parent, child, brother or sister of the practitioner.

- (2) For the purposes of section 43 (4) of the Act, a practitioner has a pecuniary interest in a nursing home if the practitioner has a pecuniary interest within the meaning of this Part.
- (3) For the purposes of section 43 (5) of the Act, a pecuniary interest in a nursing home of a relative of a practitioner is a pecuniary interest of the practitioner.

15 Manner in which pecuniary interest to be notified

- (1) For the purposes of section 43 (1) of the Act, the manner in which a practitioner is to notify a person of the practitioner's pecuniary interest is:
 - (a) by telling the person of that fact by word of mouth, and
 - (b) by giving written notice of that fact to the person, and

- (c) by displaying a written notice of that fact at the nursing home, surgery or other premises at which the relevant advice or treatment is given or the relevant arrangements are made.
- (2) The notification must identify the practitioner to which it relates and must specify the nature and extent of the pecuniary interest.
- (3) The written notice referred to in subclause (1) (c) must comply with the following requirements:
 - (a) the notice must have a surface area of at least 2 500 square centimetres,
 - (b) the information on the notice must be printed in plain, bold letters at least 1 centimetre high on a contrasting background,
 - (c) in the case of a notice displayed at a nursing home, the notice must be displayed in a prominent place in the entrance foyer or in every room in which the practitioner to whom the notice relates attends to residents or other persons,
 - (d) in the case of a notice displayed at a surgery or other premises, the notice must be displayed in a prominent place.

Part 4 Miscellaneous

16 Evidentiary certificates

An officer of the Department of Health who holds an authorisation for the purposes of section 48 of the Act, being a written authorisation signed by the Director-General, is a prescribed officer for the purposes of that section.

17 Display of licence

At all times while a nursing home is being conducted, the licensee must cause the licence (or a full-size copy of the licence) to be displayed in a prominent place in the entrance foyer of the nursing home.

Maximum penalty: 5 penalty units.

18 Information to be furnished with annual licence fee

- (1) When paying an annual licence fee referred to in section 14 of the Act, the licensee must furnish to the Director-General:
 - (a) a copy of the chief nurse's current authority to practise, and
 - (b) a certificate in the approved form, and
 - (c) information in the approved form in respect of the nursing staff at the nursing home.

Maximum penalty: 5 penalty units.

- (2) The certificate referred to in subclause (1) (b) must contain the information required to complete the approved form and (in the case of a licensee that is a corporation) must also be accompanied by the following information:
- (a) the full name of the corporation,
 - (b) the address of the registered office of the corporation,
 - (c) the full name, residential address, date and place of birth and position of:
 - (i) each current director of the corporation, and
 - (ii) the principal executive officer of the corporation, and
 - (iii) the secretary or, if there is more than one, each secretary of the corporation,
 - (d) in the case of a corporation limited by shares:
 - (i) the types of shares and the number of shares of each type issued,
 - (ii) in the case of a private corporation, the full name of, and the number of shares held by, each shareholder,
 - (iii) in the case of a public corporation, a list of the 20 largest shareholdings and of the full names of the holders of each of those shareholdings,
 - (e) if the shares are held by another corporation, the name of the ultimate holding corporation.

19 Change of ownership or control

- (1) A licensee that is a corporation must furnish to the Director-General, as soon as practicable after the change occurs, particulars of any change in the directors or major shareholders of the corporation.

Maximum penalty: 5 penalty units.

- (2) In this clause, **major shareholder of a corporation** means a shareholder whose shareholding exceeds 20 per cent of the total shareholding in the corporation.

20 Resident census

- (1) The Director-General may, by direction in writing to the licensee, require the completion of an approved census form in respect of each person residing at the nursing home on a date, and at a time, specified in the direction.
- (2) Within 3 weeks after the date specified in such a direction, the licensee must furnish to the Director-General the completed census forms to which the direction relates.

Maximum penalty: 5 penalty units.

21 Repeal

- (1) The *Nursing Homes Regulation 1990* is repealed.
- (2) Any act, matter or thing which, immediately before the repeal of the *Nursing Homes Regulation 1990*, had effect under that Regulation continues to have effect under this Regulation.

Schedule 1 Licensing standards

(Clause 5)

Part 1 Design and construction of premises

1 Ambulance access

A nursing home must have adequate access for the emergency transfer of residents by ambulance.

2 Orders under the *Local Government Act 1993*

The licensee of a nursing home must ensure that notice is immediately given to the Director-General of any order made under section 124 of the *Local Government Act 1993* in relation to the premises of the nursing home.

Part 2 Facilities and equipment

3 Furnishing and equipping of wards generally

- (1) All furniture, furnishings and bed linen provided by a nursing home must be:
 - (a) of suitable quality and quantity, and
 - (b) suitable for their intended use, and
 - (c) comfortable for residents, and
 - (d) able to be readily cleaned.
- (2) Any hot or warm water system supplying those areas of a nursing home that are used by residents for accommodation, ablutions, recreation or dining must be a system that has been installed in accordance with the prescribed installation requirements under section 45 of the *Public Health Act 1991*.

4 Beds

- (1) A suitable hospital-type bed must be provided for each resident other than a cot resident.

- (2) Unless otherwise approved, beds in a ward:
 - (a) must have wheels fitted at one or both ends, and
 - (b) must be at least 860 millimetres wide, and
 - (c) must be accessible from both sides, and
 - (d) must have a firm base.
- (3) All beds must be of adjustable height, either mechanically or electrically.
- (4) Sufficient cot sides must be provided.

5 Mattresses

- (1) One mattress must be provided for each bed and one additional mattress for every 15 beds or part thereof.
- (2) Each mattress must be of inner spring, foam rubber or other suitable type, and must be fitted with a waterproof mattress cover.

6 Bed linen

- (1) Sufficient pillows must be available at all times to enable residents to be positioned as required, taking into account the type of bed adjustment and pillows used.
- (2) Sufficient draw sheets and pillow cases must be available at all times to ensure comfortable and hygienic conditions for residents while in bed.
- (3) Bed linen is to be in sufficient supply to allow for daily changing for each resident who is confined mainly to bed and for twice weekly changing for each other resident, but additional bed linen must be provided if more frequent changes are necessary.
- (4) Towels are to be in sufficient supply to allow for daily changing for each resident.
- (5) Bed linen, if wrinkled after laundering, must be ironed.
- (6) Sufficient blankets of good quality must be provided to meet the residents' needs.
- (7) Electric blankets, if provided, must be of the extra-low voltage type.

7 Other bedroom furniture

- (1) Each bed must be provided with at least one bedside locker, situated within easy reach of the bed, and having a top surface which has rounded corners and is washable and impervious to liquids.
- (2) Each bed must be provided with an overbed table which:
 - (a) is of adjustable height, and

- (b) is of safe design and robust construction, and
 - (c) has washable surfaces impervious to liquids.
- (3) At least one chair with arms must be provided for each bed and must be made of materials that facilitate the chair's being kept clean and hygienic, and the chairs so provided are to be of various heights.
- (4) At least one wardrobe of a suitable size must be provided for each bed for the storage of the clothes of the resident occupying the bed.
- (5) Individual draw screens must be provided for resident privacy for each bed in each multiple bed ward, and each such draw screen:
- (a) must be of suitable, washable, fire-resistant materials, and
 - (b) must be suspended from strong overhead tracking, and
 - (c) must extend from not more than 450 millimetres above the floor to at least 1 800 millimetres above the floor and 450 millimetres below the ceiling.

8 Furnishing and equipping of lounge, dining and activities areas

- (1) Resident lounge areas in a nursing home are to be furnished with a suitable number of appropriate chairs.
- (2) Resident dining areas in a nursing home are to be furnished with tables and suitable chairs sufficient to accommodate, at any one time, not less than two-thirds of the maximum number of residents that may be accommodated in the nursing home.
- (3) Activities areas in a nursing home are to be adequately equipped for therapy and other activities.

9 Equipping of kitchen and serveries

- (1) Adequate food storage containers and food preparation, cooking and serving utensils are to be provided.
- (2) Suitable eating and drinking utensils of a sufficient number must be provided for the use of residents.

10 Medical and nursing equipment

- (1) Equipment, appliances and materials that are necessary for resident care in the nursing home are to be provided as directed from time to time by the Director-General by notice in writing to the licensee of the nursing home.
- (2) Without limiting subclause (1), the following equipment, appliances and materials are to be provided as required in a nursing home:

All dressings, bandages and general medications (including creams, ointments, antiseptic powders and suppositories) required for good resident care, other than those prescribed by a medical practitioner for a specific resident	Face washers Mechanical devices for lifting residents Mouth-washes Naso-gastric tubes Oxygen Oxygen equipment and flowmeter Pharyngeal airway tubes Quadruped walkers Restrainers Resuscitators Ripple, eggshell, gel or other therapeutic mattresses Shampoo Shaving requisites Sheepskins or similar items Shower chairs with toilet seats Sterile dressing supplies Suction apparatus Suture trays Surgical gloves (rubber or disposable) Talcum powder Tissues Toilet paper Toilet soap Toothpaste and denture cleaning preparations Urinary drainage appliances Walking frames Water chairs Waterproof sheeting Wheelchairs Woollen heel pads
Absorbent chair pads	
Absorbent incontinence pads	
Absorbent sheets	
Bed blocks	
Bed cradles	
Catheters	
Colostomy appliances	
Commode chairs	
Containers for personal laundry	
Diabetic sweeteners and other dietary requirements	
Disposable bed pan and urinal covers	
Disposable enemas	
Disposable syringes and needles	
Dressing trays or disposable dressing packs	
Drip feeding equipment	

- (3) Without limiting subclause (1), a suitable medication trolley must be provided in each clean utility room or other suitable area.

11 Fire blankets

A suitable fire blanket must be provided in each kitchen and nurse station in a nursing home.

12 Utility rooms

- (1) Each nursing home must have both clean utility rooms and dirty utility rooms.
- (2) Each dirty utility room must be provided with:
- (a) a suitable flusher-sanitiser for emptying, rinsing and sanitising bed-pans, commode-pans and urinal vessels, and

- (b) a suitable washer-sanitiser for washing and sanitising denture cups, tooth bowls, sputum cups and washing bowls, and
- (c) mobile soiled-linen containers, and
- (d) a garbage receptacle fitted with a lid.

13 Open fires and portable heaters prohibited

Open fires and portable heaters must not be provided in areas used by residents.

14 Maintenance of buildings, facilities and equipment

- (1) The buildings, facilities and equipment of a nursing home (including all furniture, fittings and bed linen) are to be maintained in good repair and operational order.
- (2) Without limiting subclause (1), a suitable maintenance program (consistent with the manufacturer's specifications, if any) must be current at all times for:
 - (a) all hot and warm water systems, and
 - (b) all air-conditioning, heating, warming and cooling systems and appliances, and
 - (c) all sterilising equipment, and
 - (d) all communication, alarm and emergency call systems.
- (3) Gas cylinders are to be stored in accordance with the manufacturer's specifications in cool, dry areas when not needed for immediate use.
- (4) If a designated area is provided for the storage of medical gases, all medical gas cylinders are to be stored in that area when not needed for immediate use.

Part 3 Staffing

15 Staffing

- (1) The nursing and personal care staff of a nursing home must at all times be sufficient in number, and have appropriate experience, to perform the nursing duties necessary for the proper care of residents.
- (2) The sufficiency of nursing and personal care staff is to be determined in accordance with the *Principles for the Classification of Nursing Home Patients and Repatriation Nursing Home Patients* (published in Commonwealth Gazette No GN38 on 4 October 1989) or any subsequent principles so published.
- (3) The licensee is to cause a register to be kept in which are recorded the following particulars:
 - (a) the name of each person employed in nursing and personal care duties in the

nursing home,

(b) the residential address of each such person,

(c) in respect of each such person who is a registered or enrolled nurse:

(i) the person's nursing qualifications, and

(ii) the number and expiry date shown on the person's current authority to practise, and

(iii) a statement that the person's current authority to practise has been seen by the chief nurse.

(4) Sufficient domestic and maintenance staff or services are to be provided in a nursing home to carry out the cooking, cleaning, laundering, maintenance and other duties necessary for the proper conduct of the nursing home.

(5) The licensee must cause separate staff rosters to be prepared for the nursing home and other staff of the nursing home and must cause written copies of the staff rosters to be kept available for inspection at the nursing home.

16 Day care programs

If, under section 35 (1) (b) of the Act, the provision of a day care program for non-residents is permitted by a condition of a licence, the licensee:

(a) must provide staff, in addition to the staff specified in clause 15, sufficient for the purpose of conducting the program, including the provision of nursing and personal care, and

(b) must cause a register to be kept in which is recorded:

(i) the name of each person participating in the day care program, and

(ii) a daily record of attendance by each person, including the time of arrival at and departure from the nursing home.

Part 4 Operational matters

17 Quality assurance

(1) The licensee must cause written procedures to be established for evaluating and recording the quality of care provided at the nursing home and for correcting identified problems.

(2) Such procedures must take account of relevant external standards and programs recommended by learned colleges and other relevant professional organisations.

18 Health care

(1) The licensee must ensure that:

- (a) each resident is given an opportunity to receive appropriate medical care by a medical practitioner of the resident's choice when needed, and
- (b) each resident is assisted and encouraged to make informed choices about the resident's individual care plan, and
- (c) residents are as free from pain as possible, and
- (d) residents are adequately nourished and hydrated, and
- (e) residents are assisted to maintain continence, and
- (f) residents are assisted and encouraged to maintain and, if possible, improve their mobility and dexterity, and
- (g) residents have clean, healthy skin consistent with their age and general health, and
- (h) residents are assisted and encouraged to maintain oral and dental health, and
- (i) any sensory losses of residents are identified so that they are able to communicate effectively.

(2) The licensee must ensure that the appropriate consents are obtained before medical or dental treatment is carried out on residents.

19 Social independence

The licensee must ensure that:

- (a) residents are given an opportunity to have visitors of their choice and to maintain personal contacts, and
- (b) residents are given an opportunity and encouraged to maintain control of their financial affairs, and
- (c) residents have freedom of movement within and beyond the nursing home, restricted only for safety reasons, and
- (d) provision is made for residents with differing religious, personal and cultural customs, and
- (e) residents are assisted and encouraged to maintain their responsibilities and obligations as citizens.

20 Freedom of choice

- (1) The licensee must have written policies, developed in consultation with residents, which:
 - (a) enable residents to make decisions and exercise choices regarding their daily activities, and
 - (b) provide an appropriate balance between residents' rights and effective management of the nursing home, and
 - (c) are interpreted flexibly to take into account the needs of individual residents.
- (2) The licensee must ensure that residents and residents' representatives are given an opportunity to comment or complain about conditions in the nursing home.

21 Homelike environment

- (1) The licensee is to create and maintain an environment at the nursing home that is as homelike as possible.
- (2) The licensee must have policies which enable residents to feel secure in their accommodation.

22 Privacy and dignity

The licensee must ensure that:

- (a) the dignity of residents is respected by the staff of the nursing home, and
- (b) residents are able to undertake personal activities, including bathing, toileting and dressing, in private, and
- (c) the nursing home environment is free from undue noise, and
- (d) information about residents is treated confidentially, and
- (e) practices at the nursing home support the right of residents to die with dignity.

23 Variety of experience

The licensee must ensure that residents are assisted and encouraged to participate in a wide range of activities appropriate to their interests and capacities.

24 Safety

The licensee must ensure that:

- (a) the right of residents to participate in activities that involve a degree of risk is respected, and

- (b) the nursing home design, equipment and practices contribute to a safe environment for residents, staff and visitors, and
- (c) residents, visitors and staff are protected from infection and infestation, and
- (d) residents, visitors and staff are protected from hazards of fire and natural disasters, and
- (e) the security of buildings, contents and people within the nursing home is safeguarded, and
- (f) physical and other forms of restraint are not used on a resident incorrectly or inappropriately.

25 Admission and separation of residents

- (1) On the admission of a resident to a nursing home:
 - (a) a record of the resident's personal particulars and reason for admission must be made, and
 - (b) the attention of the resident or a person responsible for the resident must be drawn to the existence of, and the resident or person responsible must be given:
 - (i) written information concerning the policy of the licensee in respect of the conduct of the nursing home, including the handling of complaints about the nursing home, and
 - (ii) written information concerning the procedure for lodging a complaint.
- (2) On a person's ceasing to be a resident (whether by discharge, transfer or death), a summary is to be made of the person's personal and clinical particulars, together with the reasons for the person's so ceasing to be a resident.
- (3) The records referred to in this clause are to be made:
 - (a) in the register of residents, and
 - (b) in the admission form for the resident concerned.
- (4) On completion of the admission details, and again on completion of the separation details, the records are to be signed by the chief nurse (or by some other person authorised by the chief nurse for that purpose) and are to be dealt with as follows:
 - (a) the register of residents form is to be retained:
 - (i) in a loose-leaf file with all other completed register of residents forms, or
 - (ii) in a bound register of residents, and

- (b) the admission form is to be retained as the front sheet of the resident's clinical record.

26 Security of accommodation

- (1) The licensee must ensure that residents and residents' representatives are informed verbally and in writing of:
 - (a) the terms under which the accommodation is being offered, including costs and services provided, and
 - (b) the circumstances in which a resident may be asked to leave or a transfer of accommodation may be arranged, and
 - (c) the avenues of appeal against a decision that the resident should leave.
- (2) If a resident is asked to leave, the licensee:
 - (a) must ensure that the resident (or, if the resident has a representative, the resident's representative) is given sufficient notice to enable alternative accommodation to be arranged, and
 - (b) if requested by the resident or resident's representative, must provide assistance in finding alternative accommodation.

27 Identification of residents

- (1) Each resident in a nursing home who is unable to clearly establish his or her identity to other persons is to have the name of the resident and the name and telephone number of the nursing home:
 - (a) marked discreetly, indelibly and legibly on each change of clothing, or
 - (b) engraved legibly on a bracelet, anklet or necklace worn by the resident, or
 - (c) identified with the resident by other suitable means.
- (2) A recent photograph of each resident must be kept available within the nursing home.

28 Notification of missing residents

If a resident appears to be missing from a nursing home, the resident's representative or next of kin, and the police, must immediately be told of that fact.

29 Resident cleanliness and comfort

- (1) All practicable measures (including the prompt renewal and replacement of soiled clothing and linen) must be taken to keep each resident clean and comfortable at all times.

- (2) Heating and cooling facilities are to be used as necessary to maintain the comfort of each resident.

30 Residents' clothing and toiletries

- (1) A resident's personal belongings are not to be taken, lent or borrowed without the permission of the resident or the resident's representative.
- (2) Any clothing provided by the nursing home for a resident is to be allocated for that resident's sole use and discreetly labelled accordingly.
- (3) Toiletries and grooming aids provided by the nursing home for a resident are to be for the sole use of that resident.

31 Infection control

- (1) The licensee must have a written infection control policy approved by the Director-General.
- (2) The licensee must ensure that the nursing home has sufficient resources to enable the work practices of persons working in the nursing home to comply with that policy.

32 Hygiene

- (1) Adequate facilities, equipment and stores are to be maintained in a nursing home for the effective cleaning and disinfection of the buildings and their fixtures and fittings.
- (2) Buildings of a nursing home, together with their fixtures and fittings, are to be maintained in a clean and sanitary condition.
- (3) Without limiting subclause (2):
 - (a) all furniture, furnishings, fittings, bedsteads and bedding are to be kept in a clean and sanitary condition, and
 - (b) eating, drinking or cooking utensils or food storage containers which are cracked, chipped, scored, stained or defective are not to be used, and
 - (c) each bed-pan, commode-pan, urinal vessel, wash basin and vomit bowl is to be sanitised after each use, and
 - (d) each tooth mug, denture container and sputum mug is, while in use, to be sanitised at least once every 24 hours.
- (4) All necessary measures are to be taken:
 - (a) to exclude flies and other vermin from a nursing home, and
 - (b) to destroy any flies or other vermin that are within a nursing home.

- (5) A pan sluice or flusher-sanitiser (but not a toilet facility) is to be used for disposal of the contents of bed-pans, commode-pans and urinal vessels.
- (6) Receptacles with close-fitting lids are to be provided for the collection of general refuse.
- (7) General refuse is to be disposed of by the use of a service provided by the local authority or in some other approved manner.
- (8) Contaminated waste is to be disposed of from a nursing home in accordance with the licensee's infection control policy.
- (9) The grounds of a nursing home are to be maintained in a clean, tidy and safe condition.

33 Smoking

- (1) A nursing home must have a written policy on smoking by residents and staff.
- (2) The nursing home policy in relation to smoking must provide:
 - (a) that neither residents nor staff are allowed to smoke in wards or dining areas, and
 - (b) that, if residents or staff are allowed to smoke within the nursing home, smoking is to be confined to designated areas that allow other residents to avoid exposure to smoke without unduly restricting their activities, and
 - (c) that frail residents are to be kept under the direct supervision of a member of staff while smoking.
- (3) Each intending resident or relative or friend of the resident is to be informed verbally and in writing of the nursing home policy in relation to smoking.

34 Telephones

- (1) A telephone (not being coin-operated and not fitted with any locking device) must be available at all times in a nursing home for use by staff in order to deal with emergencies.
- (2) At least one other telephone must be provided on each floor in a nursing home for use by residents for both incoming and outgoing calls.
- (3) The location of telephones provided for use by residents must take account of the need for access and privacy by residents making telephone calls.

35 Visiting hours

- (1) Residents are to be allowed to receive visitors at any reasonable time.
- (2) However, a medical practitioner or the senior nurse on duty may, if necessary for the

care of a resident:

- (a) restrict the hours for visiting the resident, and
- (b) restrict the number of persons who may visit the resident at any one time.

36 Meal times

- (1) Meals are to be served to residents at the following times:
 - (a) breakfast—not earlier than 7.00 am,
 - (b) mid-day meal—not earlier than noon,
 - (c) evening meal—not earlier than 5.00 pm.
- (2) Morning and afternoon tea and supper are to be provided for residents at the appropriate times.

37 Storage, preparation and serving of food

- (1) A kitchen in a nursing home is to be used solely for the purposes of:
 - (a) storing, preparing, cooking and distributing food, and
 - (b) washing dishes and utensils used in connection with the storage, preparation, cooking or serving of food.
- (2) An area of a nursing home, other than a kitchen, is not to be used for the purposes specified in subclause (1), except that:
 - (a) a servery may be used for the preparation of beverages and light snacks, and
 - (b) a scullery may be used for washing dishes and utensils.
- (3) Laundry and waste (other than kitchen waste) is not to be taken through a kitchen.
- (4) Meals at a nursing home are to be prepared and served:
 - (a) in accordance with a planned menu of not less than 2 weeks which takes account of the dietary preferences of the residents, and
 - (b) in sufficient variety, quality and quantity:
 - (i) to be attractive and palatable to and edible by residents, and
 - (ii) to provide the dietary allowances recommended from time to time by the National Health and Medical Research Council.
- (5) Any special diet prescribed or requested for a resident by the medical practitioner in charge of the resident's care is to be provided.

38 Night-time care

- (1) Residents are not to be unnecessarily disturbed during the night, or to be sat out of bed for more than one hour before breakfast, except at the specific request of the resident concerned.
- (2) However, an incontinent resident who requires attention during the night or the early hours of the morning is to be attended to and put back into a clean, dry bed.

39 Overcrowding

- (1) Unless otherwise approved, a resident is not to be accommodated in any part of a nursing home other than a ward.
- (2) If in an emergency the number of residents in a ward exceeds the number of residents specified in the licence in relation to the ward, the licensee of the nursing home:
 - (a) must, as soon as practicable, cause the excess resident or residents to be removed from that ward, and
 - (b) must, as soon as practicable, send to the Director-General notice in writing of the fact and of all the relevant details of the circumstances in which it occurred.

40 Removal of bodies

The body of a dead person must not be left for more than one hour in any ward or other room occupied by other residents.

41 Injuries, transfers and deaths

- (1) This clause applies to the following incidents:
 - (a) any injury requiring medical attention that is sustained by a resident as a result of any accident at a nursing home,
 - (b) the transfer of any resident from a nursing home to a hospital,
 - (c) the death of any resident at a nursing home.
- (2) As soon as practicable after such an incident occurs:
 - (a) details of the incident must be entered in the approved form, and in the resident's clinical record, and must be reported to the chief nurse and to the resident's medical practitioner, and
 - (b) the incident must be investigated, and the results of the investigation must be entered in the approved form, and
 - (c) if the resident was transferred to a hospital, details of the transfer must be entered in the approved form, and

- (d) if the resident was transferred to a hospital, or the incident was life-threatening or fatal:
 - (i) the resident's representative or next of kin, and the Director-General, must be notified verbally of the incident, and
 - (ii) a copy of the completed approved form must be forwarded to the Director-General.

42 Fire safety and emergency evacuation

- (1) The licensee must have a written policy outlining the procedures to be adopted in the event of fire or other emergency (including contingency arrangements for the transfer of residents where necessary).
- (2) The licensee must ensure that all staff, immediately on commencing employment at the nursing home, are instructed in the procedures (including emergency evacuation procedures) to be adopted in the event of fire or other emergency.
- (3) An evacuation diagram must be displayed at each nurses' station and at each exit to the nursing home.
- (4) The licensee must appoint a member of staff as a fire safety officer for the nursing home and must ensure that the fire safety officer is provided with appropriate fire safety training.
- (5) All of the staff of a nursing home are to participate in an evacuation exercise at least once every 6 months.
- (6) All of the staff of a nursing home are to attend fire safety training, provided by New South Wales Fire Brigades or by some other recognised fire safety training organisation, at least once every year.
- (7) A record of each such fire safety training, showing the name of each person attending and signed by the training officer for the fire safety training organisation, is to be maintained.
- (8) If a fire occurs in a nursing home, the licensee, as soon as practicable and regardless of whether or not the fire brigade has been called to extinguish the fire:
 - (a) must notify the Director-General verbally of the fact, and
 - (b) must send to the Director-General written notice of the fact and of all the relevant details of the circumstances in which the fire occurred.

43 Storage and supply of non-prescription drugs

- (1) In this clause:

drug of addiction means a substance specified in Schedule 8 of the Poisons List under the *Poisons and Therapeutic Goods Act 1966*.

non-prescription drug means a medication that is not a restricted substance or a drug of addiction.

restricted substance means a substance specified in Schedule 4 of the Poisons List under the *Poisons and Therapeutic Goods Act 1966*.

- (2) Non-prescription drugs must be stored in accordance with such of the requirements of the regulations under the *Poisons and Therapeutic Goods Act 1966* as relate to the storage of restricted substances in hospitals.

44 Administration of medications

- (1) Medications must not be administered to a resident otherwise than by the resident or by a person authorised by subclause (5) to administer medications to residents.
- (2) A medication sheet must be kept for each resident on which the following details are to be recorded:
- (a) details of all prescriptions, directions and other arrangements for the administration to the resident of any medication,
 - (b) details of each occasion on which any medication is administered to the resident.
- (3) The details referred to in subclause (2) (a) must include the following particulars:
- (a) the name and, if applicable, the strength of the medication to be administered,
 - (b) the dosage of the medication to be administered,
 - (c) the route by which the medication is to be administered,
 - (d) the times of day at which, or the frequency with which, the medication is to be administered,
 - (e) the number of doses of, or the period of time for which, the medication is to be administered,
 - (f) the date on which the foregoing details were entered on the medication sheet,
 - (g) the signature of the person by whom those details were entered.
- (4) The details referred to in subclause (2) (b) must be handwritten and must include the following particulars:
- (a) the name and, if applicable, the strength of the medication administered,
 - (b) the dosage of the medication administered,

- (c) the date and time at which the medication was administered,
 - (d) the date on which the foregoing details were entered on the medication sheet,
 - (e) the signature of the person by whom those details were entered.
- (5) Subject to any restrictions imposed by the regulations under the *Poisons and Therapeutic Goods Act 1966*, the following persons are authorised to administer medications to residents of a nursing home:
- (a) any duly qualified medical practitioner, dentist, pharmacist or nurse,
 - (b) any other person who is authorised by the chief nurse of the nursing home to administer medications to residents.

45 Periodic review of administration of medications

- (1) Each prescription, direction or other arrangement for the administration of a medication to a resident must be reviewed every 3 months.
- (2) In the case of a prescription, direction or other arrangement issued, given or made by a medical practitioner or dentist, the review must be carried out, wherever practicable, by the medical practitioner or dentist.
- (3) The results of the review must be recorded in writing and the record must be signed and dated by the person by whom the review was carried out.

Part 5 Clinical records

46 Application of Part

This Part applies to a former resident and to the records relating to a former resident in the same way as it applies to a resident and to the records relating to a resident.

47 Clinical records

- (1) A record of the medical condition of each resident in a nursing home and all medical, nursing and other care provided to the resident is to be maintained by an entry in a resident clinical record system made by the appropriate medical, nursing or other health care provider.
- (2) Without limiting subclause (1), the clinical record of a resident must include the following:
 - (a) the resident's admission form,
 - (b) the resident's medical and nursing history, and results of any physical examination, that may be contained in any referral document,
 - (c) the resident's social history relevant to the resident's care,

- (d) medical consultation reports,
 - (e) the resident's medication sheet,
 - (f) a record of planned nursing management, including all treatment and diet orders, which must be regularly reviewed,
 - (g) a record of allergies and other factors requiring special consideration,
 - (h) progress notes, including:
 - (i) a current principal diagnosis and other significant diagnoses, and
 - (ii) a daily record of all medical and nursing care given in relation to the resident's medical, physical, psychological and social needs and responses, and
 - (iii) a record of any restraint required, the reason for restraining and the time of its application and removal, and
 - (iv) a record of any restriction on access by visitors and the reason for the restriction,
 - (i) reports of all laboratory tests performed,
 - (j) reports of all X-ray and other medical imaging examinations performed,
 - (k) the name of any person whose consent to the carrying out of medical or dental treatment is necessary,
 - (l) consent or request forms, where applicable.
- (3) Any records relating to medical or dental treatment must identify the medical practitioner or dentist by whom that treatment was provided.

48 Retention of records

- (1) The register of residents, together with the residents' clinical records, are to be retained as follows:
 - (a) the register of residents must be kept indefinitely,
 - (b) clinical records relating to residents aged 18 years or over at the date of last separation must be kept for at least 7 years from the date of last separation,
 - (c) clinical records relating to residents aged under 18 years at the date of last separation must be kept until the resident to whom the record relates attains, or would have attained, the age of 25 years.
- (2) The documents referred to in subclause (1) must be given to the transferee if the licence for the nursing home is transferred to another person.

- (3) If the licence for the nursing home is surrendered or revoked, the licensee is to deal with the register and records in accordance with the instructions of the Director-General.
- (4) Unless otherwise approved, the register and records are to be kept at the nursing home.

49 Resident's right of access to clinical records

- (1) A resident or the resident's representative may, by written application to the licensee, request access to the resident's clinical record.
- (2) The licensee must, as soon as practicable after receipt of such an application, make the clinical record available to:
 - (a) the resident or the resident's representative, or
 - (b) a person nominated by the resident or resident's representative.
- (3) However, the licensee may refuse a request by a resident or by the resident's representative for access to the resident's clinical record:
 - (a) if the medical practitioner in charge of the resident's care advises that the request should be refused, and
 - (b) if the licensee is satisfied that access by the resident or resident's representative would be prejudicial to the resident's physical or mental health.
- (4) An application under this clause is to be retained in the resident's clinical record.

50 Manner of providing access

- (1) Access to a clinical record may be given by making the record available for inspection or by providing a copy of the record, as specified by the applicant.
- (2) If a person to whom access to a clinical record is given so requests, the person must be given assistance in the interpretation of the record (including any test results, findings and comments contained in the record) by a person qualified to do so.
- (3) If a resident or the resident's representative requests particular clinical information (such as test results or details of past treatment) rather than access to the resident's clinical record, the information may be provided by the medical practitioner in charge of the resident's care or, subject to the advice of that medical practitioner, by a medical practitioner or registered nurse on the staff of the nursing home.
- (4) If a resident or the resident's representative disagrees with information contained in the resident's clinical record, the licensee must, on request by the resident or representative, attach the resident's or resident's representative's own comments in the form of an addendum to the record.

- (5) The licensee may charge a fee (not exceeding the relevant fee, if any, determined by the Director-General) to cover the licensee's costs of complying with this clause.
- (6) The Director-General may determine a scale of fees generally, or a fee payable in a particular case, in relation to a licensee's costs of complying with this clause.

51 Procedure on refusal of request for access

- (1) If the licensee refuses a request by a resident or by the resident's representative for access to the resident's clinical record, the licensee:
 - (a) must inform the resident or resident's representative in writing of the reason for the refusal and of any rights of appeal that may exist in relation to the refusal, and
 - (b) must include in the resident's clinical record a written note of the refusal and the reason given for the refusal.
- (2) A resident or the resident's representative may appeal in writing to the Director-General against a decision of the licensee to refuse access to the resident's clinical record.
- (3) The Director-General may, in determining such an appeal:
 - (a) confirm the decision of the licensee, or
 - (b) direct that the licensee grant the resident or the resident's representative access to the resident's clinical record under such conditions as the Director-General may direct.
- (4) A determination made by the Director-General is to be conveyed in writing to the licensee and retained in the clinical record of the resident to whom it relates.

52 Confidentiality of records

- (1) The licensee must ensure that, except as provided by this clause, personal information concerning a resident is not released from the nursing home except with the consent of the resident or the resident's representative or with other lawful excuse.
- (2) Subclause (1) does not affect the operation of any other law requiring, prohibiting or restricting the release of any such information.
- (3) All clinical records must be stored in a secure place to which unauthorised persons are not to be permitted to have access.

Schedule 2 Forms

Form 1 Application for licence for a nursing home

(Nursing Homes Act 1988)

I/We,

(full name of applicant[s])

date of birth: place of birth:
of

(address of applicant[s])

apply for a licence for a nursing home of the following class[es]

.....

The nursing home will be known as

(proposed name)

and will be situated at

(proposed location)

and will accommodate residents.

The applicant[s] is/are/will be

* owner[s]

* lessee[s]

of the nursing home.

**Delete whichever is not applicable.*

I/We attach the following information:

(1) In the case of an application by a corporation:

(a) a copy of the certificate of incorporation,

(b) the address of the registered office of the corporation,

(c) the full name, date and place of birth, residential address and position of:

(i) each current director of the corporation,

(ii) the principal executive officer of the corporation,

(iii) the secretary or, if there is more than one, each secretary of the corporation,

(d) in the case of a corporation limited by shares:

(i) the types of shares and the number of shares of each type issued,

(ii) in the case of a private corporation—the full name of, and the number of shares held by, each shareholder,

(iii) in the case of a public corporation—the 20 largest shareholdings and a list of the full names of the holders of each of those shareholdings,

(e) if the shares are held by another corporation, the name of the ultimate holding corporation.

(2) If the nursing home is leased, a copy of the lease.

(3) If the nursing home is proposed to be leased, a description of the proposed lease arrangements.

I/We also enclose the prescribed application fee.

.....

.....

(Print name)

(Signature)

.....

.....

(Position)

(Date)

Form 2 Application for transfer of licence for a nursing home

(Clause 8)

(Nursing Homes Act 1988)

I/We,

(Full name of applicant[s])

date of birth: place of birth:
of

(address of applicant[s])

apply for a transfer to me/us of the licence for the nursing home known as
.....

(name of nursing home)

at

(address of nursing home)

The applicant[s] is/are/will be

* owner[s]

* lessee[s]

of the nursing home.

**Delete whichever is not applicable.*

I/We attach the following information:

(1) In the case of an application by a corporation:

(a) a copy of the certificate of incorporation,

(b) the address of the registered office of the corporation,

(c) the full name, date and place of birth, residential address and position of:

(i) each current director of the corporation,

(ii) the principal executive officer of the corporation,

(iii) the secretary or, if there is more than one, each secretary of the corporation,

(d) in the case of a corporation limited by shares:

(i) the types of shares and the number of shares of each type issued,

(ii) in the case of a private corporation—the full name of, and the number of shares held by, each shareholder,

(iii) in the case of a public corporation—a list of the 20 largest shareholdings and of the full names of the holders of each of those shareholdings,

(e) if the shares are held by another corporation, the name of the ultimate holding corporation.

(2) If the nursing home is leased, a copy of the lease.

(3) If the nursing home is proposed to be leased, a description of the proposed lease arrangements.

I/We also enclose the prescribed application fee.

.....
(Print name) (Signature)
.....
(Position) (Date)

TO BE COMPLETED BY CURRENT LICENSEE

I/We agree to the transfer of the licence to the abovenamed applicant(s).

.....
(Print name) (Signature)
.....
(Position) (Date)

Form 3 Application for approval to alter or extend a licensed nursing home

(Clause 9)

(Nursing Homes Act 1988)

I/We,
(name of licensee)
of
(address of licensee)
being the holder of the licence (No) for the nursing home known as
.....
(name of nursing home)
.....
(address of nursing home)

apply for approval to alter or extend the nursing home.

I/We attach the following documents:

- (1) Two copies of a site plan of the nursing home, drawn to scale and showing the lot number and deposited plan number or other relevant particulars that identify the site.
- (2) Two copies of sketch plans of the nursing home, drawn to a scale of 1:100 and showing the dimensions of each part of the nursing home and the use to which each part is to be put (the proposed alterations or extensions to the nursing home are shown by distinctive colouring or cross-hatching).

.....
(Print name) (Signature)
.....
(Position) (Date)

Form 4 Application for review of Director-General's decision

(Nursing Homes Act 1988)

I/We,

(name of applicant)

of

(address of applicant)

apply for a review of the decision of the Director-General to

.....

(nature of decision)

I/We enclose a copy of the Director-General's letter notifying the decision.

The grounds for my/our request for review are as follows:

.....

.....

.....

I/We understand that this application will be referred to a Committee of Review, which may make such investigation as it considers necessary in relation to this application before reporting to you. I/We agree, for this purpose, to allow any member of the Committee access to documentation, staff and residents, as judged necessary by the Committee. I/We also agree to relevant documentation held by the New South Wales Department of Health and the Commonwealth Department of Community Services and Health being made available to members of the Committee for the purposes of its investigation.

.....

(Print name)

.....

(Signature)

.....

(Position)

.....

(Date)

Form 5 Register of residents at a nursing home

