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**CHAPTER 7  
NURSING HOMES**

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**§ 7101. Declaration of Policy.**

It is the policy of this Territory to encourage and promote measures and the development and utilization of resources to insure the effective care and treatment of persons who are convalescing or whose physical or mental condition requires them to receive a degree of nursing and/or related health care greater than that necessary for well individuals, but not so acute as to require hospitalization. Such care and treatment requires a living environment for them which, to the extent practicable, will approximate a normal home environment. To this end, the guiding principle for the administration of the laws of this Territory is that such person shall be encouraged and assisted in securing necessary care and treatment in non-

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institutional surroundings. Recognizing that for many persons effective care and treatment can only be secured from proprietary, voluntary and governmental nursing homes, it is the policy of this Territory to encourage, promote and require the maintenance of institutions other than hospitals offering nursing and/or related health care so as to insure protection of those using the services of such facilities.

**SOURCE:** GC § 9955.

**§ 7102. Definitions.**

As used in this Chapter, unless the context requires a different meaning:

(a) *Nursing home* means an institution, private home, other place or part or unit thereof, however named, whether for profit or not, including facilities operated by the government of Guam, which is advertised, offered, maintained or operated for the express or implied purpose of providing accommodations, nursing and/or related health care for two or more individuals not related to the owner or administrator by blood or marriage within the third degree of consanguinity, which accommodations and care for a period of twenty-four (24) or more consecutive hours, but shall not include any place providing care and treatment primarily for the acutely ill;

(b) *Administrator of a nursing home* means the individual in general administrative charge of the nursing home; and

(c) *Person* means any individual, corporation, partnership, association, territory or agency of the Territory or any other entity.

**SOURCE:** GC § 9955.1.

**§ 7103. License Required.**

(a) No person shall operate a nursing home unless the Department of Public Health and Social Services has issued, and there is in force, a license authorizing such operation.

(b) No license to operate a hospital or other facility for the care and treatment of the physically or mentally shall authorize the operation of a nursing home or nursing home part of such hospital or facility. The operation of a nursing home in conjunction with, or under the same management as a hospital or other facility, shall require such nursing home or nursing home part to be separately licensed as a nursing home pursuant to this Chapter.

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**SOURCE:**

**§ 7104. Homes Operated by Territory.**

Notwithstanding any provision of this Chapter no license pursuant to § 7103 hereof shall be required as a condition of the establishment or operation of any nursing home by this Territory or any agency thereof. All other provisions and requirements of this Chapter and standards, rules and regulations in force pursuant thereto shall apply to any such homes, and the Department of Public Health and Social Services shall have powers of supervision with respect thereto.

**SOURCE:** GC § 9955.3.

**§ 7105. Application for the Issuance of License to Operate Nursing Home.**

(a) Any person proposing to operate a nursing home shall, prior to the commencement of such operation, make application to the Department of Public Health and Social Services for a license by the Department of Public Health and Social Services, which shall contain the following information:

(1) The name and address of the person making application;

(2) The name and address of the individual designated by the applicant as the administrator of the nursing home, and such additional information concerning such individual as the Department of Public Health and Social Services, may require;

(3) The address of the premises which are to constitute the nursing home, together with a description of all structures and facilities forming a part thereof, in such detail as the Department of Public Health and Social Services may require;

(4) The name by which the nursing home is to be known;

(5) The identity of the owner or owners of the nursing home and, if the owner is a corporation, the names of the officers and principal stockholders thereof;

(6) The bed capacity of the nursing home;

(7) A description of the programs and services to be furnished and of the means available to the applicant for providing the same, and for meeting requirements for staffing, equipping and operating the nursing home, with particular reference to the professional requirements of § 7110 of this Chapter;

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(8) Proof that the premises are in conformity with all applicable state and local health, safety, zoning and subdivision laws or ordinances, and building codes, and that any necessary permits for occupancy have been issued by the appropriate territorial authorities and are in full force; and

(9) Such other information as the Department of Public Health and Social Services may require in order to permit the Department of Public Health and Social Services to ascertain whether the applicant is in a position to operate a nursing home in conformity with the provisions of this Chapter.

(b) Within sixty (60) days of receipt of a completed application, the Department of Public Health and Social Services shall issue a nursing home license to the applicant, valid for one (1) year from the date of issue and covering the premises identified in the application, unless it finds the representation made in the application to be materially incorrect or insufficient, or unless it finds that the applicant, the premises and the designated administrator of the nursing home do not meet all requirements of law for entitlement thereto.

(c) The name of the administrator of the nursing home shall appear on the nursing home license. Any change of such administrator shall require the surrender and cancellation of the nursing home license and the issuance of a new license bearing the name of the new administrator. Unless a change of administrators occurs at the time of renewal of a nursing home license, such change shall not of itself require the Department of Public Health and Social Services to pass upon any matter other than whether the newly-designated administrator meets applicable requirements of law. Any license issued solely by reason of a change in the designated administrator shall bear the same expiration date as the license which it replaces. If the holder of a nursing home license is required to secure a new administrator on inadequate notice or under emergency conditions, he may, upon prompt notice to the Department of Public Health and Social Services and in accordance with rules and regulations thereof place the nursing home in charge of an acting administrator for such limited time as may be necessary to permit the securing of a proper administrator but in no case shall such time be in excess of one hundred twenty (120) days.

(d) No change in a nursing home, its operation, program or services of a degree or character affecting continuing licensability shall be made prior to approval thereof by the Department of Public Health and Social Services.

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The Department of Public Health and Social Services by rule or regulation may determine the types of changes which may not be made without its prior approval.

**SOURCE:** GC § 9955.5.

**§ 7106. Renewal and Revocation of Nursing Home License; Provisional License.**

(a) Sixty (60) days prior to the expiration date of a nursing home license, an application for a renewal thereof shall be submitted to the Department of Public Health and Social Services on a form approved by it. Upon receipt and review of the application and determination of compliance with the requirements of this Chapter and any standards, rules and regulations in force pursuant thereto, the Department of Public Health and Social Services shall renew such license for a period of one (1) year, unless it finds that there are specific and sufficient grounds for denying the application for renewal.

(b) The Department of Public Health and Social Services shall have the authority to revoke a nursing home license at any time that it finds that there has been a failure to comply with the provisions of this Chapter or any standards, rule or regulation in force pursuant thereto.

(c) If the Department of Public Health and Social Services finds that the immediate interests of the patients in a nursing home and of the general public would be best served by affording such home the opportunity to correct a condition forming the ground for revocation of, or refusal to renew, a nursing home license, it may afford such opportunity. For such purpose, it may suspend or refuse to renew a nursing home license and issue a provisional license which shall be valid for such period as the Department of Public Health and Social Services may fix, but in no case to exceed ninety (90) days. No provisional license shall be renewed. A provisional license shall be replaced by a restored or renewed license only if, within the period for which the provisional license is effective, the licensee has fully corrected all conditions constituting failure to comply with the provisions of this Chapter and any standard, rule or regulation in force pursuant thereto.

**SOURCE:** GC § 9955.5.

**§ 7107. Submission of Plan and Consultation.**

Any owner or administrator of a nursing home or proposed nursing home may submit plans and specifications thereof, to the Department of Public Health and Social Services for advice concerning their suitability in

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the light of requirements of law. The Department of Public Health and Social Services may consult with any such owner or owners with respect to any such plans, provided that the Department of Public Health and Social Services shall not draw, redraw or otherwise furnish construction plans or specifications, except to the extent that the same may be contained in its standards, rules and regulations issued pursuant to this Chapter.

**SOURCE:** GC § 9955.6.

**§ 7108. Powers.**

In administering this Chapter, the Department of Public Health and Social Services shall, in addition to powers otherwise conferred upon it, have power to:

(a) Develop, issue, amend and revise standards, rules and regulations which shall implement this Chapter and shall have the force of law;

(b) Provide by rules and regulations standards of competence and suitability of administrators of nursing homes, in accordance with the provision of P.L. 11-26;

(c) Make studies and investigations of nursing home conditions and problems generally, and as they relate to compliance with the provisions of this Chapter and standards, rules and regulations issued pursuant thereto;

(d) Develop manuals and guides relating to any of the several aspects of physical facilities and operation of nursing homes and make such manuals and guides available, with or without charge, to the owners and administrators of nursing homes and to the general public;

(e) Consult with and otherwise assist owners and administrators of nursing homes for the purpose of facilitating improvements to the extent and quality of care available therein;

(f) Investigate conditions in and the operation of any nursing home and the status and qualifications of any personnel employed thereby or otherwise engaged in the operation thereof; and

(g) Conduct hearings in aid of any of its functions pursuant to this Chapter; require the production of evidence in connection with any such hearing or any investigation validly conducted pursuant to this Chapter, and take written or oral testimony under oath, or otherwise.

**SOURCE:** GC § 9955.7.

**§ 7109. Name of Home.**

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The words hospital, sanitarium, rehabilitation center, or any words conveying a meaning substantially identical thereto, shall not be used in the name of a nursing home. A nursing home shall use the name as it appears on the nursing license for its premises. The name of the nursing home shall not be changed without notification to and written approval from the Department of Public Health and Social Services.

**SOURCE:** GC § 9955.8.

**§ 7110. Administration and Management of Nursing Homes.**

Every nursing home shall comply with all applicable standards, rules and regulations of the Department of Public Health and Social Services agency and shall:

(a) Be under the administrative direction and charge of the person whose name appears on the nursing home license as administrator of the nursing home;

(b) Have at least one (1) registered nurse duly licensed to practice on Guam responsible for planning and directing the nursing care, at least one (1) nurse licensed by this Territory on duty at all times, and such additional registered and licensed practical nurses and other paraprofessional personnel in its employ as the size and regular patient care needs in the home may require;

(c) Provide for the access of its patients to dental and other health related services, recreational services, rehabilitative services and social work services, appropriate to their needs and conditions and not directly furnished by the nursing home;

(d) Keep drugs and medicine in a safe place specially set aside for the purpose. No patient or other unauthorized person shall be permitted access to such place and such drugs and medicine. Nothing herein shall be construed to authorize any person to keep or administer drugs or medicine who is not otherwise legally authorized to keep or administer such drugs or medicine;

(e) Maintain its premises and equipment and conduct its operations in a safe and sanitary manner;

(f) Provide a wholesome and nourishing diet sufficient to meet generally accepted standards of proper nutrition for its patients, and provide such therapeutic diets as may be prescribed for individual patients. In making rules and regulations to implement this Subsection, the Department

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of Public Health and Social Services shall be guided by standards recommended by nationally recognized professional groups and associations with knowledge of dietetics;

(g) Keep full records of patient admission, discharges, medical and general health status, including medical records, personal and social history, and identity and address of next of kin or other person who may have responsibility for the affairs of the patient; and

(h) Keep such fiscal records of its operations and conditions as may be necessary to provide information pursuant to this Chapter as may be required by rules and regulations of the Department of Public Health and Social Services.

**SOURCE:** GC § 9955.9.

**§ 7111. Contracts.**

(a) The presence of each patient in a nursing home shall be covered by a contract executed at the time of admission or prior thereto by the patient or his legal representative and the nursing home. Each party to such a contract shall be entitled to a duplicate original thereof and the nursing home shall keep on file all contracts which it has with patients. The nursing home shall not destroy or otherwise dispose of any such contract until one (1) year after its expiration or such longer period as may be provided in the rules and regulations of the Department of Public Health and Social Services.

(b) Each contract to which this Section applies shall contain express provision specifically setting forth the following:

(1) The term of the contract;

(2) The services and accommodations to be provided by the nursing home and the rate or charge therefor;

(3) Specification of any rights, duties and obligations of the parties in addition to those required by operation of law; and

(4) Any other matters which the parties deem appropriate.

(c) No contract or any provision thereof shall be construed to relieve any nursing home of any requirement or obligation imposed upon it by this Chapter or any standards, rules or regulations in force pursuant thereto.

**SOURCE:** GC § 9955.10.

**§ 7112. Classification of Homes; Administrators and Nurses.**



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(a) The Department of Public Health and Social Services shall classify nursing homes according to character, size and range of services provided. Wherever it considers distinction to its standards, rules and regulations to be appropriate as among different classes of nursing homes, it may make such distinctions.

(b) No administrator of a nursing home, and no registered nurse who plans and directs the nursing care in a home, shall function as either administrator or one who plans and directs the nursing care for more than one nursing home, unless the homes involved are of a class or classes found by the Department of Public Health and Social Services to be of a character, size and type of operations making it reasonable for a single administrator or registered nurse to perform such functions effectively for more than one (1) nursing home. As part of the classifications made pursuant to this Section, the Department of Public Health and Social Services shall determine and fix specific limits on the number of homes of particular classes which may be served by the same individual acting as administrator or registered nurse responsible for planning and directing nursing care. No such administrator or nurse shall accept employment in violation of such limitations; nor shall the owner or administrator of a nursing home knowingly employ any person in violation thereof. The Department of Public Health and Social Services shall not issue or renew any nursing home license bearing the name of an administrator, if the name of such administrator already appears on the maximum number of nursing home licenses permitted by its standards, rules and regulations.

**SOURCE:**

**§ 7113. Property and Personal Affairs of Patients.**

(a) The admission of a patient to a nursing home and his presence therein shall not confer on such nursing home or its owner, administrator, employees or representatives an authority to manage, use or dispose of any property of such patient; nor shall such admission or presence confer on any of the aforementioned persons any authority or responsibility for the personal affairs of the patient, except what may be necessary for the safety and orderly management of the nursing home.

(b) No nursing home, and no owner, administrator, employee or representative thereof shall act as guardian, trustee or conservator for any patient of such nursing home or any of such patient's property.

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(c) A nursing home shall provide for the safekeeping of personal effects, funds and property of the patient in the home; provided that whenever necessary for the protection of valuables or in order to avoid unreasonable responsibility therefor, the nursing home may require that they be excluded or removed from the home and kept at some place not subject to the control of the home.

(d) A nursing home shall keep complete and accurate records of all funds and other effects and property of its patients received by it for safekeeping.

(e) Any funds or other property belonging or due to a patient or expendable for his account which are received by a nursing home shall be trust funds, shall be kept separate from the funds and property of the nursing home and other patients or specifically credited to such patient, and shall be used or otherwise expended only for the account of the patient. Upon request, but, except upon order of a court of competent jurisdiction, not more often than once every three (3) months, the nursing home shall furnish the patient and the guardian, trustee or conservator, (if any is available for such patient) a complete and verified statement of all funds and other property to which this Subsection applies, detailing the amounts and items received, together with their sources and disposition. In any event, the nursing home shall furnish such a statement annually and upon the discharge or transfer of a patient. Any governmental agency or private charitable agency contributing funds or other property on account of a patient, also shall be entitled to receive such statement annually and upon discharge or transfer and such other reports as it may require pursuant to law.

**SOURCE:** GC § 9955.12.

**§ 7114. Health of Personnel.**

No nursing home shall employ or otherwise permit any person to serve there in any capacity, if such person has a communicable or contagious disease or other disease or condition that would make him dangerous to the health or welfare of patients therein. Except in homes exempt from medical requirements as provided in § 7118 of this Chapter, the appropriate state agency shall require annual medical examinations for all such personnel and shall require them to have and, upon demand, to present satisfactory evidence of such examination.

**SOURCE:** GC § 9955.13.

**§ 7115. Exclusion from Nursing Home.**

(a) No person shall be admitted to or be permitted to remain in a nursing home as a patient if:

- (1) He is dangerous to himself or other patients;
- (2) His condition or conduct is such that he would be unduly disturbing to other patients;
- (3) He is in need of medical procedures which cannot be carried out in the nursing home; and
- (4) Upon certification of a physician that such person would no longer benefit from or be in need of a nursing home.

(b) Except in emergencies, a patient shall be transferred out of a nursing home or discharged for any reason, only after prior notification to the next of kin, legal representative or agency acting on the patient's behalf. If the next of kin or person or agency acting on the patient's behalf cannot be reached or refuses to cooperate, proper arrangements shall be made by the home for the patient's welfare before transfer or discharge.

**SOURCE:** GC § 9955.14.

**§ 7116. Rebating Prohibited.**

No owner, administrator, employee or representative of a nursing home shall pay any commission, bonus, fee or gratuity in any form whatsoever to any physician, surgeon, organization, agency or to any person either directly or indirectly, for patients referred.

**SOURCE:** GC § 9955.15.

**§ 7117. Closing of Nursing Home.**

(a) Whenever a nursing home discontinues operation, and during the period when it is preparing for such discontinuance, the home shall inform the Department of Public Health and Social Services of the impending discontinuance of operation. The home also shall inform the patient, the next of kin, legal representative or agency acting on the patient's behalf of the fact and the proposed time of such discontinuance with sufficient notice so that suitable arrangements may be made for the transfer and care of such patient. In the case of any patient who has no such person, the home shall be responsible for securing a suitable transfer of the patient prior to the discontinuance of operation.

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(b) Immediately upon discontinuance of operation of a nursing home, the owner shall surrender the license therefor to the Department of Public Health and Social Services and such license shall be cancelled.

**SOURCE:** GC § 9955.16.

**§ 7118. Chapter Not Applicable.**

(a) The requirements of this Chapter, or of any standard, rule or regulation pursuant thereto, for medical and nursing services shall not apply to any home operated by or exclusively for the members of a religious order or denomination whose tenets forbid subjection of the person to the ministrations of practitioners of medicine or related nursing care, or include reliance on spiritual means alone through prayer for healing. All other provisions of this Chapter and of any such standards, rules and regulations shall be fully applicable to such nursing homes.

(b) Any nursing home which considers itself eligible for the exemptions provided in this Section shall so state on its application for a nursing home license, and on any application for renewal thereof; and shall inform each applicant for admission to patient status therein of the auspices under which the home is operated and of the meaning thereof with respect to the availability of medical and nursing services.

**SOURCE:** GC § 9955.17.

**§ 7119. Right of Entry and Inspection.**

The Department of Public Health and Social Services and any duly designated officer or employee thereof, shall have the right to enter upon and into the premises of any nursing home licensed pursuant to this Chapter at anytime in order to determine the state of compliance with the provisions of this Chapter and any rules and regulations in force pursuant thereto. Such right of entry and inspection also shall extend to any premises which the Department of Public Health and Social Services has reason to believe is being operated or maintained as a nursing home without a license, but no such entry or inspection of any premises shall be made without the permission of the owner or person in charge thereof, unless a warrant is first obtained from the Superior Court of Guam, authorizing the same. Any application for a nursing home license made pursuant to § 7105 of this Chapter shall constitute permission for and complete acquiescence in any entry or inspection of the premises for which the license is sought in order to facilitate verification of the information submitted on or in connection with such application.

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**SOURCE:** GC § 9955.18.

**§ 7120. Public Funds.**

(a) No department, agency or officer of this Territory shall pay or approve for payment from public funds any amount or amounts to a nursing home under any program of government aid in connection with services provided, or to be provided, an actual or prospective patient in a nursing home, unless the nursing home has a current nursing home license issued by the Department of Public Health and Social Services and meets such other requirements as may be in force pursuant to law.

(b) Nothing in this Section shall be construed to apply to the payment of government aid for construction, renovation or improvement of a nursing home or premises intended to qualify as a nursing home upon completion of such construction, renovation or improvement.

**SOURCE:** GC § 9955.19.

**§ 7121. Fees.**

(a) Any application for a nursing home license and an application for renewal thereof shall be accompanied by a fee which shall, by rules and regulations, be established by the Department of Public Health and Social Services. The issuance of a new nursing home license resulting solely from a change in the designated administrator of the nursing home shall be without fee.

(b) No fee required by this Section shall be returnable.

**SOURCE:** GC § 9955.20.

**§ 7122. Penalties and Remedies.**

(a) Any person who violates any provision of this Chapter or any standard, rule or regulation in force pursuant thereto shall be subject to a fine of not to exceed One Thousand Dollars (\$1,000). If the violation consists in whole or in part of operating a nursing home without a license in force pursuant to this Act or of causing a nursing home to be so operated, the violator shall be guilty of a misdemeanor.

(b) The imposition of any fine or term of imprisonment pursuant to Subsection (a) of this Section shall be in addition to any suspension, revocation or refusal to renew a nursing home license which may result from the violation.

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(c) Action pursuant to other provisions of this Section shall not be a bar to enforcement of this Chapter and standards, rules and regulations in force pursuant thereto by injunction or other appropriate remedy, and the Department of Public Health and Social Services agency shall have power to institute and maintain in the name of this Territory any and all such enforcement proceedings.

(d) Each day of violation shall constitute a separate offense.

(e) Nothing in this Chapter shall be construed to make any provision of the laws of Guam, otherwise applicable, inapplicable to any act or omission done or omitted by any person in connection with the operation of a nursing home.

**SOURCE:** GC § 9955.21, as amended by P.L. 13-187.

**§ 7123. Hearings and Judicial Review.**

(a) No nursing home license may be suspended, revoked, denied or renewal denied without a hearing, if requested by the licensee, on due notice, except that the Department of Public Health and Social Services may suspend any such license prior to hearing when it finds that the health or safety of patients requires such action on an emergency basis.

(b) Except for rules and regulations made to implement Subsection (c) of this Section, no standards, rule, regulation, amendment or revision thereof having the force of law as provided in Section 8 of this Chapter shall be issued prior to a public hearing thereon, held on due notice, and consideration of the record of such hearing by the Department of Public Health and Social Services.

(c) Transcripts of such hearings shall be available to those entitled to receive the same upon payment of reasonable cost therefor in accordance with rules and regulations of the Department of Public Health and Social Services.

(d) Any action of the Department of Public Health and Social Services taken pursuant to this Chapter shall be reviewable as provided in the Administrative Adjudication Law.

**SOURCE:** GC § 9955.22.

**NOTE:** The reference in Subsection (b) of § 7123 to "Section 8" appears here as in P.L. 12-204, as compiled in the 1974 Supplement to the Government Code, and is due to an error in converting the numbering in the original bill to code section numbering. It would appear that the intended section number is § 7108, (9955.7 in the Government Code).

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