

NOTICE OF INTENT

Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing

Nursing Home Minimum Licensure Standards
(LAC 48:I.Chapters 97, 98, and 99)

The Department of Health and Hospitals, Bureau of Health Services Financing, proposes to adopt the following rule as authorized by R.S. 40:2009.1-2116.4. This proposed rule is in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The purpose of the nursing home licensing law and requirements is to provide for the development, establishment, and enforcement of standards of care of individuals in nursing homes and for the construction, maintenance, and operation of nursing homes which will promote safe and adequate treatment of such individuals in nursing homes. Minimum standards for the licensing of nursing homes were last adopted in 1987 with the publication of these regulations as identified above under the *Louisiana Administrative Code*. Since that time there has been a tremendous expansion of federal regulations governing long term care. Therefore, the department is now proposing to establish new licensing regulations in order to assure that a high quality of care is provided to persons residing in nursing homes.

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to repeal current licensing regulations for all nursing homes in Louisiana and proposes to adopt the following regulations which are to be contained in LAC 48:I Subpart 3 Chapters 97, 98 and 99.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing

Chapter 97. Nursing Homes

Subchapter A. General Provisions

§9701. Definitions

Abuse—the infliction of physical or mental injury or the causing of the deterioration of a resident by means including, but not limited to, sexual abuse, exploitation, or extortion of funds or other things of value to such an extent that his health, moral, or emotional well-being is endangered.

Administrator—any individual who is or may be charged with the general administration of a nursing home and who has been licensed and registered by the Board of Examiners of Nursing Home Administrators in accordance with the provisions of R.S. 37:2501.

Ancillary Service—a service such as, but not limited to, podiatry, dental, audiology, vision, physical therapy, speech pathology, occupational therapy, psychological and social services.

Applicant—the legal entity that applies for the license to open, conduct, manage or maintain a nursing home.

Change of Ownership—any change in the legal entity responsible for the operation of the facility. Management agreements are generally not changes of ownership if the former owner continues to retain policy responsibility and approve or concur in decisions involving the nursing home's operation. However, if these ultimate legal responsibilities, authorities and liabilities are surrendered and transferred from the former owner to the new manager, then a change of ownership has occurred.

Charge Nurse—an individual who is licensed by the state of Louisiana to practice as an RN or LPN and designated as a charge nurse by the nursing home.

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

Clinical Nurse Specialist—a registered nurse who holds a master's degree in a specific area of clinical nursing, who is recognized as a clinical nurse specialist by the Louisiana State Board of Nursing, and who uses advanced knowledge, skill and competence in the provision of direct and indirect nursing care.

Controlled Dangerous Substance—a drug, substance or immediate precursor in Schedule I through V of R.S. 40:964.

Dietary Manager—a person who:

1. is a qualified dietitian; or
2. is a graduate of a dietetic technician program; or
3. has successfully completed a course of study, by correspondence or classroom, which meets the eligibility requirements for certification by the Dietary Manager's Association; or
4. has successfully completed a training course at a state-approved school (vocational or university) which includes course work in foods, food service supervision and diet therapy. Documentation of an eight-

hour course of formalized instruction in diet therapy conducted by the employing facility's qualified dietitian is permissible if the course meets only the foods and food service supervision requirements; or

5. has functioned full time in food service supervision and management in a dietary department of a nursing home for at least two years prior to the implementation of these requirements.

Director of Nursing—registered nurse licensed by the state of Louisiana who directs and coordinates nursing services in a nursing home.

Drug Administration—an act in which a single dose of a prescribed drug or biological is given to a resident by an authorized person in accordance with all laws and regulations governing such acts. The complete act of administration entails removing an individual dose from a previously dispensed, properly labeled container (including a unit dose container), verifying it with the physician's orders, giving the individual dose to the proper resident, and promptly recording the time and dose given.

Drug Dispensing—an act which entails the interpretation of an order for a drug or biological and, pursuant to the order, the proper selection, measuring, labeling, packaging, and issuance of the drug or biological for a resident or for a service unit of the facility by a licensed pharmacist, physician or dentist.

Fees—remittance required by rules published by the department in *Louisiana Register*, June 20, 1989: Volume 15, Number 6.

Licensed Bed—an item of furniture for sleeping, resting, relaxing or otherwise set up, or capable of being set up within 24 hours, in a nursing home for the use of one resident (unless authorized otherwise in writing by the department for sharing), based upon verified compliance with bedroom criteria expressed in these requirements.

Licensed Practical Nurse (LPN)—an individual currently licensed by the Louisiana State Board of Practical Nurse Examiners to practice practical nursing in Louisiana.

Major Alteration—any repair or replacement of building materials and equipment which does not meet the definition of minor alteration.

Medical Director—a physician licensed in Louisiana who directs and coordinates medical care in a nursing home.

Minor Alteration—repair or replacement of building materials and equipment with materials and equipment of a similar type that does not diminish the level of construction below that which existed prior to the alteration. This does not include any alteration to the function or original design of the construction.

Neglect—the failure to provide the proper or necessary medical care, nutrition, or other care necessary for a resident's well-being.

Nurses' Call System—a system that audibly registers calls electronically from its place of origin (which means the resident's bed, toilet or bathing facility) to the place of receivership (which means the nurses' station).

Nursing Home—any private home, institution, building, residence or other place, serving two or more persons who are not related by blood or marriage to the operator, whether operated for profit or not, and including those places operated by a political subdivision of the state of Louisiana which undertakes, through its ownership or management, to provide maintenance, personal care, or nursing for persons who, by reason of illness or physical infirmity or age, are unable to properly care for themselves. The term does not include the following:

1. a home, institution, or other place operated by the federal government or agency thereof, or by the state of Louisiana;

2. a hospital, sanitarium or other institution whose principal activity or business is the care and treatment of persons suffering from tuberculosis or from mental diseases;

3. a hospital, sanitarium or other medical institution whose principal activity or business is the diagnosis, care and treatment of human illness through the maintenance and operation of organized facilities therefore;

4. any municipal, parish or private child welfare agency, maternity hospital or lying-in home required by law to be licensed by some department or agency;

5. any sanitarium or institution conducted by and for Christian Scientists who rely on the practice of Christian Science for treatment and healing;

6. any nonprofit congregate housing program which promotes independent living by providing assistance with daily living activities such as cooking, eating, dressing, getting out of bed, and the like to persons living in a shared group environment who do not require the medical supervision and nursing assistance provided by nursing homes. No congregate housing program, except those licensed or operated by the state of Louisiana, shall:

a. use the term "nursing home" or any other term implying that it is a licensed health care facility;

or
b. administer medications or otherwise provide any other nursing or medical service.

Physical Restraint—any manual method or physical or mechanical device, material, or equipment attached or adjacent to the resident's body that the individual cannot remove easily which restricts freedom of movement or normal access to one's body.

Physician—an individual currently licensed by the Louisiana State Board of Medical Examiners to practice medicine and/or surgery in Louisiana.

Physician Assistant—a person who is a graduate of a program accredited by the Council on Medical Education of the American Medical Association or its successors, or who has successfully passed the national certificate examination administered by the National Commission on the Certification of Physicians' Assistants, or its predecessors, and who is approved and licensed by the Louisiana Board of Medical Examiners to perform protocol services under the supervision of a physician or group of physicians approved by the board to supervise such assistant.

Primary Nurse Associate (Nurse Practitioner)—a registered nurse who successfully completed a nurse practitioner program of studies which meets the requirements set forth in the *Louisiana Administrative Code*, who is recognized as a primary nurse associate by the Louisiana State Board of Nursing, and who provides direct nursing care to individuals, families and other groups, including primary acute or chronic care which focuses on the maintenance, achievement, and restoration of optimal functions.

Registered Dietitian—a dietitian who is qualified based on registration by the Commission on Dietetic Registration of the American Dietetic Association, and licensure by the Louisiana Board of Examiners in Dietetics and Nutrition.

Registered Nurse (RN)—an individual currently licensed by the Louisiana State Board of Nursing to practice professional nursing in Louisiana.

Registered Pharmacist—an individual currently licensed by the Louisiana Board of Pharmacy to practice pharmacy in Louisiana.

Resident—an individual admitted to the nursing home by and upon the recommendation of a physician and who is to receive the medical and nursing care ordered by the physician.

Resident Activities Director—an individual responsible for directing or providing the activity services of a nursing home.

Restorative Nursing Care—activities designed to resolve, diminish or prevent the needs that are inferred from the resident's problem; includes the planning, implementation and evaluation of said activities in accordance with the Louisiana State Board of Nursing Legal Standards of Nursing Practice.

Social Service Designee—an individual responsible for arranging or directly providing medically-related social services.

Sponsor—an adult relative, friend, or guardian of a resident who has an interest or responsibility in the resident's welfare.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 22:

§9703. Licensing Process

A. No application for a nursing home license, renewal of a license, or change in the existing license will be considered unless such application is in writing on a form supplied by the department containing the name(s) and address(es) of the owner(s) and shall be signed by either the applicant or his representative.

1. It shall be accompanied by the fees and documentary evidence required by these licensing requirements.

2. When the secretary finds that an application is in proper order (s)he will cause whatever investigations are necessary to be made.

3. (S)He may also cause routine, periodic inspections to be made of licensed nursing homes and such special inspections and investigations as (s)he may consider necessary.

B. The applicant or applicant's designee shall disclose to the department the name and address of all individuals with 5 percent or more ownership interest, and in the instance where the nursing home is a corporation or partnership, the name and address of each officer or director, and board members.

C. If the nursing home is operated by a management company, or leased in whole or in part by another organization, the applicant or applicant's designee shall disclose to the department the name of the management firm and employer identification number, or the name of the leasing organization.

D. The nursing home shall complete the licensing application form and return it to the department at least 15 days prior to the initial licensing survey or expiration date of the current license, accompanied by a nonrefundable per annum licensing fee as provided by law. All fees shall be submitted by certified or company check or U.S. Postal money order only, made payable to DHH. All state-owned facilities are exempt from fees. The nursing home shall reapply for licensing on an annual basis.

E. The nursing home shall accept only that number of residents for which it is licensed unless prior written approval has been secured from the department.

F. If a nursing home is in substantial compliance with the Licensing Requirements for Nursing Homes and the Nursing Home Licensing Law, a license shall be issued by the department for a period of not more than 12 months, determined by the department. If a nursing home is not in substantial compliance with the Licensing Requirements for Nursing Homes and the Nursing Home Licensing Law, the department may issue a provisional license for a period of up to six months if there is no immediate and serious threat to the health

and safety of residents.

G. For an increase in bed capacity as a result of new construction, renovations or alterations, a fee as provided by law shall be remitted to the department. Approval shall be granted after an on-site survey or through the submission of a signed and dated attestation to the compliance with these licensing requirements.

H. For a replacement license when changes such as name change, address change, or bed reduction are requested in writing by the nursing home, a fee as provided by law shall be remitted.

I. For a change in licensee or premises, the buyer(s) shall submit to the department a completed application for nursing home licensing with a licensing fee as provided by law. Nursing home licensing is not transferable from one entity or owner(s) to another.

J. A processing fee as provided by law shall be submitted by the nursing home for issuing a duplicate facility license with no changes.

K. The license shall be conspicuously posted in the nursing home.

L. Licensing inspection visits should be a source of help and guidance to the operators. During these inspection visits the representatives of the department, in addition to checking compliance by the home with fire, sanitation, diet and health regulations, will review with the operator the overall plan for the care of residents and the personnel needs of the home and will also offer recommendations designed to improve the service of the home unless contraindicated by a more stringent rule, regulation or policy.

M. Exceptions to These Licensing Requirements

1. Where any requirement on an existing nursing home would impose a financial hardship but would not adversely affect the health and safety of any resident, the existing nursing home may submit a request for exception (waiver) to the department.

2. Where a more stringent requirement on an existing nursing home would impose an unreasonable hardship, the existing nursing home may submit a written request for exception along with supporting documentation to the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 22:

§9705. License Denial, Revocation or Nonrenewal of License

The department also may deny, suspend or revoke a license where there has been substantial noncompliance with these requirements in accordance with the Nursing Home Licensing Law. If a license is denied, suspended, or revoked, an appeal may be requested as outlined in the Nursing Home Licensing Law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 22:

§9707. Approval of Plans

A. All new construction, other than minor alterations, shall be done in accordance with the specific requirements of the Office of State Fire Marshal and the Bureau of Engineering and Consulting Services of the Department of Health and Hospitals, covering new construction in nursing homes, including submission of preliminary plans and the submission of final work drawings and specifications to each of these agencies.

B. No new nursing home shall hereafter be constructed, nor shall major alterations be made to existing nursing homes, without prior written approval, and unless in accordance with plans and specifications approved in advance by the Bureau of Engineering and Consulting Services of the Department of Health and Hospitals and the Office of State Fire Marshal. The review and approval of plans and specifications shall be made in accordance with these Licensing Requirements for Nursing Homes and the State of Louisiana Sanitary Code.

C. Before any new nursing home is licensed or before any alteration or expansion of a licensed nursing home can be approved, the applicant must furnish one complete set of plans and specifications to the Bureau of Engineering and Consulting Services of the Department of Health and Hospitals and one complete set of plans and specifications to the Office of State Fire Marshal, together with fees and other information as may be required.

1. Plans and specifications for new construction, other than minor alterations, shall be prepared by or under the direction of a licensed architect and/or a qualified licensed engineer.

2. No residential conversions will be considered for a nursing home license.

D. In the event that submitted materials do not satisfactorily comply with the aforementioned publications, the Department of Health and Hospitals shall furnish a letter to the party submitting the plans which shall list the particular items in question and request further explanation and/or confirmation of necessary modifications.

E. Notice of satisfactory review from the Department of Health and Hospitals and the Office of State Fire Marshal constitutes compliance with this requirement if construction begins within 180 days of the date of such notice. This approval shall in no way permit and/or authorize any omission or deviation from the requirements of any restrictions, laws, regulations, ordinances, codes or rules of any responsible agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 22:

§9709. Fire Protection

All nursing homes required to be licensed by the law shall comply with the rules, established fire protection standards and enforcement policies as promulgated by the Office of State Fire Marshal.

1. It shall be the primary responsibility of the Office of State Fire Marshal to determine if applicants are complying with those requirements.

2. No initial license shall be issued without the applicant furnishing a certificate from the Office of State Fire Marshal that such applicant is complying with their provisions.

3. A provisional license may be issued to the applicant if the Office of State Fire Marshal issues the applicant a conditional certificate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 22:

§9711. Sanitation and Patient Safety

All nursing facilities required to be licensed by the law shall comply with the rules, Sanitary Code and enforcement policies as promulgated by the Office of Public Health.

1. It shall be the primary responsibility of the Office of Public Health to determine if applicants are complying with those requirements.

2. No initial license shall be issued without the applicant furnishing a certificate from the Office of Public Health that such applicant is complying with their provisions.

3. A provisional license may be issued to the applicant if the Office of Public Health issues the applicant a conditional certificate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 22:

Subchapter B. Organization and General Services

§9713. Delivery of Services

A nursing home shall be administered in a manner that promotes the highest level of functioning and well-being of each resident.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 22:

§9715. Governing Body

A. The nursing home shall have a governing body that is legally responsible for establishing and implementing policies regarding the management and operation of the nursing home. The governing body shall develop and approve policies and procedures which define and describe the scope of services offered. They shall be revised as necessary and reviewed at least annually.

B. The governing body shall be responsible for the operation of the nursing home.

C. The governing body shall appoint in writing a licensed administrator responsible for the management of the nursing home.

D. The governing body shall notify the department in writing by certified mail when a change occurs in the administrator position within 30 calendar days from the date the change occurs. The notice shall include the identity of the individual and the specific date the change occurred.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 22:

§9717. Administration

A. There shall be a full-time Louisiana licensed nursing facility administrator. The administrator shall be engaged in the act of administration and the activity shall be the major function of the person performing the act.

B. Another full-time employee shall be authorized in writing to act in the administrator's behalf when (s)he is absent.

C. The administrator shall notify the department in writing when a change occurs in the director of nursing position within 30 calendar days from the date the change occurs. The notice shall include the identity of the individual and the specific date the change occurred.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 22:

§9719. Personnel

A. There shall be sufficient qualified personnel to properly operate each department of the nursing home to assure the health, safety, proper care and treatment of the residents. Weekly time schedules shall be maintained which indicate the numbers and classification of all personnel, including relief personnel, who work on each tour of duty. The time schedules shall reflect all changes so as to indicate who actually worked.

1. There shall be at least two nursing service staff members actively on duty each shift.
2. Should there be a need to commingle the nursing service staff with other personnel:
 - a. Nurse aides shall not work in food preparation after having provided personal care to residents.
 - b. Laundry and housekeeping personnel shall not provide personal care to residents, unless universal precautions are taken.
 - c. Nursing service personnel shall not be assigned routine housekeeping duties while assigned to care for residents.

B. Personnel records shall be current and available for each employee and shall contain sufficient information to assure that they are assigned duties consistent with his or her job description and level of competence, education, preparation and experience.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 22:

§9721. Criminal History Provisions

A. Nursing homes shall have criminal history checks performed on nonlicensed personnel in accordance with R.S. 40:1300.5 et seq.

B. All personnel requiring licensure to provide care shall be licensed to practice in the state of Louisiana. Credentials of all licensed full-time, part-time and consultant personnel shall be verified on an annual basis in writing by a designated staff member.

C. TB Testing

1. All personnel, including volunteer workers involved in direct patient care, prior to or at the time of employment and annually thereafter shall be free of tuberculosis in a communicable state as evidenced by either:

- a. a negative purified protein derivative skin test for tuberculosis, five tuberculin unit strength, given by the Mantoux method;
- b. a normal chest x-ray, if the skin test is positive; or
- c. a statement from a licensed physician certifying that the individual is noninfectious if the x-ray is other than normal.

2. Employees or volunteers with positive findings shall complete an adequate course of chemotherapy for tuberculosis as prescribed by a Louisiana licensed physician, or shall present a signed statement from a Louisiana licensed physician stating that chemotherapy is not indicated.

3. An individual shall not be denied access to work solely on the basis of being infected with tuberculosis, provided the infection is not communicable.

4. Any employee or volunteer converting from a negative to a positive purified protein derivative skin test for tuberculosis, five tuberculin unit strength, given by the Mantoux method, shall be referred to a physician and followed as stated above.

D. The nursing home shall require all personnel to immediately report any sign or symptoms of a communicable disease to their supervisor or administrator, as appropriate, for possible reassignment or other appropriate action to prevent the disease or illness from spreading to residents or other personnel.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 22:

§9723. Policies and Procedures

A. There shall be written policies and procedures:

1. available to staff, residents and the public which govern all areas of care and service provided by the nursing home;
2. that ensure that each resident receives the necessary care and services to promote the highest level of functioning and well-being of each resident;
3. developed with the advice of a group of professional personnel consisting of at least a licensed physician, the administrator and the director of nursing service;
4. approved by the governing body;
5. revised as necessary, but reviewed by the professional group at least annually;
6. available to admitting physicians, sponsoring agencies, residents, and the public; and
7. that reflect awareness of, and provision for, meeting the total medical and psychosocial needs of residents, including admission, transfer, and discharge planning, and the range of services available to residents, including frequency of physician visits by each category of residents admitted.

B. The administrator or his designee is responsible, in writing, for the execution of such policies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 22:

§9725. Assessments and Care Plans

A. A comprehensive assessment which identifies the resident's nursing, medical, functional, activity and psychosocial needs/problems, shall be performed and documented in each resident's clinical record by a

licensed nurse.

B. The assessment shall be used to develop the resident's comprehensive plan of care which reflects the specific needs/problems of the resident, interventions to meet those needs/problems and measurable objectives.

C. The assessment and care plan shall be completed within 21 days of admission.

D. The care plan shall be revised as necessary and reviewed at least quarterly by the personnel involved in the care of the resident.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 22:

§9727. Orientation, Training and Education to Staff

A. New employees shall have an orientation program of sufficient scope and duration to inform the individual about his/her responsibilities and how to fulfill them.

B. The orientation program shall include at least a review of policies and procedures, job description and performance expectations prior to the employee performing his/her responsibilities.

C. A staff development program shall be conducted by competent staff and/or consultants and planned based upon employee performance appraisals, resident population served by the nursing home, and as determined by facility staff. All employees shall participate in in-service education programs which are planned and conducted for the development and improvement of their skills.

D. The in-service training shall include at least problems and needs common to the age of those being served, prevention and control of infections, fire prevention and safety, emergency preparedness, accident prevention, confidentiality of resident information, and preservation of resident dignity and respect, including protection of privacy and personal and property rights.

E. The in-service shall be conducted as frequently as necessary to ensure a well educated and functioning staff.

F. Records of in-service training shall be maintained which indicates the content, time, names of employees in attendance, and the name of the presenter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 22:

§9729. Emergency Preparedness

A. The nursing home shall have an emergency preparedness program (which conforms to the Office of Emergency Preparedness model plan), designed to manage the consequences of natural disasters or other emergencies that disrupt the nursing home's ability to provide care and treatment or threatens the lives or safety of the nursing home residents.

B. As a minimum, the program shall have a written plan that describes:

1. the evacuation of residents to a safe place either within the nursing home or to another location;
2. the delivery of essential care and services to nursing home residents, whether residents are housed off-site or when additional residents are housed in the nursing home during an emergency;

3. the provisions for the management of staff, including distribution and assignment of responsibilities and functions, either within the nursing home or at another location;

4. a plan for coordinating transportation services required for evacuating residents to another location, and

5. assure that the resident's family or sponsor is notified if resident is evacuated to another location.

C. The nursing home's plan shall be implemented at least annually, either in response to an emergency or in a planned drill. The nursing home's performance during implementations of the plan shall be evaluated, documented, and the plan changed where indicated.

D. The nursing home's plan shall be developed in coordination with the local/parish office of emergency preparedness, utilizing community-wide resources.

E. The plan shall be available to representatives of the Office of State Fire Marshal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 22:

§9731. Complaint Process

A. Provisions for Complaints. In accordance with R.S. 40:2009.13 et seq., the following requirements are established for receiving, evaluating, investigating, and correcting grievances pertaining to resident care in licensed nursing homes. They also provide for mandatory reporting of abuse and neglect in nursing homes.

B. Nursing Home Complaints; Procedure; Immunity

1. Any person having knowledge of the alleged abuse or neglect of a resident of a nursing home, or who has knowledge that a state law, licensure requirement, rule or regulation, or correction order promulgated by the department, or any federal certification rule pertaining to a nursing home has been violated, or who otherwise has knowledge that a nursing home resident is not receiving care and treatment to which he is entitled under state or federal laws, may submit a complaint regarding such matter to the secretary

(Department of Health and Hospitals). The complaint shall be submitted to the Health Standards Section of DHH in writing, by telephone, or by personal visit where the complainant will complete and sign a form furnished by a member of the secretary's staff receiving the complaint.

2. The secretary shall designate a staff member whose responsibility shall be to assure that all complaints received are referred to the Medicaid fraud control unit or the appropriate office of the department (Health Standards Section).

3. If the complaint involves an alleged violation of any criminal law pertaining to nursing homes, the secretary shall refer the complaint to the Medicaid fraud control unit for investigation.

4. If the complaint involves any other matter, the secretary shall refer the complaint to the appropriate office for investigation in accordance with this Section.

5. Any person who in good faith submits a complaint pursuant to this section shall have immunity from any civil liability that otherwise might be incurred or imposed because of such complaint. Such immunity shall extend to participation in any judicial proceeding resulting from the complaint.

C. Procedure for Investigation by the Office; Confidentiality of Complaints

1. The office of the department which has received the complaint from the secretary shall review the complaint and determine whether there are reasonable grounds for an investigation. No complaint shall be investigated if:

- a. in the opinion of the office, it is trivial or not made in good faith;
- b. it is too outdated and delayed to justify present investigation; or
- c. the complaint is not within the investigating authority of the office.

2. If the office determines that grounds for an investigation do not exist, it shall notify the complainant of its decision and the reasons within 15 work days after receipt of such complaint.

3. If grounds for an investigation do exist, the office shall initiate an investigation of such complaint and make a report to the complainant on its findings within 30 work days after receipt of the complaint.

4. The substance of the complaint shall be given to the nursing home no earlier than at the commencement of the investigation of the complaint.

5. When the substance of the complaint is furnished the nursing home, it shall not identify the complainant or the patient unless (s)he consents in writing to the disclosure. If the disclosure is considered essential to the investigation or if the investigation results in a judicial proceeding, the complainant shall be given the opportunity to withdraw the complaint.

D. Investigation Report; Correction Orders

1. The investigation report of the department shall state whether any nursing home licensing law, or any licensing requirement, rule, regulation, or correction order of the Department of Health and Hospitals, or any standard relating to the health, safety, care, or treatment of residents in nursing homes has been violated.

a. If such violation is found to exist, the appropriate departmental staff shall immediately provide notice to the secretary of such violation.

b. The report shall also contain a correction order to the nursing home. A copy of the report shall be sent by certified mail or hand delivered to the complainant and to the nursing home.

2. The correction order shall describe the violation, list the rule or law violated, and describe the corrective actions to be taken by the nursing home.

3. A nursing home which is ordered to correct deficiencies may file a written request that the department review the corrective action taken by the home and, if necessary reinspect the home.

a. The department shall comply with the request within seven days after receipt thereof.

b. If no such request is received, the department shall review the steps taken by the home in order to comply with the corrective order and, if necessary, reinspect the home on the final date fixed for completion of the correction of the violation.

E. Hearing

1. A complainant or nursing home who is dissatisfied with the determination or investigation by the department may request a hearing.

2. A request for a hearing shall be submitted in writing to the secretary within 30 days after the report of the department has been mailed in accordance with the provisions of R.S. 40:2009.15(A)(1).

3. Notice of the time and place fixed for the hearing shall be sent to the complainant and the nursing home.

4. All appeal procedures shall be conducted in accordance with the Administrative Procedure Act.

F. Retaliation by Nursing Home

1. No discriminatory or retaliatory action shall be taken by any health care facility or government agency against any person or client by whom or for whom any communication was made to the department or unit, provided the communication is made in good faith for the purpose of aiding the office or unit to carry out its duties and responsibilities.

2. Notice of the complaint procedure, complete with the name, address, and telephone number of the Health Standards Section of the Office of the Secretary of the Department of Health and Hospitals, shall be

posted conspicuously in the nursing home at places where residents gather, including, but not limited to, the administrative office, the dining hall, the activity room, and all nurses' stations.

G. In accordance with R.S. 14:403.2, 14:93.3, 14:93.4 and 14:93.5, all nursing homes shall adhere to the Adult Protective Services laws.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 22:

Subchapter C. Resident Rights

§9733. Statement of Rights and Responsibilities

A. In accordance with R.S. 40:2010.8 et seq., all nursing homes shall adopt and make public a statement of the rights and responsibilities of the residents residing therein and shall treat such residents in accordance with the provisions of the statement. The statement shall assure each resident the following:

1. the right to civil and religious liberties, including but not limited to knowledge of available choices, the right to independent personal decision, and the right to encouragement and assistance from the staff of the facility in the fullest possible exercise of these civil and religious rights;

2. the right to private and uncensored communications, including but not limited to receiving and sending unopened correspondence; access to a telephone; visitation with any person of the resident's choice; and overnight visitation outside the facility with family and friends in accordance with nursing home policies, physician orders, and Title XVIII (Medicare) and Title XIX (Medicaid) of the Social Security Act regulations, without the loss of his bed;

3. nursing home visiting hours shall be flexible, taking into consideration special circumstances such as out-of-town visitors and working relatives or friends. With the consent of the resident and in accordance with the policies approved by the Department of Health and Hospitals, the home shall permit recognized volunteer groups, representatives of community-based legal, social, mental health, and leisure and planning programs, and members of the clergy access to the home during visiting hours for the purpose of visiting with and providing services to any resident;

4. the right to present grievances on behalf of himself or others to the nursing home's staff or administrator, to governmental officials, or to any other person; to recommend changes in policies and services to nursing home personnel; and to join with other residents or individuals within or outside the home to work for improvements in resident care, free from restraint, interference, coercion, discrimination or reprisal;

a. this right includes access to the resident's sponsor and the Department of Health and Hospitals; and

b. the right to be a member of, to be active in, and to associate with advocacy or special interest groups.

5. the right to manage his own financial affairs or to delegate such responsibility to the nursing home, but this delegation may be only to the extent of the funds held in trust by the home for the resident. A quarterly accounting of any transactions made on behalf of the resident shall be furnished to the resident and his sponsor if requested. A copy shall be retained in the resident's records on file in the home;

6. the right to be fully informed, in writing and orally, prior to or at time of admission and during his stay, of services not covered under Title XVIII or Title XIX of the Social Security Act or not covered by the basic per diem rates, and of bed reservation and refund policies of the home;

7. the right to be adequately informed of his medical condition and proposed treatment, unless otherwise indicated by the resident's physician; to participate in the planning of all medical treatment, including the right to refuse medication and treatment, unless otherwise indicated by the resident's physician; and to be informed of the consequences of such actions;

8. the right to receive adequate and appropriate health care and protective and support services, including services consistent with the resident care plan, with established and recognized practice standards within the community, and with rules promulgated by the Department of Health and Hospitals;

9. the right to have privacy in treatment and in caring for personal needs;

a. to have closed room doors, and to have facility personnel knock before entering the room, except in case of an emergency or unless medically contraindicated;

b. to have confidentiality in the treatment of personal and medical records; and

c. to be secure in storing and using personal possessions, subject to applicable state and federal health and safety regulations and the rights of other residents;

d. privacy of the resident's body shall be maintained during, but not limited to toileting, bathing, and other activities of personal hygiene, except as needed for resident safety or assistance;

10. the right to be treated courteously, fairly, and with the fullest measure of dignity and to receive a written statement and oral explanations of the services provided by the home, including statements and explanations required to be offered on an as-needed basis;

11. the right to be free from mental and physical abuse and from physical and chemical restraints, except those restraints authorized by a physician for a specified and limited period of time or those necessitated by

an emergency;

a. in case of an emergency, restraint may only be applied by a qualified licensed nurse, who shall set forth in writing the circumstances requiring the use of the restraint, and, in case of a chemical restraint, a physician shall be consulted immediately thereafter;

b. restraints shall not be used in lieu of staff supervision or merely for staff convenience or resident punishment, or for any reason other than resident protection or safety;

12. the right to be transferred or discharged only if necessary for his welfare and if his needs cannot be met in the facility; his health has improved sufficiently so that he no longer needs the services provided by the facility; the safety of individuals in the facility is endangered; the health of individuals in the facility would otherwise be endangered; he has failed after reasonable and appropriate notice to pay or have paid for a stay at the facility; or the facility ceases to operate;

a. both the resident and his legal representative or interested family member if known and available, have the right to be notified in writing in a language and manner they understand of the transfer and discharge;

b. the notice must be given no less than 30 days in advance of the proposed action, except that the notice may be given as soon as is practicable prior to the action in the case of an emergency;

c. in facilities not certified to provide services under Title XVIII or Title XIX of the Social Security Act, the advance notice period may be shortened to 15 days for nonpayment of a bill for a stay at the facility;

i. the resident or his legal representative or interested family member, if known and available, has the right to appeal any transfer or discharge to the Department of Health and Hospitals, which shall provide a fair hearing in all such appeals;

ii. the facility must ensure that the transfer or discharge is effectuated in a safe and orderly manner;

iii. the resident and his legal representative or interested family member, if known and available, shall be consulted in choosing another facility if facility placement is required;

13. the right to select a personal physician; to obtain pharmaceutical supplies and services from a pharmacy of the resident's choice, at the resident's own expense or through Title XIX of the Social Security Act; and to obtain information about, and to participate in, community-based activities and programs, unless medically contraindicated, as documented by a physician in the resident's medical record, and such participation would violate infection control laws or regulations;

14. the right to retain and use personal clothing and possessions as space permits, unless to do so would infringe upon the rights of other residents or unless medically contraindicated as documented by a physician in the resident's medical record. Clothing need not be provided to the resident by the home except in emergency situations. If provided, it shall be of reasonable fit;

15. the right to have copies of the nursing home's rules and regulations and an explanation of the resident's responsibility to obey all reasonable rules and regulations of the nursing home and of his responsibility to respect the personal rights and private property of other residents;

16. the right to be informed of the bed reservation policy for a hospitalization;

a. the nursing home shall inform a private pay resident and his responsible party or sponsor that his bed shall be reserved for any single hospitalization for a period up to 30 days, provided the nursing home receives reimbursement;

b. notice shall be provided within 24 hours of the hospitalization;

17. the right to receive a prompt response to all reasonable requests and inquiries;

18. the right of the resident to withhold payment for physician visitation if the physician did not examine the resident;

19. the right to refuse to serve as a medical research subject without jeopardizing access to appropriate medical care;

20. the right to use tobacco at his own expense under the home's safety rules and under applicable laws and rules of the state, unless the facility's written policies preclude smoking in patient rooms;

21. the right to consume a reasonable amount of alcoholic beverages at his own expense, unless:

a. not medically advisable as documented in his medical record by the attending physician; or

b. unless alcohol is contraindicated with any of the medications in the resident's current regime; or

c. unless expressly prohibited by published rules and regulations of a nursing home owned and operated by a religious denomination which has abstinence from the consumption of alcoholic beverages as a part of its religious belief;

22. the right to retire and rise in accordance with his reasonable requests, if he does not disturb others and does not disrupt the posted meal schedules and, upon the home's request, if he remains in a supervised area unless retiring and rising in accordance with the resident's request is not medically advisable as documented in his medical record by the attending physician;

23. the right to have any significant change in his health status immediately reported to him and his legal representative or interested family member, if known and available, as soon as such a change is known to the home's staff.

B. A sponsor may act on a resident's behalf to assure that the nursing home does not deny the resident's rights under the provisions of R.S. 40:2010.6 et seq., and no right enumerated therein may be waived for any

reason whatsoever.

C. Each nursing home shall provide a copy of the statement required by R.S. 40:2010.8(A) to each resident and sponsor upon or before the resident's admission to the home and to each staff member of the home. The statement shall also advise the resident and his sponsor that the nursing home is not responsible for the actions or inactions of other persons or entities not employed by the facility, such as the resident's treating physician, pharmacists, sitter, or other such persons or entities employed or selected by the resident or his sponsor. Each home shall prepare a written plan and provide appropriate staff training to implement the provisions of R.S. 40:2010.6 et seq., including but not limited to an explanation of the following:

1. the residents' rights and the staff's responsibilities in the implementation of those rights;
2. the staff's obligation to provide all residents who have similar needs with comparable services as required by state licensure standards.

D. In order to determine whether a home is adequately protecting residents' rights, inspection of the home by the Department of Health and Hospitals shall include private, informal conversations with a sample of residents to discuss residents' experiences within the home with respect to the rights specified in R.S. 40:2010.6 et seq., and with respect to compliance with departmental standards.

E. Any person who submits or reports a complaint concerning a suspected violation of residents' rights, or concerning services or conditions in a home or health care facility, or who testifies in any administrative or judicial proceedings arising from such complaint, shall have immunity from any criminal or civil liability therefor, unless that person has acted in bad faith with malicious purpose, or if the court finds that there was an absence of a justiciable issue of either law or fact raised by the complaining party.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 22:

Subchapter D. Sanctions and Appeal Procedures

§9735. Authority and Scope

A. Any person or entity found to be in violation of any provision of R.S. 40:2009.1-40:2009.11 may be sanctioned by revocation of license, nonrenewal of license or by civil fines or by those mandated by federal law including:

1. plan of correction;
2. monitoring;
3. special staffing requirements;
4. temporary management.

B. The secretary or his designee may impose any of the above cited sanctions separately or in combination. In addition to the foregoing administrative remedies, the secretary may have recourse to any judicial remedies provided by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 22:

§9737. Considerations

The secretary shall impose the sanction(s) which will bring the nursing home into compliance in the most efficient and effective manner with the care and well-being of the residents being the paramount consideration. The secretary's decision shall be based on an assessment of some or all of the following factors:

1. whether the violations pose an immediate threat to the health or safety of the residents;
2. the duration of the violations;
3. whether the violation (or one that is substantially similar) has previously occurred during the last three consecutive surveys;
4. the nursing home's history of compliance during the last three consecutive surveys;
5. what sanction is most likely to cause the facility to come into compliance in the shortest amount of time;
6. the severity of the violation if it does not pose an immediate threat to health or safety;
7. the logistical feasibility of implementing the sanction;
8. the "good faith" exercised by the facility in attempting to stay in compliance;
9. the financial benefit to the facility of committing or continuing the violation;
10. such other factors as the secretary deems appropriate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 22:

§9739. Repeat Violations

When the nursing home is found to have repeat violations, the secretary or the secretary's designee may increase the civil fines imposed as specified by R.S. 40:2009.11.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of

Health Services Financing, LR 22:

§9741. Notice and Appeal Procedure

Unless otherwise indicated, any sanction may be administratively appealed in the manner described as long as the appeal is timely filed following notice of the department's decision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 22:

§9743. Civil Money Penalties (Fines)

A. The following listed civil fines pertaining to classified violations may be assessed by the secretary against nursing homes. In the case of Class A violations, the following civil fines shall be assessed. In the cases of Class B, C, D or E violations, the secretary, in his discretion, may elect to assess the following civil fines or may allow a specified period of time for correction of said violation. For Class D and E violations, the facility will be given notice of the fine at the time of the first violation and may be given an opportunity to demonstrate compliance before the fine becomes final.

1. If compliance is demonstrated on the follow-up visit, payment of the fine may be waived. In all instances the violation is counted and recorded.

2. If compliance is not demonstrated at the next visit, the penalty for a repeat violation will be assessed. No facility shall be penalized because of a physician's or consultant's nonperformance beyond the facility's control or if the violation is beyond the facility's control, if the situation and the efforts to correct it are clearly documented.

3. It is not the intent that every violation found on a survey, inspection, or related visit should be accompanied by an administrative penalty.

B. Class A violations are subject to a civil fine which shall not exceed \$2,500 for the first violation. A second Class A violation occurring within an 18-month period from the first violation shall not exceed \$5,000 per day.

C. Class B violations are subject to a civil fine which shall not exceed \$1,500 for the first violation. A second Class B violation occurring within an 18-month period from the first violation shall not exceed \$3,000 per day.

D. Class C violations are subject to a civil fine which shall not exceed \$1,000 for the first violation. A second Class C violation occurring within an 18-month period from the first violation shall not exceed \$2,000 per day.

E. Class D violations are subject to a civil fine which shall not exceed \$100 for the first violation. Each subsequent Class D violation within an 18-month period from the first violation shall not exceed \$250 per day.

F. Class E violations are subject to a civil fine which shall not exceed \$50 for the first violation. Each subsequent Class E violation occurring within an 18-month period from the first violation shall not exceed \$100 per day.

G. The total amount of fines assessed for violations determined in any one month shall not exceed \$5,000, except that the aggregate fines assessed for Class A or B violations shall not exceed \$10,000 in any one month.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 22:

§9745. Factors in Assessment of Civil Fines

In determining whether a civil fine is to be assessed and in affixing the amount of the fine to be imposed, the secretary shall consider:

1. the gravity of the violation including the probability that death or serious physical harm to a resident will result or has resulted;

2. the severity and scope of the actual or potential harm;

3. the extent to which the provisions of the applicable statutes or regulations were violated;

4. the "good faith" exercised by the licensee. Indications of good faith include, but are not limited to:

a. prior accomplishments manifesting the licensee's desire to comply with requirements;

b. efforts to correct;

c. any other mitigating factors in favor of the licensee;

5. any relevant, previous violations committed by the licensee;

6. the financial benefit to the licensee of committing or continuing the violation;

7. approved waivers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 22:

§9747. Right to Assess Civil Fines Not Merged in Other Remedies

Assessment of a civil fine provided by this Subchapter shall not affect the right of the Department of Health and Hospitals to take such other action as may be authorized by law or regulation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 22:

§9749. Classes of Violations Defined

A. Class A Violations are those violations which create a condition or occurrence relating to the operation and maintenance of a nursing home which result in death or serious harm to a resident. The following examples of Class A violations are provided for illustrative purposes only and are subject to the conditions outlined in this Subchapter.

1. Death of a Resident. Any condition or occurrence relating to the operation of a nursing home in which the conduct, act, or omission of a person or actor purposely, knowingly, or negligently results in the death of a resident shall be a Class A violation.

2. Serious Physical Harm to a Resident. Any condition or occurrence relating to the operation of a nursing home in which the conduct, act, or omission of a person or actor purposely, knowingly, or negligently results in serious physical harm to a resident shall be a Class A violation.

B. Class B Violations are those violations which create a condition or occurrence relating to the operation and maintenance of a nursing home which create a substantial probability that death or serious physical harm to a resident will result from the violation.

1. The following examples of Class B violations are provided for illustrative purposes only and are subject to the conditions outlined in this Subchapter.

2. The following conduct, acts, or omissions, which do not result in death or serious physical harm but which create a substantial probability that death or serious physical harm to a resident will result therefrom, are conditions or occurrences relating to the operation of a nursing home and are Class B violations:

a. Nursing Techniques. A Class B violation shall exist when good nursing practice is not exercised and this results in the following occurrences:

i. medications or treatments are improperly administered or withheld by nursing personnel;

ii. there is a failure to adequately and appropriately feed residents who are unable to feed themselves or there is use of specialized feeding equipment or substances which are outdated, not protected from contamination, or incorrectly used;

iii. there is a failure to change or irrigate catheters as ordered by a physician or there is use of irrigation sets or solutions which are outdated or not protected from contamination;

iv. there is a failure to obtain physician orders for the use, type and duration of restraints, or physical restraints are improperly applied, or facility personnel fail to check and release restraint as specified in regulations;

v. staff knowingly fails to answer call lights;

vi. there is a failure to turn or reposition as ordered by a physician or as specified in regulations;

vii. there is a failure to provide rehabilitative nursing as ordered by a physician or as specified in regulations.

b. Poisonous Substances. A Class B violation shall exist when a facility fails to provide proper storage of poisonous substances.

c. Falls by Residents. A Class B violation shall exist when a facility fails to maintain required direct care staffing, follow physician's orders, provide a safe environment, or address a history of falls on a resident's care plan, and this failure directly causes a fall by a resident. (Examples: Equipment not properly maintained or a fall due to personnel not responding to a resident's request for assistance).

d. Assaults. A Class B violation shall exist when a facility fails to maintain required direct care staffing, adequately trained staff, or take appropriate measures when it is known that a resident is combative or assaultive with other residents, and this failure causes an assault upon a resident of the facility by another resident. A Class B violation shall also exist when a facility fails to perform adequate screening of personnel and this failure causes an assault upon a resident by an employee of the facility.

e. Permanent Injury to a Resident. A Class B violation shall exist when facility personnel improperly apply physical restraints as directed by physician's orders or regulations and this failure causes permanent injury to a resident.

f. Nosocomial Infection. A Class B violation shall exist when a facility does not follow or meet nosocomial infection control standards as outlined by regulations or as ordered by the physician.

g. Medical Services. A Class B violation shall exist when a facility fails to secure proper medical assistance or orders from a physician and this creates the probability of death or serious harm of a resident.

h. Decubitus Ulcers. A Class B violation shall exist when a facility does not take decubitus ulcer measures as ordered by the physician or facility personnel fail to notify the physician of the existence or change in the condition of such ulcers and such failure creates a probability of death or serious physical harm of a resident.

i. Treatments. A Class B violation shall exist when facility personnel performs treatment(s) contrary to a physician's order or fail to perform such treatments and such treatment creates the probability of death or serious physical harm of a resident.

j. Medications. A Class B violation shall exist when facility personnel knowingly withhold medication from a resident as ordered by a physician and such withholding of medication(s) creates the probability of death or serious injury of a resident, or facility personnel fails to order and/or stock medication(s) prescribed by the physician and the failure to order and/or stock medication(s) creates a probability of death or serious harm of a resident.

k. Elopement. A Class B violation shall exist when a facility does not provide reasonable supervision of residents to prevent a resident from wandering away from the facility and such failure creates the probability of death or serious harm to a resident, or a facility does not provide adequate measures to ensure that residents with an elopement history do not wander away from the facility. (Examples of preventive measures include but are not limited to documentation that an elopement history has been discussed with the family or other caretaker of the resident, alarms have been placed on exit doors, personnel have been trained to make additional effort to watch the resident with such history, and the physician of such resident has been made aware of such history).

l. Failure to Provide Heating or Air Conditioning. A Class B violation shall exist when a facility fails to reasonably maintain its heating and air-conditioning system as required by regulation. Isolated incidents of breakdown or power failure shall not be considered Class B violations under this Subchapter.

m. Natural Disaster/Fire. A Class B violation shall exist when a facility does not train staff in fire/disaster procedures as required by regulations or when staffing requirements are not met.

n. Life Safety Code System. A Class B violation shall exist when a facility fails to maintain the required life safety code system. Isolated incidents of breakdown shall not be considered a Class B violation if the facility has immediately notified the Health Standards Section upon discovery of the problem and has taken all necessary measures to correct the problem.

o. Nursing Equipment/Supplies. A Class B violation shall exist if equipment and supplies to care for a resident as ordered by a physician are not provided, or if the facility does not have sufficient equipment and supplies for residents as specified by regulation and these conditions create a probability of death or serious harm to a resident.

p. Call System. A Class B violation shall exist when a facility fails to maintain a resident call system or the call system is not functioning for a period of more than 24 hours.

i. If call system cords are not kept within reach of residents then it will be determined that the facility has failed to maintain a resident call system and this failure creates a probability of death or serious physical harm to a resident.

ii. The above examples of Class B violations are provided for illustrative purposes only.

C. Class C Violations. The following conduct, acts, or omissions which do not result in death or serious physical harm to a resident or the substantial probability thereof but create a condition or occurrence relating to the operation and maintenance of a nursing home that create a potential for harm by directly threatening the health, safety, rights or welfare of a resident are Class C violations. The following examples of Class C violations are provided for illustrative purposes only and are subject to the conditions outlined in this Subchapter.

1. Nursing Techniques. A Class C violation shall exist when good nursing practice is not exercised and this results in the following occurrences:

a. medications or treatments are improperly administered or withheld by nursing personnel;

b. there is a failure to adequately and appropriately feed residents who are unable to feed themselves or there is use of specialized feeding equipment and substances which are outdated, not protected from contamination or incorrectly used;

c. there is a failure to change or irrigate catheters as ordered by a physician or there is use of irrigation sets and solutions which are outdated or not protected from contamination.

d. there is a failure to obtain physician orders for the use, type, and duration of restraints, or physical restraints are improperly applied, or facility personnel fail to check and release the restraint as specified in regulations;

e. staff knowingly fails to answer call lights;

f. there is a failure to turn or reposition residents as ordered by a physician or as specified in regulations;

g. there is a failure to provide rehabilitative nursing as ordered by a physician or as specified in regulations.

2. Poisonous Substances. A Class C violation shall exist when a facility fails to provide proper storage of poisonous substances and this failure threatens the health, safety, rights or welfare of a resident.

3. Falls by Residents. A Class C violation shall exist when it is determined that falls may occur in a facility as a result of the facility's failure to maintain required direct care staffing or a safe environment (including adequate training of staff) as set forth in regulation and this failure threatens the health, safety, rights, or welfare of a resident.

4. Assaults. A Class C violation shall exist when a facility fails to maintain required direct care staffing or measures are not taken when it is known that a resident is combative and assaultive with other residents

and this lack threatens the health, welfare, rights, or safety of a resident.

5. Improper Use of Restraints. A Class C violation shall exist when facility personnel apply physical restraints contrary to published regulations or fail to check and release such restraints as directed by physician's order or regulations and such failure threatens the health, safety, rights, or welfare of a resident.

6. Medical Services. A Class C violation shall exist when a facility fails to secure proper medical assistance or orders from a physician and this failure threatens the health, safety, rights or welfare of a resident.

7. Decubitus Ulcers. A Class C violation shall exist when a facility does not take decubitus ulcer measures as ordered by the physician and this failure threatens the health, safety, rights or welfare of a resident, or facility personnel fail to notify the physician of such ulcers or change in a resident's condition with regard to decubitus ulcers and this failure threatens the health, safety, rights or welfare of a resident.

8. Treatments. A Class C violation shall exist when facility personnel perform treatments contrary to physician's order or fail to perform such treatments and such treatment threatens the health, safety, rights, or welfare of a resident.

9. Medications. A Class C violation shall exist when facility personnel withhold physician ordered medication(s) from a resident and such withholding threatens the health, safety, rights, or welfare of a resident, or facility personnel fail to order or stock medication(s) prescribed by the physician and this failure threatens the health, safety, rights, or welfare of a resident.

10. Elopement. A Class C violation shall exist when a facility does not provide reasonable supervision of residents to prevent a resident from wandering away from the facility and such failure threatens the health, safety, rights, or welfare of a resident, or a facility does not provide adequate measures to ensure that residents with a history of elopement do not wander away from the facility and such failure threatens the health, safety, rights, or welfare of a resident.

11. Food on Hand. A Class C violation shall exist when there is an insufficient amount of food on hand in the facility to meet the menus for the next three-day period and this failure threatens the health, safety, rights, or welfare of a resident.

12. Nursing Equipment/Supplies. A Class C violation shall exist if equipment and supplies to care for a resident as ordered by a physician are not provided, or if the facility does not have sufficient equipment and supplies for residents as specified by regulation and these conditions threaten the health, safety, rights, or welfare of a resident.

13. Call System. A Class C violation shall exist when a facility fails to maintain a resident call system or the call system is not functioning for a period of 24 hours. If call system cords are not kept within reach of residents then it will be determined that the facility has failed to maintain a resident call system and this failure threatens the health, safety, rights, or welfare of a resident.

14. Heating and Air Conditioning. A Class C violation shall exist when a facility fails to maintain its heating and air-conditioning systems as required by regulation and such failure threatens the health, safety, rights, or welfare of a resident. Isolated incidents of breakdown or power failure shall not be considered a Class C violation under this section.

15. Natural Disaster/Fire. A Class C violation shall exist when a facility does not train staff in fire/disaster procedures as required by regulations or when staffing requirements are not met and this failure threatens the health, safety, rights, or welfare of a resident.

16. Life-Safety Code System. A Class C violation shall exist when a facility fails to maintain the required life-safety systems and this threatens the health, safety, rights or welfare of a resident. Isolated incidents of breakdown shall not be considered a Class C violation if the facility has immediately notified the Health Standards Section upon discovery of the problem and has taken all necessary measures to correct the problem.

17. Dietary Allowance. A Class C violation shall exist when it is determined that the minimum dietary needs of a resident are not being met as ordered by the physician.

18. Resident Rights. A Class C violation shall exist when facility personnel fail to inform a resident of his resident rights as outlined in regulation, or facility personnel fail to allow a resident to honor or exercise any of his rights as outlined in regulation or statute.

19. Sanitation. A Class C violation shall exist when it is determined that regulations relating to sanitation are not met.

20. Administrator. A Class C violation shall exist when it is determined that a facility does not have a licensed administrator for 30 or more consecutive days as required by regulation.

21. Director of Nurses. A Class C violation shall exist when it is determined that a facility does not have a director of nurses (DON) as required by regulation for 30 or more consecutive days unless a waiver has been granted by the department.

22. Notice of Staff Vacancy. A Class C violation shall exist when it is determined that a facility does not have a licensed administrator or a director of nurses and has not notified the bureau within 10 days as required by regulation.

D. Class D Violations. Those violations which are related to administrative and reporting requirements

that do not directly threaten the health, safety, rights, or welfare of a resident. The following examples of Class D violations are provided for illustrative purposes only and are subject to the conditions outlined in this Subchapter.

1. **Overbidding.** A Class D violation shall exist when a facility is found to exceed its licensed bed capacity.

2. **False Reporting.** A Class D violation shall exist when it has been determined that a report, physician's orders, nurses' notes, patient account records, staffing records, or other documents or records which the facility is required to maintain have been intentionally falsified.

3. **Resident Trust Funds.** A Class D violation shall exist when it is determined that the facility's records reflect that resident trust funds have been misappropriated by facility personnel or if a resident has been charged for items which the facility must provide at no cost to the resident.

4. **Denial of Access of Facility.** A Class D violation shall exist when it is determined that personnel from the Louisiana Department of Health and Hospitals, the United States Department of Health and Human Services, or personnel of any other agency authorized to have access to any nursing home have been denied access to the facility or to any facility document record.

5. **Reporting of Unusual Occurrences/Accidents.** A Class D violation shall exist when it has been determined that a facility did not report any unusual occurrences or accidents in a timely manner as mandated by regulation.

6. **Residents' Council.** A Class D violation shall exist when a facility fails to allow a resident access to an established residents' council if one exists.

E. **Class E Violations.** Class E violations are defined as the failure of any nursing home to submit a statistical or financial report in a timely manner as required by regulations. The failure to timely submit a statistical or financial report shall be considered a separate Class E violation during any month or part thereof in noncompliance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 22:

§9751. Collection of Civil Fines Assessed

Civil fines assessed shall be final if:

1. no timely or proper appeal was requested;
2. the facility admits the violations and agrees to pay; and
3. the administrative hearing is concluded with findings of violations and time for seeking judicial review has expired. When civil fines become final, they shall be paid in full within 10 days of their commencement unless the department allows a payment schedule in light of a documented financial hardship. Such documentation shall be submitted within the 10-day period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 22:

§9753. Revocation of License

A. The secretary of the Department of Health and Hospitals may deny an application for a license or refuse to renew a license or may revoke an outstanding license when an investigation reveals that the applicant or licensee is in nonconformance with or in violation of the provisions of R.S. 40:2009.6, provided that in all such cases, the secretary shall furnish the applicant or licensee 30 calendar days written notice specifying reasons for the action.

1. The secretary, in a written notice of denial, nonrenewal, or revocation of a license shall notify the applicant or licensee of his right to file a suspensive appeal with the Office of the Secretary within 30 calendar days from the date the notice, as described in this Subchapter, is received by him.

2. This appeal or request for a hearing shall specify in detail reasons why the appeal is lodged and why the appellant feels aggrieved by the action of the secretary.

3. When any appeal as described in this Subchapter is received by the secretary, if timely filed, he shall appoint an impartial three-member board to conduct a hearing on the appeal at such time and place as such members deem proper, and after such hearing to render a written opinion on the issues presented at the hearing.

- a. The written decision or opinion of a majority of the members conducting the hearing shall constitute final administrative action on the appeal.

- b. Any member of said board or the secretary shall have power to administer oaths and to subpoena witnesses on behalf of the board or any party in interest and compel the production of books and papers pertinent to any investigation or hearing authorized by this Subchapter, provided that in all cases witness fees and transportation and similar hearing costs shall be paid by the appellant or by the Department of Health and Hospitals if the appellant is found innocent of charges.

4. Any person having been served with a subpoena who shall fail to appear in response to the subpoena or fail or refuse to answer any question or fail to produce any books or papers pertinent to any investigation or hearing or who shall knowingly give false testimony therein shall be guilty of a misdemeanor and shall

upon conviction be punished by a fine of not less than \$100 nor more than \$500 or by imprisonment of not less than one month nor more than six months, or by both such fine and imprisonment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 22:

Chapter 98. Nursing Homes

Subchapter A. Physician Services

§9801. Medical Director

A. The nursing home shall designate, pursuant to a written agreement, a physician currently licensed to practice medicine by the Louisiana State Board of Medical Examiners to serve as medical director.

B. The medical director shall be responsible for the overall coordination of the medical care in the nursing home by providing oversight and supervision of physician services and the medical care of residents.

C. The medical director shall approve all medical care policies and procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 22:

§9803. Physician Supervision

A. A resident shall be admitted to the nursing home only with an order from a physician licensed to practice in Louisiana.

1. Each resident shall remain under the care of a physician licensed to practice in Louisiana and shall have freedom of choice in selecting his/her attending physician.

2. The nursing home shall be responsible for assisting in obtaining an attending physician with the resident's or sponsor's approval when the resident or sponsor is unable to find one.

B. Another physician supervises the medical care of residents when their attending physician is unavailable.

C. Any required physician task may also be satisfied when performed by a primary nurse associate, clinical nurse specialist, or physician assistant who is not an employee of the nursing home but who is working in collaboration with a physician.

D. The nursing home shall provide or arrange for the provision of physician services 24 hours a day, in case of emergency.

E. The name and telephone numbers of the attending physicians and the physicians to be called in case of emergency when the attending physician is not available shall be posted at each nursing station. Upon request, the telephone numbers of the attending physician or his/her replacement in case of emergency shall be provided to the resident, guardian, or responsible party.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 22:

§9805. Physician Visits and Responsibilities

A. At the time each resident is admitted, the nursing home shall have attending physician orders for the resident's immediate care. At a minimum, these orders shall consist of dietary, drugs (if necessary), and routine care to maintain or improve the resident's functional abilities.

B. If the orders are from a physician other than the resident's attending physician, they shall be communicated to the attending physician and verification entered into the resident's clinical record by the nurse who took the orders.

C. A physical examination shall be performed by the attending physician within 48 hours after admission unless such examination was performed within five days prior to admission with the following exceptions:

1. if the physical examination was performed by another physician, the attending physician may attest to its accuracy by countersigning it and placing a copy in the resident's record; or

2. if the resident is transferring from another nursing home with the same attending physician, a copy of the previous physical examination may be obtained from the transferring facility with the attending physician initialing its new date. The clinical history and physical examination, together with diagnoses shall be in the resident's medical record.

D. Each resident shall be seen by their attending physician at intervals to meet the medical needs of the resident but at least annually.

E. At each visit, the attending physician shall write, date and sign progress notes.

F. The physician's treatment plan (physician's orders) shall be reviewed by the attending physician at least once every six months.

G. Physician telephone/verbal orders shall be received only by physicians, pharmacists, or licensed nurses. These orders shall be reduced to writing in the resident's clinical record and signed and dated by the authorized individual receiving the order. Telephone/verbal orders shall be countersigned by the physician within seven days.

H. Use of signature stamps by physicians is allowed when the signature stamp is authorized by the individual whose signature the stamp represents. The administrative office of the nursing home shall have

on file a signed statement to the effect that the physician is the only one who has the stamp and uses it. There shall be no delegation of signature stamps to another individual.

I. Physicians shall sign either a discharge summary within 90 days of discharge/transfer or a death note within 30 days of death.

J. At the option of the nursing home, any required physician task in a nursing home may also be satisfied when performed by a primary nurse associate (also known as nurse practitioner), clinical nurse specialist when these tasks are within their realm of education and practice, or physician assistant when these tasks are so identified within their protocols and who is not an employee of the nursing home but who is working in collaboration with an attending physician.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 22:

§9807. Standing Orders

A. Physician's standing orders are permissible but must be individualized, taking into consideration such things as drug allergies, sex specific orders and the pertinent physical condition of the resident.

B. Only over-the-counter drugs are to be utilized on a physician's standing orders. Controlled or prescription drugs must be an individual order reduced to writing on the physician's order sheet as either a routine or pro re nata (prn) order. Each order shall include the following:

1. name of the medication;
2. strength of the medication;
3. specific dose of the medication (not a dose range);
4. route of administration;
5. reason for administration;
6. time interval between doses for administering the medication;
7. maximum dosage or number of times to be administered in a specific time frame; and
8. when to notify the physician if the medication is not effective.

C. Standing orders shall be signed and dated by the physician initially and at least annually thereafter.

D. A copy of the standing orders shall be maintained in the resident's active clinical record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 22:

Subchapter B. Nursing Services

§9809. General Provisions

The nursing home shall have sufficient nursing staff to provide nursing and related services that promote the highest level of functioning and well-being of each resident. The nursing home shall assure that each resident receives treatments, medications, diets and other health services as prescribed and planned, all hours of each day.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 22:

§9811. Nursing Service Personnel

A. The nursing home shall provide a sufficient number of nursing service personnel consisting of registered nurses, licensed practical nurses, nurse aides and ward clerks to provide nursing care to all residents in accordance with resident care plans 24 hours per day.

1. As a minimum, the nursing home shall provide 1.5 hours of care per patient each day.
2. Nursing service personnel shall be assigned duties consistent with their education and experience, and based on the characteristics of the resident load and the kinds of nursing skills needed to provide care to the residents.
3. Nursing service personnel shall not be deemed to be on duty unless actively participating and directing the delivery of resident care. Licensed nurse coverage shall be provided 24 hours per day.

B. The nursing home shall designate a registered nurse to serve as the director of nursing services on a full-time basis during the day-tour of duty. The director of nursing services may serve as charge nurse only when the nursing home has an average daily occupancy of 60 or fewer residents.

C. If the director of nursing services has nonnursing administrative responsibility for the nursing home on a regular basis, there shall be another registered nurse assistant to provide direction of care-delivery to residents.

D. There shall be on duty at all times at least one licensed nurse to serve as charge nurse responsible for the supervision of the total nursing activities in the nursing home or assigned nursing unit.

E. Nurse aides shall be assigned duties consistent with their training and successful demonstration of competencies.

F. In building complexes or multistory buildings, each building or floor housing residents shall be considered a separate nursing unit and staffed separately exclusive of the director of nursing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 22:

§9813. Nursing Care

A. Each resident shall receive personal attention and nursing care in accordance with his/her condition and consistent with current acceptable nursing practice. Residents unable to carry out activities of daily living shall receive the necessary services to maintain good nutrition, grooming, personal and oral hygiene.

B. Each resident shall be kept clean, dry, free of offensive body and mouth odor, well-groomed and dressed appropriately for the time of day and the environment. Skin care shall be provided to each resident as needed to prevent dryness, scaling, irritation, itching and/or pressure sores.

C. Restorative nursing care shall be provided to each resident to achieve and maintain the highest possible degree of function, self-care, and independence. Restorative nursing care shall be provided for the residents requiring such care and shall be documented as performed.

D. Residents requiring assistance at mealtimes shall be assisted promptly when necessary.

E. The nursing home shall endeavor to keep residents free from pressure sores with measures taken toward their prevention.

F. Residents requiring restraints shall be restrained with standard types of devices applied in a manner consistent with manufacturer's specifications and that permits speedy removal in the event of an emergency. Each restrained resident shall be monitored every 30 minutes and released for 10 minutes every two hours. Restraints shall not be used for punishment nor convenience of staff.

G. The nursing home shall promptly inform the resident, consult with the resident's attending physician, and if known, notify the resident's legal representative or interested family member and maintain documentation when there is an accident which results in injury and has the potential for requiring physician intervention, or significant change in the resident's physical, mental or psychosocial status.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 22:

Subchapter C. Dietetic Services

§9815. General Provisions

The nursing home shall provide each resident with a nourishing, palatable, well-balanced diet that meets the daily nutritional and special dietary needs of each resident.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 22:

§9817. Dietary Service Personnel

A. The nursing home shall employ a registered dietitian either full time, part time or on a consultant basis. A minimum consultation time shall be not less than eight hours per month and as needed, to ensure nutritional needs of residents are addressed timely. There shall be documentation to support that the consultation time was given.

B. If a registered dietitian is not employed full-time, the nursing home shall designate a full-time person to serve as the dietary manager.

C. Residents at nutritional risk shall have an in-depth nutritional assessment conducted by the consulting dietitian.

D. The nursing home shall employ sufficient support personnel competent to carry out the functions of the dietary services.

E. Food service personnel shall be on duty daily for a period of 12 or more continuous hours.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 22:

§9819. Menus and Nutritional Adequacy

A. Menus shall be planned, approved, signed and dated by a registered dietitian prior to use in the nursing home to meet the nutritional needs of the residents in accordance with the recommended dietary allowances of the Food and Nutrition Board of the National Research Council and the National Academy of Sciences, taking into account the cultural background and food habits of residents, or as modified in accordance with the orders of the practitioner(s) responsible for the care of the resident.

1. Menus shall be written for each therapeutic diet ordered.

2. If cycle menus are used, the cycle shall cover a minimum of three weeks and shall be different each day of the week.

3. Each day's menu shall show the actual date served and shall be retained for six months.

4. Menus for the current week shall be posted in a public place, or supplied to the residents, and where food is prepared and served for dietary personnel. Portion sizes shall be reflected either on the menu or within the recipe used to prepare the meal.

B. Therapeutic diets shall be prescribed by the medical practitioner responsible for the care of the resident. Each resident's diet order shall be documented in the resident's clinical record. There shall be a

procedure for the accurate transmittal of dietary orders to the dietary service and informing the dietary service when the resident does not receive the ordered diet or is unable to consume the diet with action taken as appropriate.

1. The nursing home shall maintain a current list of residents identified by name, room number and diet order and such identification shall accompany each resident's meal when it is served.

2. A current therapeutic diet manual, approved by a registered dietitian, shall be readily available to attending physicians, nursing staff and dietetic service personnel and shall be the guide used for ordering and serving diets.

C. Each resident shall receive and the nursing home shall provide:

1. at least three meals daily, at regular times comparable to normal mealtimes in the community;
2. food prepared by methods that conserve nutritive value, flavor, and appearance;
3. food that is palatable, attractive and at the proper temperature;
4. food prepared in a form designed to meet individual needs; and
5. substitutes offered of similar nutritional value to residents who refuse food or beverages served.

D. A list of all menu substitutions shall be kept for 30 days.

E. There shall be no more than 14 hours between a substantial evening meal and breakfast the following day. A substantial evening meal is defined as an offering of three or more menu items at one time, one of which includes a high-quality protein such as meat, fish, eggs, or cheese.

F. There shall be no more than 16 hours between a substantial evening meal and breakfast the following day when a nourishing snack is offered at bedtime. A nourishing snack is defined as a verbal offering of items, single or in combination, from the basic food groups.

G. Bedtime nourishments shall be offered nightly to all residents, unless contraindicated by the resident's medical practitioner as documented in the resident's clinical record.

H. If residents require assistance in eating, food shall be maintained at appropriate serving temperatures until assistance is provided. Feeder trays shall be delivered at the time staff is immediately available for feeding.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 22:

§9821. Equipment and Supplies

A. Special eating equipment and utensils shall be provided for residents who need them. At least a one-week supply of staple food with a three-day supply of perishable food conforming to the approved menu shall be maintained on the premises. Food purchase records reflecting the kind and amount of food purchased shall be maintained for one year.

B. An approved lavatory shall be convenient and properly equipped for dietary services staff use. Effective with the promulgation of these requirements, an additional lavatory shall be provided in the dishwasher area in newly constructed nursing homes or in existing nursing homes undergoing major dietary alterations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 22:

§9823. Sanitary Conditions

A. All food shall be procured, stored, prepared, distributed, and served under sanitary conditions to prevent food borne illness. This includes keeping all readily perishable food and drink at or below 41E F, except when being prepared and served.

B. Refrigerator temperatures shall be maintained at 41E F or below; freezers at 0E F or below.

C. Hot foods shall leave the kitchen or steam table at or above 140E F, and cold foods at or below 41E F.

D. In-room delivery temperatures shall be maintained at 120E F or above for hot foods and 55E F or below for cold items.

E. Food shall be transported to residents' rooms in a manner that protects it from contamination while maintaining required temperatures.

F. Refrigerated food which has been opened from its original package shall be covered, labeled and dated.

G. All food shall be procured from sources that comply with all laws and regulations related to food and food labeling.

H. Food shall be in sound condition, free from spoilage, filth, or other contamination and shall be safe for human consumption.

I. All equipment and utensils used in the preparation and serving of food shall be properly cleansed, sanitized and stored. This includes:

1. maintaining a water temperature in dish-washing machines at 140E F during the wash cycle (or according to the manufacturer's specifications or instructions) and 180E F for the final rinse; or

2. maintaining water temperature in low temperature machines at 120E F (or according to the manufacturer's specification or instructions) with 50 ppm (parts per million) of hypochlorite (household

bleach) on dish surfaces; or

3. maintaining a wash water temperature of 75E F for manual washing in a three-compartment sink, with 25 ppm of hypochlorite or equivalent, or 12.5 ppm of iodine in the final rinse water; or a hot water immersion at 170E F for at least 30 seconds shall be maintained.

J. Dietary staff shall not store personal items within the food preparation and storage areas.

K. The kitchen shall not be used for dining of residents or personnel.

L. Dietary staff shall use good hygienic practices.

M. Dietary employees engaged in the handling, preparation and serving of food shall use effective hair restraints to prevent the contamination of food or food-contact surfaces.

N. Staff with communicable diseases or infected skin lesions shall not have contact with food if that contact will transmit the disease.

O. There shall be no use of tobacco products in the dietary department.

P. Toxic items such as insecticides, detergents, polishes and the like shall be properly stored, labeled and used.

Q. Garbage and refuse shall be kept in durable, easily cleanable, insect and rodent-proof containers that do not leak and do not absorb liquids.

1. Containers used in food preparation and utensil washing areas shall be kept covered when meal preparation is completed and when full.

2. Containers used in disposing of paper towels after hand washing shall be so designed as to prevent recontamination of the hands.

R. All ice intended for human consumption shall be free of visible trash and sediment.

1. Ice used for cooling stored food and food containers shall not be used for human consumption.

2. Ice stored in machines outside the kitchen shall be protected from contamination.

3. Ice scoops shall be stored in a manner so as to protect them from becoming soiled or contaminated between usage.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 22:

Subchapter D. Pharmaceutical Services

§9825. General Requirements

A. The nursing home shall provide emergency drugs and biologicals to its residents from an emergency kit licensed by the Louisiana Board of Pharmacy and shall provide routine and emergency drugs and biologicals, ordered by a licensed practitioner, from a licensed pharmacy. Whether drugs and biologicals are obtained from the emergency kit(s) or from a community or institutional pharmacy permitted by the Louisiana Board of Pharmacy, the nursing home is responsible for ensuring the timely availability of such drugs and biologicals for its residents and that pharmaceutical services are provided in accordance with accepted professional standards and all appropriate federal, state and local laws and regulations.

B. The most current edition of drug reference materials shall be available.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 22:

§9827. Consultant

A. If the nursing home does not employ a licensed pharmacist, it shall have a designated consultant pharmacist that provides services in accordance with accepted pharmacy principles and standards. The minimum consultation time shall not be less than one hour per quarter which shall not include drug regimen review activities.

B. There shall be documentation to support that the consultation time was given.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 22:

§9829. Labeling

A. All drug and biological containers shall be properly labeled, including the following:

1. resident's name;
2. authorized prescriber's name;
3. prescription number;
4. drug name and strength;
5. directions for use, as indicated;
6. expiration date;
7. cautionary auxiliary labels, if applicable;
8. pharmacist's last name and initial;
9. date dispensed;
10. name, address and telephone number of issuing pharmacy.

B. The label on prepackaged (unit dose) containers shall contain the following information:

1. drug name and strength;
2. dosage form;
3. quantity;
4. name of manufacturer and/or distributor;
5. date of preparation;
6. pharmacist's last name and initial;
7. expiration date.

C. Over-the-counter (nonprescription) drugs and biologicals, except stock drugs, shall be plainly labeled with the resident's name, drug name and strength and any additional information in accordance with the nursing home's policies and procedures. The manufacturer's labeling information shall be present in the absence of prescription labeling.

D. The nursing home shall develop procedures to assure proper labeling for medications provided a resident for a temporary absence.

E. The nursing home shall have a procedure for the proper identification and labeling of medication brought into the nursing home from an outside source.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 22:

§9831. Storage

A. All drugs and biologicals shall be stored in a locked area/cabinet and kept at proper temperatures and lighting. The medicine room or medication preparation area shall have an operable sink with hot and cold water, paper towels and either bar soap or soap dispenser.

B. Access to drug storage areas shall be limited to licensed nursing personnel and the consultant pharmacist as authorized in the nursing home's policy and procedure manual. Any unlicensed, unauthorized individual (e.g., housekeepers, maintenance personnel, etc.) needing access to drug storage areas shall be under the direct visual supervision of licensed authorized personnel.

C. Medication requiring refrigeration shall be kept separate from foods in separate containers within a refrigerator and stored at a temperature range of 36 to 46E F.

1. Laboratory solutions or materials awaiting laboratory pickup shall not be stored in refrigerators with food and/or medication.

2. Medication for external use only shall be stored separate from other medication and food.

D. Separately locked, permanently affixed compartments shall be provided for storage of controlled drugs listed in Schedule II of the Comprehensive Drug Abuse Prevention and Control Act of 1976 and other drugs subject to abuse.

E. Medications of each resident shall be kept and stored in their originally received containers and transferring between containers is forbidden.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 22:

§9833. Disposition

A. Prescription and over-the-counter (OTC) drugs and biologicals are the property of the resident.

1. If a drug or biological is discontinued, the resident is discharged/deceased, or the resident is transferred to another facility, the resident or his/her responsible party has the right to determine its disposition.

2. If no determination is made by the resident/responsible party, the nursing home shall destroy on the premises of the nursing home the drugs or biologicals within 90 days.

3. Controlled drugs shall not be released or sent with a resident upon transfer or discharge, except on the written order of the attending physician.

B. If the resident/responsible party elects to receive the drugs or biologicals, documentation containing the name and the amount of the drug or biological to be received shall be completed and signed by the resident or responsible party and a facility representative acknowledging their receipt. This document shall be placed in the resident's clinical record.

C. Expired medication shall not be available for resident or staff use. They shall be destroyed on-site by nursing home personnel no later than 90 days from their expiration/ discontinuation date utilizing the following methods.

1. Controlled drugs shall be destroyed on-site by a licensed pharmacist after receiving DEA authorization to do so on a continuing basis, and witnessed by a state or local law enforcement officer or other licensed nursing home individual, such as RN, LPN or MD. All controlled substances to be destroyed shall be inventoried and listed on a DEA Form 41, a copy of which shall be maintained on the premises and a copy mailed to the Louisiana Board of Pharmacy. These drugs shall also be listed on the resident's individual accumulative drug destruction record.

2. For noncontrolled drugs, there shall be documentation of the resident's name; name, strength and quantity of the drug destroyed; prescription number; method and date of destruction; signatures of at least two

individuals (which shall be either licensed nurses who are employees of the nursing home, or the consultant pharmacist) witnessing the destruction. Medications of residents transferred to a hospital may be retained until the resident's return. Upon the resident's return, the physician's order shall dictate whether or not the resident is to continue the same drug regimen as previously ordered. Medications not reordered by the physician shall be destroyed, using the procedures outlined above.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 22:

§9835. Administration

A. Drugs and biologicals shall not be administered to residents unless ordered by a practitioner (i.e., physician, dentist, or doctor of osteopathy) duly licensed to prescribe drugs. Such orders shall be in writing over the practitioner's signature. Drugs and biologicals shall be administered only by medical personnel or licensed nurses.

B. Drugs and biologicals shall be administered as soon as possible after doses are prepared, not to exceed two hours. They shall be administered by the same person who prepared the doses for administration, except under unit dose package distribution systems.

C. An individual resident may self-administer drugs if permissible by the nursing home's policy and procedure and a professional team has determined that this practice is safe. The team shall also determine who will be responsible for storage and documentation of the administration of drugs. The resident's care plan shall reflect approval to self-administer medications.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 22:

§9837. Drug Regimen Review

The drug regimen of each resident shall be reviewed as often as dictated by the resident's condition. Irregularities shall be reported in writing to the resident's physician and director of nursing, and these reports shall be acted upon.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 22:

§9839. Emergency Medication Kit

A. If an emergency medication kit is used in the nursing home, a permit shall be obtained and maintained in accordance with the Louisiana Board of Pharmacy.

B. A separate permit is required for each emergency medication kit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 22:

§9841. Medication Record Keeping

A. General Records

1. Each resident shall have a medication administration record (MAR) on which the dose of each drug or biological administered shall be properly recorded by the person administering the drug or biological to include:

- a. name, strength and dosage of the medication;
- b. method of administration to include site, if applicable;
- c. time of administration; and
- d. the initials of persons administering the medication along with a legend of the initials.

2. Medication errors and drug reactions shall be reported immediately to the resident's attending physician by a licensed nurse and an entry made in the resident's record.

3. Medications not specifically prescribed as to time or number of doses shall automatically be stopped after a reasonable time that is predetermined by the nursing home's written policy and procedures. The attending physician shall be notified of an automatic stop order prior to the last dose so that s/he may decide if the administration of the medication is to be continued or altered.

B. Controlled Drugs

1. The nursing home shall establish a system of records of receipt and disposition of all controlled drugs in sufficient detail to enable an accurate accounting of all controlled drugs received, administered and destroyed or otherwise disposed. Only licensed medical personnel shall be allowed to receive and sign for delivery of controlled drugs.

2. Control records of schedule II drugs shall be maintained. The individual resident records shall list each type and strength of drug and the following information:

- a. date;
- b. time administered;
- c. name of resident;
- d. dose;

- e. physician's name;
- f. signature of person administering the dose; and
- g. the balance on hand.

C. **Noncontrolled Drugs.** Records of noncontrolled medication destruction shall be maintained in the resident's clinical record and shall include the following:

1. resident's name;
2. name, strength and quantity of the medication;
3. prescription number;
4. method and date of destruction;
5. signatures of at least two individuals (which shall be either licensed nurses, who are employees of the nursing home, or the consultant pharmacist) witnessing the destruction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 22:

Subchapter E. Activity Services

§9843. Activities Program

A. A nursing home shall provide for an ongoing program of diverse and meaningful activities designed to meet the interests and the physical, mental, and psychosocial well-being of each resident.

B. An individualized program of activities shall be developed for each resident based upon their specific needs and interests.

C. The activities program encourages each resident's voluntary participation and choice of activities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 22:

§9845. Activity Service Personnel

The activities program shall be directed by a resident activities director. The resident activities director shall be responsible to the administrator or his/her designee for administration and organization of the activities program. There shall be sufficient supportive personnel to meet the activity needs of all residents.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 22:

§9847. Equipment and Supplies

There shall be a variety of supplies and equipment based upon established needs and interests of the residents.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 22:

Subchapter F. Social Services

§9849. Scope of Service

A nursing home shall provide medically-related social services to promote the highest level of functioning and well-being of each resident.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 22:

§9851. Social Service Personnel

An employee of the facility shall be designated as responsible for social services. The social service designee shall be full time in nursing homes with more than 120 beds.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 22:

Subchapter G. Rehabilitation Services

§9853. Delivery of Service

A. If the nursing home provides a range of rehabilitation services, including but not limited to physical therapy, speech-language pathology, occupational therapy and mental health rehabilitative services, the services shall be delivered to promote the highest level of functioning and well-being of each resident.

B. These services, when provided in the nursing home, shall be delivered in a safe and accessible area. Rehabilitation services shall be provided under the written order of the resident's attending physician. These services shall be provided by appropriately credentialed individuals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 22:

§9855. Record Keeping

The rehabilitation service is based upon an initial assessment established by the appropriate therapist. A written rehabilitation plan of care shall be developed. The resident's progress is recorded by the therapist

at the time of each visit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 22:

Subchapter H. Resident Clinical Records

§9857. General Provisions

The nursing home shall maintain clinical records on each resident in accordance with accepted professional standards and practices. Each resident's clinical record shall be complete, accurately documented, readily accessible and systematically organized to facilitate retrieving and compiling information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 22:

§9859.

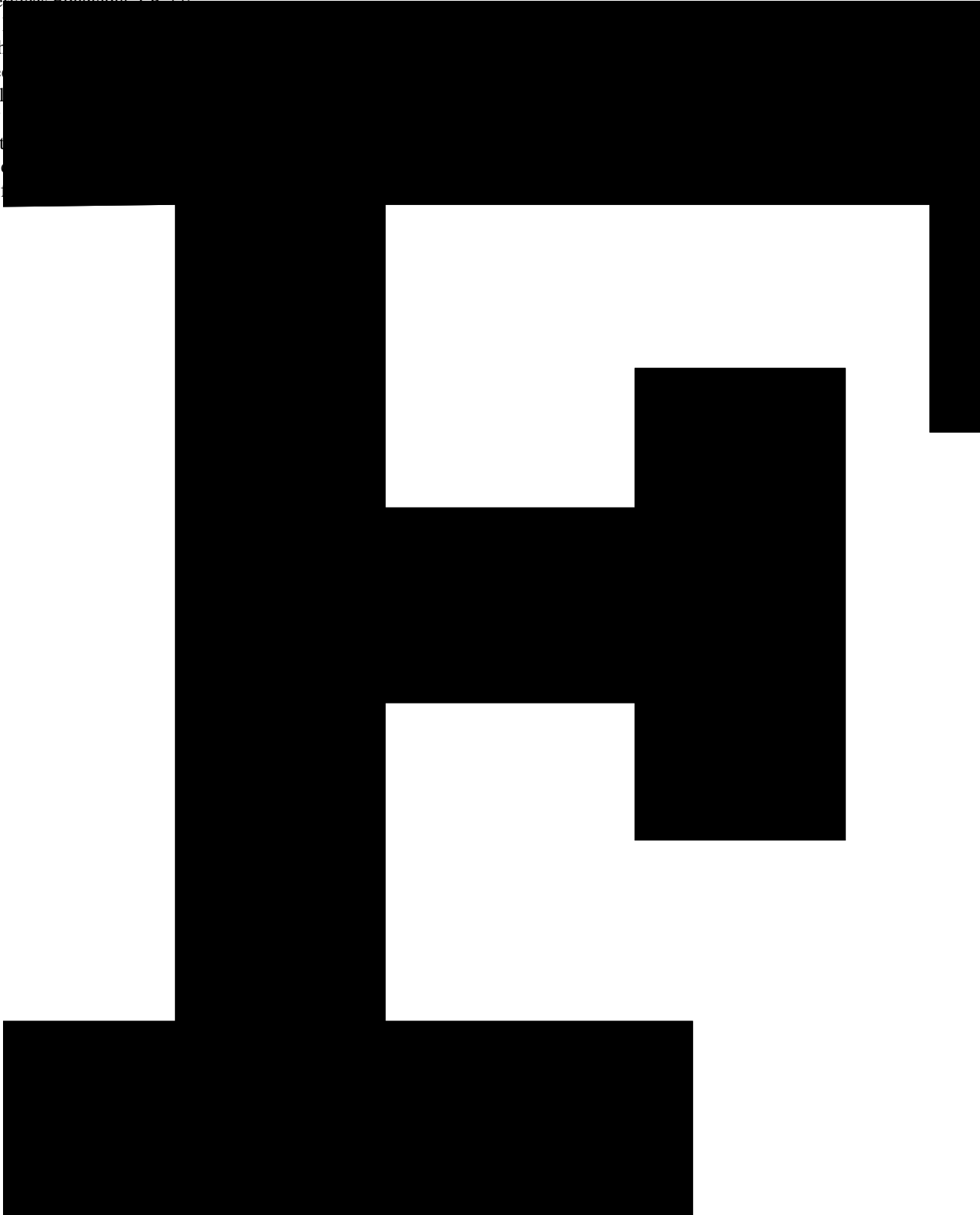
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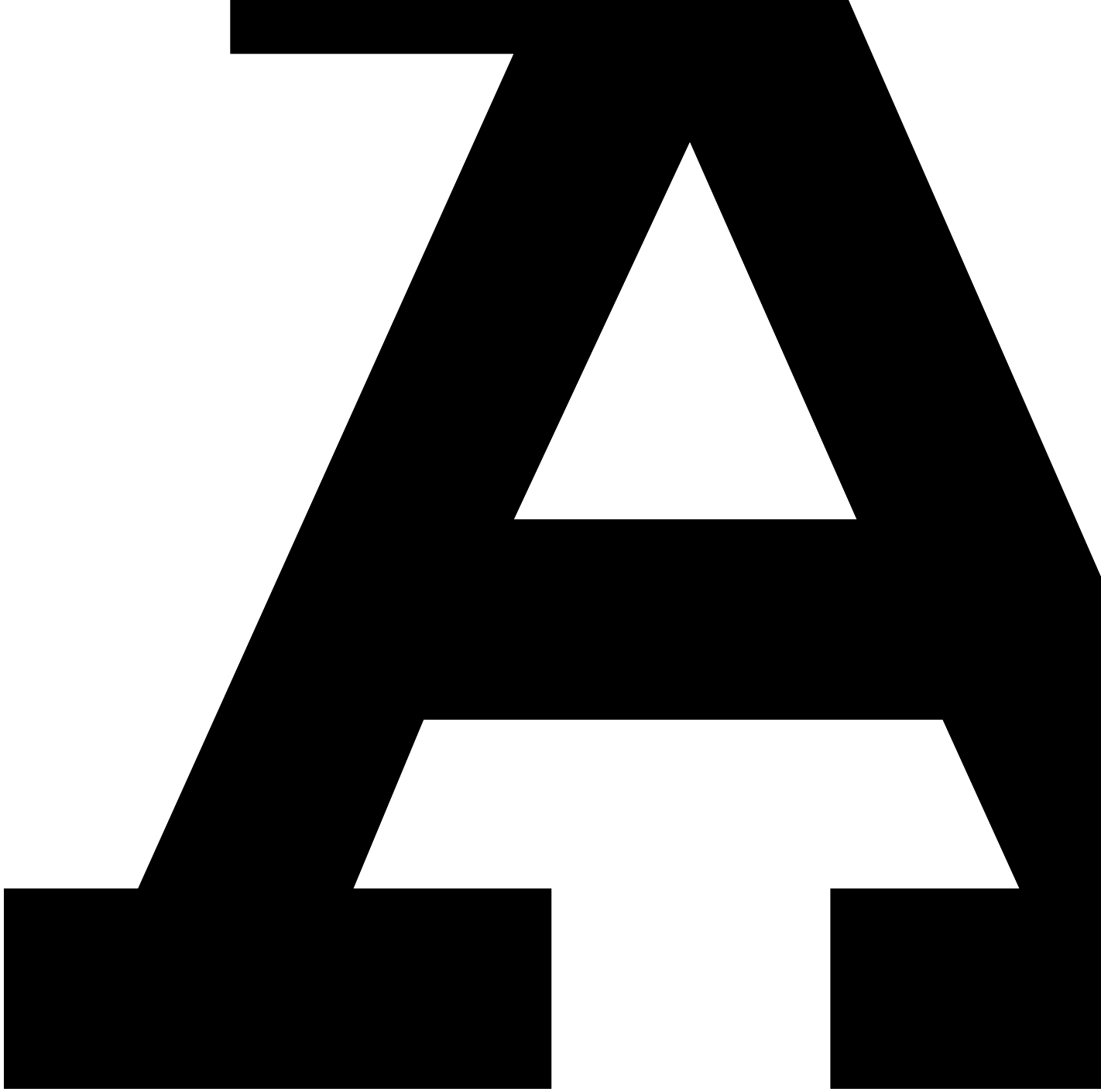
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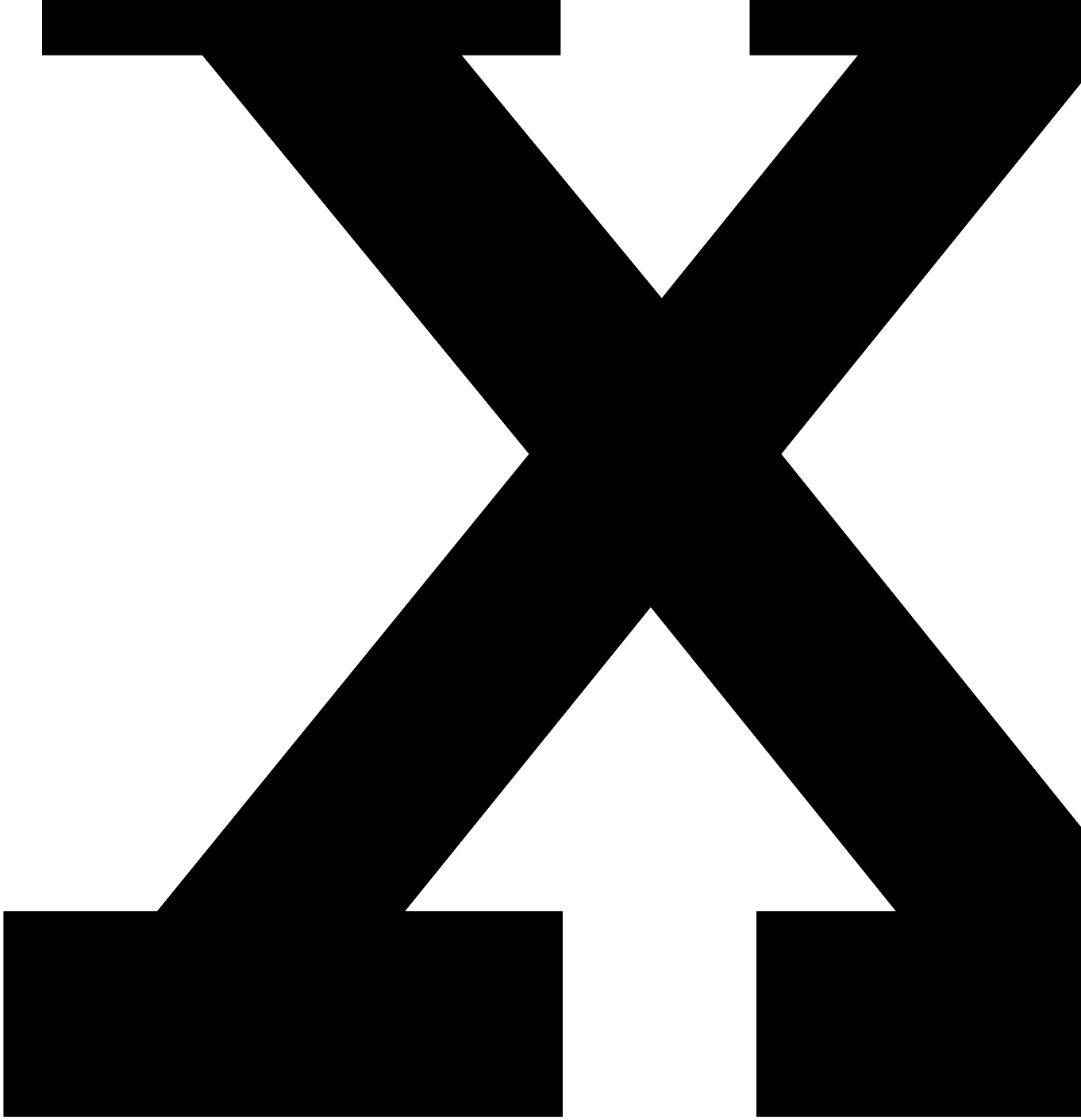
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) is used, the nursing home shall take precautions when thermal paper is used to ensure that a legible copy is retained as long as the clinical record is retained.

E. A nursing home record may be kept in any written, photographic, microfilm, or other similar method or may be kept by any magnetic, electronic, optical, or similar form of data compilation which is approved for such use by the department.

F. No magnetic, electronic, optical, or similar method shall be approved unless it provides reasonable safeguards against erasure or alteration.

G. A nursing home may, at its discretion, cause any nursing home record or part to be microfilmed, or similarly reproduced, in order to accomplish efficient storage and preservation of nursing home records.

H. Upon an oral or written request, the nursing home shall give the resident or his/her legal representative access to all records pertaining to himself/herself including current clinical records within 24 hours excluding weekends and holidays. After receipt of his/her records for inspection, the nursing home shall provide upon request and two working days notice, at a cost not to exceed the community standard, photocopies of the records or any portions of them.

I. The nursing home shall ensure that all clinical records are completed within 90 days of discharge, transfer or death. All information pertaining to a resident's stay is centralized in the clinical record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 22:

§9861. Content

A. The clinical record contains sufficient information to identify the resident clearly, to justify the diagnosis and treatment, and to document the results accurately.

B. As a minimum, each clinical record shall contain:

1. sufficient information to identify the resident;
2. physician orders;
3. progress notes by all practitioners and professional personnel providing services to the resident;
4. a record of the resident's assessments;
5. the plan of care;
6. entries describing treatments and services provided;
7. reports of all diagnostic tests and procedures; and
8. physician's discharge summary or death note.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 22:

§9863. Confidentiality

The nursing home shall safeguard clinical record information against loss, destruction or unauthorized use. The nursing home shall ensure the confidentiality of resident records, including information in a computerized record system, except when release is required by transfer to another health care institution, law, third-party payment contract, or the resident. Information from or copies of records may be released only to authorized individuals, and the nursing home must ensure that unauthorized individuals cannot gain access to or alter resident records.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 22:

§9865. Retention

A. Clinical records shall be retained for a minimum of 10 years following a resident's discharge or death. Unless the records are pertinent to a case in litigation in which instance they shall be retained indefinitely or until the litigation is resolved.

B. A nursing home which is closing shall notify the department in writing at least 14 days prior to cessation of operation of their plan for the disposition of residents' clinical records for approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 22:

Chapter 99. Nursing Homes

Subchapter A. Physical Environment

§9901. General Provisions

The nursing home shall be designed, constructed, equipped and maintained to protect the health and safety of residents, personnel and the public.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 22:

§9903. Nurses' Station

A. Each floor of a multistory nursing home shall have a nurses' station.

B. Each nurse's station shall be provided with a sink, soap, paper towel dispenser, working space and

accommodations for recording and charting purposes by nursing home staff with storage space for in-house resident records.

C. The nurses' station shall be equipped to audibly receive resident calls electronically through a call system from resident rooms and toilet and bathing facilities. There shall be a medicine preparation room or area.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 22:

§9905. Resident Rooms

A. Resident bedrooms shall be designed and equipped for adequate nursing care, comfort, and privacy of residents. Each resident bedroom shall have a smooth floor, walls, ceilings in good repair and so finished as to enable satisfactory cleaning.

B. Each resident's bedroom shall have a floor at or above grade level, accommodate no more than four residents, have a minimum width of not less than 10 feet, have a ceiling height of at least 7 feet, have electrical outlets in accordance with the National Electrical Code, have direct access to an exit corridor and be so situated that passage through another resident's bedroom is unnecessary.

C. A ceiling height of at least 8 feet shall be provided in nursing homes or additions to nursing homes that are licensed subsequent to September 20, 1996.

D. Private resident bedrooms shall measure at least 100 square feet of bedroom area.

E. Multiple resident bedrooms shall measure at least 80 square feet of bedroom area for each resident.

F. There shall be at least 3 feet between the sides and foot of the bed and any wall, other fixed obstruction, or other bed, unless the furniture arrangement is the resident's preference and does not interfere with service delivery. In nursing homes or additions to nursing homes that are licensed subsequent to September 20, 1996, there shall be at least 4 feet between the sides and foot of the bed and any wall, other fixed obstruction, or other bed, unless the furniture arrangement is the resident's preference and does not interfere with service delivery.

G. Each resident's bedroom shall have at least one window opening to the outside atmosphere. Windows with sills less than 30 inches from the floor shall be provided with guard rails.

H. Each resident's bedroom window shall be provided with shades, curtains, drapes or blinds.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 22:

§9907. Resident Room Furnishings

A. Each resident shall be provided with an individual bed of proper size and height for the convenience of the resident and equipped with:

1. a clean spring in good repair;
2. a clean, comfortable, well-constructed mattress at least 5 inches thick with waterproof ticking and correct size to fit the bed;
3. a clean comfortable pillow shall be provided for each bed with extra pillows available to meet the needs of the residents;
4. adequate bed rails when necessary to meet the needs of the resident; and
5. sheets and covers appropriate to the weather and climate.

B. Screens or noncombustible ceiling suspended privacy curtains which extend around the bed shall be provided for each bed in multiresident bedrooms to assure resident privacy. Nursing homes or additions to nursing homes initially licensed after September 20, 1996 shall have ceiling suspended curtains in multiresident rooms which extend around the bed to provide total visual privacy without obstructing the passage of other residents either to the corridor, closet, lavatory or adjacent toilet room nor fully encapsulating the bedroom window.

C. The nurses' call system cords, buttons or other communication mechanisms shall be placed where they are within reach of each resident.

D. Each resident shall be provided with a bedside table, at least two drawers and an enclosed hanging space for clothing that is accessible to the resident. As appropriate to resident needs or desire, each resident shall have a comfortable chair with armrests, waste receptacle, and access to a towel rack and mirror.

E. Each resident who has tray service to their room shall be provided with an adjustable overbed table positioned so that the resident can eat comfortably.

F. Each resident shall be provided with a bedside light capable of being operated from the bed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 22:

§9909. Locked Units

A. Nursing homes providing locked units must develop admission criteria. There must be documentation in the resident's record to indicate the unit is the least restrictive environment possible and placement in the unit is needed to facilitate the resident achieving his/her highest possible functional level. Seclusion rooms

are not allowed.

B. Guidelines for admission shall be provided to either the resident, his/her family, and/or his/her legal guardian.

C. Locked units are designed and staffed to provide the care and services necessary for the residents to achieve and maintain his/her highest functional level.

D. There must be at least two facility personnel in a locked unit at all times.

E. The locked unit resident has the right to exercise his or her rights which are not compromised as a result of admission to the unit.

F. Care plans shall address the reasons for the resident being in the unit and how the facility is meeting the resident's needs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 22:

§9911. Toilet, Hand-Washing and Bathing Facilities

A. Each floor occupied by residents shall be provided with a toilet, lavatory, and bathtub, whirlpool or shower.

B. Each bedroom shall be equipped with or conveniently located near adequate toilet and bathing facilities appropriate in number, size, and design to meet the needs of residents.

C. In nursing homes built prior to August 26, 1958, the following ratio shall be provided (whenever calculations include any fraction of a fixture, the next higher whole number of fixtures shall be installed):

1. Lavatories 1:10 beds
2. Toilets 1:10 beds
3. Showers or tubs 1:15 beds
4. Whirlpools (optional) 1:20 beds

D. In nursing homes built subsequent to August 26, 1958, the following ratio shall be provided (whenever calculations include any fraction of a fixture, the next higher whole number of fixtures shall be installed):

1. Lavatories 1:bedroom or immediately adjacent thereto
2. Toilets 1:8 beds
3. Showers or tubs 1:10 beds
4. Whirlpools (optional) 1:20 beds

E. Bathrooms shall be easily accessible, conveniently located, well lighted and ventilated to the outside atmosphere. Doors to bathrooms and toilet rooms used by residents shall be at least 2 feet 8 inches wide. The fixtures shall be of substantial construction, in good repair, and of such design to enable satisfactory cleaning.

F. Tub and shower bath bottoms shall be of nonslip material. Grab bars shall be provided to prevent falling and to assist in getting in and out of the tub or shower.

G. Separate toilet and lavatory facilities for use by employees shall be provided. Separate bathtubs, whirlpools or showers shall be provided for employees who live on the premises.

H. Lights must be controlled by wall switches, which must be so placed that they cannot be reached from the bathtub, whirlpool or shower.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 22:

§9913. Dining and Resident Activities

A. The nursing home shall provide one or more areas designated for resident dining and activities.

B. The dining room(s) or area(s) shall seat not less than 50 percent of the licensed capacity of the nursing home at one seating. No smoking shall be allowed in these areas during meal times.

C. There shall be sufficient space and equipment to comfortably accommodate the residents who participate in group and individual activities. These areas shall be well lighted and ventilated and be adequately furnished to accommodate all activities.

D. Areas used for corridor traffic or for storage of equipment shall not be considered as areas for dining or activities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 22:

§9915. Linen and Laundry

A. The nursing home shall have available at all times a quantity of linen essential for proper care and comfort of residents.

B. Linen shall be free from rips and tears.

C. All used linen shall be bagged or enclosed in appropriate containers for transportation to the laundry.

D. Soiled linen storage areas shall be ventilated to the outside atmosphere.

E. Linen from residents with a communicable disease shall be bagged, in readily identifiable containers distinguishable from other laundry, at the location where it was used.

F. Linen soiled with blood or body fluids shall be placed and transported in bags that prevent leakage.

G. If hot water is used, linen shall be washed with detergent in water at least 160E F for 25 minutes. If low-temperature (less than or equal to 158E F) laundry cycles are used, chemicals suitable for low-temperature washing at proper use concentration shall be used.

H. Provisions shall be made for laundering personal clothing of residents.

I. Clean linen shall be transported in covered containers and stored in a manner to prevent its contamination.

J. Nursing homes providing in-house laundry services initially licensed after September 20, 1996 shall have a laundry designed to eliminate crossing of soiled and clean linen. It shall be so located that soiled linens are not carried through the same doorway used to transport clean linen.

K. There shall be hand-washing facilities for employees in the laundry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 22:

§9917. Equipment and Supplies

A. The nursing home shall maintain all essential mechanical, electrical, and resident care equipment in safe operating condition.

B. Therapeutic, diagnostic and other resident care equipment shall be maintained and serviced in accordance with the manufacturer's recommendations.

C. All residents, when appropriate because of diagnoses, shall be provided with a water pitcher, drinking glass, self-draining soap dish, towels, washcloths, emesis basin, wash basin, bedpan and/or urinal.

D. Wheelchairs shall be available for temporary use by residents who are not fully ambulatory.

E. Equipment for taking vital signs shall be maintained.

F. At least one oxygen tank shall be readily accessible for emergency use.

G. An adequate number of battery-generated lamps or flashlights shall be available for staff use in case of electric power failure.

H. There shall be at least one telephone at a height accessible to chairbound residents, available for resident use where calls can be made without being overheard.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 22:

§9919. Other Environmental Conditions

A. The nursing home shall provide a safe, clean, orderly, homelike environment free from offensive odors.

B. The minimum resident capacity of a nursing home shall be 150 square feet gross area per resident. Bedroom square footage per bed is a part of this gross area.

C. There shall be a well-lighted and ventilated living/community room with sufficient furniture.

D. There shall be a clean utility room designed for proper storage of nursing equipment and supplies.

E. There shall be a separate soiled utility room designed for proper cleansing, disinfecting and sterilizing of equipment and supplies. As a minimum, it shall contain equipment to satisfactorily clean resident care equipment, a clinic service sink and provisions for the storage of cleaning supplies (e.g., mops and pails) and chemical supplies.

F. A hard surfaced off-the-road parking area to provide parking for one car per five licensed beds shall be provided. This requirement is minimum and may be exceeded by local ordinances. Where this requirement would impose an unreasonable hardship, a written request for a lesser amount may be submitted to the department for waiver consideration.

G. The nursing home shall be provided with an adequate supply of safe potable water even when there is a loss of normal water supply. Service from a public water supply must be used if available. Private water supplies, if used, must meet the requirements of the State Sanitary Code.

H. An adequate supply of hot water shall be provided which shall be adequate for general cleaning, washing and sterilizing of cooking and food service dishes and other utensils, and for bathing and laundry use. Hot water supply to the hand-washing and bathing faucets in the resident areas shall have automatic control to assure a temperature of not less than 100E F nor more than 120E F at the faucet outlet.

I. The nursing home shall be connected to the public sewerage system if such a system is available. Where a public sewerage is not available, the sewage disposal system shall conform to the requirements of the State Sanitary Code.

J. There shall be a comfortable sound level maintained based on the needs of the nursing home residents.

K. All plumbing shall be properly maintained and conform to the requirements of the State Sanitary Code.

L. There shall be at least one toilet room for employees and the public.

M. There shall be adequate outside ventilation by means of window or mechanical ventilation, or a combination of the two.

N. All openings to the outside atmosphere shall be effectively screened. Entrance doors equipped with closers in air-conditioned buildings need not have screens.

O. Each room used by residents shall be capable of being heated to not less than 71E F in the coldest

weather and capable of being cooled to not more than 81°F in the warmest weather. Deviations from this temperature range shall be permissible in resident bedrooms only through written documentation by the resident or sponsor, as long as it does not infringe upon the comfort of a roommate.

P. Lighting levels in all areas shall be adequate to support task performance by staff personnel and independent functioning of residents. A minimum of 6 to 10 foot-candles over the entire stairway, corridors, and resident rooms measured at an elevation of 30 inches above the floor and a minimum of 20 to 30 foot-candles over areas used for reading or close work shall be available.

Q. Corridors used by residents shall be equipped on each side with firmly secured handrails, affixed to the wall.

R. There shall be an effective pest control program so that the nursing home is free of pest and rodent infestation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 22:

Subchapter B. Infection Control and Sanitation

§9921. Organization

A nursing home shall establish and maintain an infection control program designed to provide a safe, sanitary, and comfortable environment and to help prevent the development and transmission of disease and infection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 22:

§9923. Infection Control Program

A. An infection control committee shall be established consisting of the medical director and representatives from at least administration, nursing, dietary, and housekeeping personnel.

B. The committee shall establish policies and procedures for investigating, controlling and preventing infections in the nursing home, and monitor staff performance to ensure proper execution of policies and procedures.

C. The committee shall approve and implement written policies and procedures for the collection, storage, handling, and disposal of medical waste.

D. The committee shall meet at least quarterly, documenting the content of its meetings.

E. Reportable diseases as expressed in the Sanitary Code shall be reported to the local parish health unit of the Office of Public Health.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 22:

§9925. Employee Health Policies and Procedures

A. Nursing home employees with a communicable disease or infected skin lesions shall be prohibited from direct contact with residents or their food, if direct contact will transmit the disease.

B. The nursing home shall require staff to wash their hands after each direct resident contact for which hand washing is indicated by accepted professional practice. The nursing home shall follow the Centers for Disease Control's *Guideline for Handwashing and Hospital Environmental Control, 1985* for hand washing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 22:

§9927. Isolation

When the infection control program determines that a resident needs isolation to prevent the spread of infection, the nursing home shall isolate the resident.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 22:

§9929. Housekeeping

There shall be sufficient housekeeping personnel to maintain a safe, clean and orderly interior.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 22:

§9931. Nursing Care Equipment

A. Bedpans, urinals, emesis basins, wash basins and other personal nursing items shall be thoroughly cleaned after each use and sanitized as necessary. Water pitchers, when provided, shall be sanitized as necessary.

B. All catheters, irrigation sets, drainage tubes or other supplies or equipment for internal use and as identified by the manufacturer as one-time use only will not be autoclave or otherwise disinfected or sterilized and shall be used only one time and discarded.

C. Disposable syringes used for feeding purposes shall be disposed of in accordance with the

manufacture's recommendations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 22:

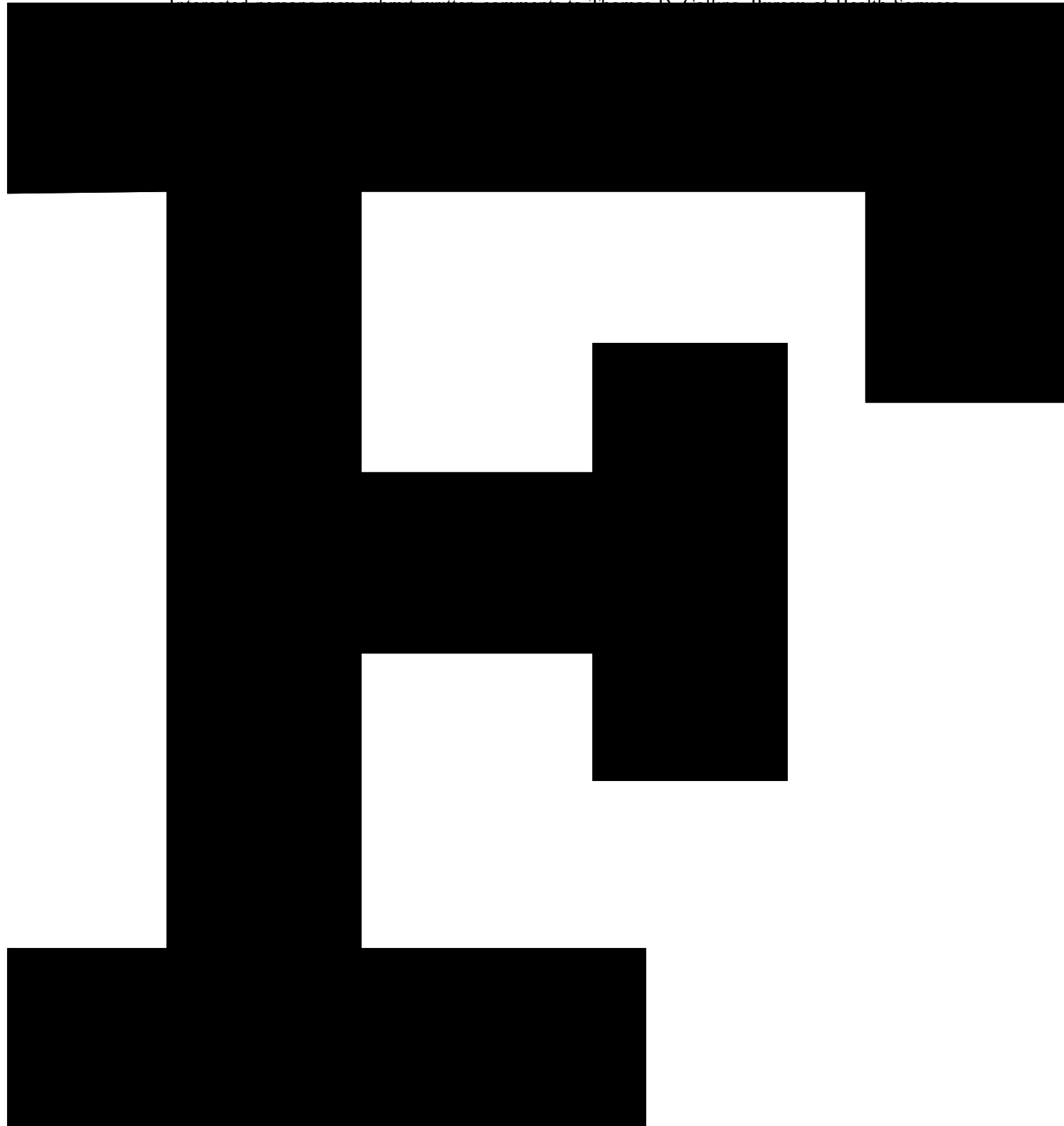
§9933. Waste and Hazardous Materials Management

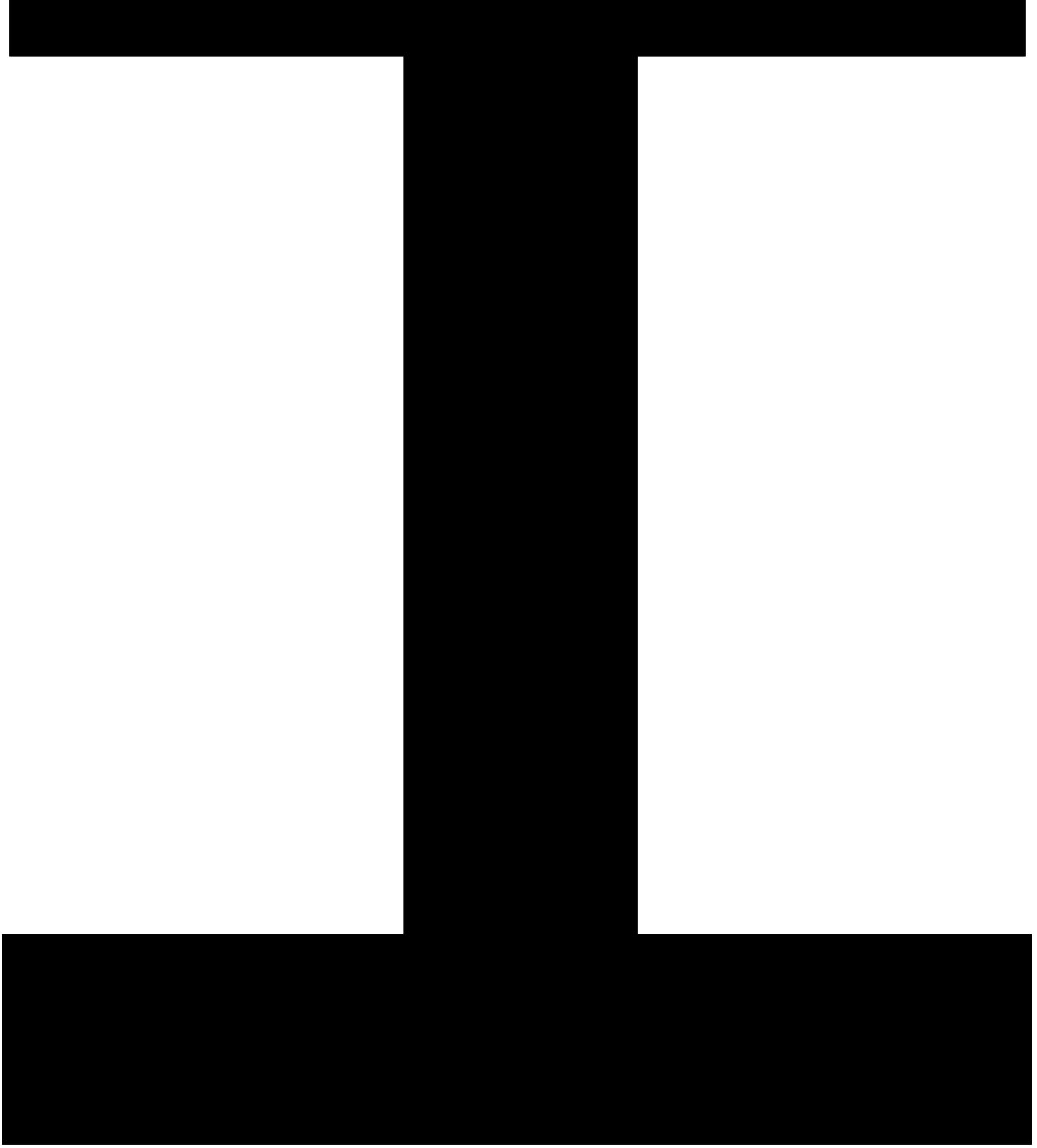
The nursing home shall have a written and implemented waste management program that identifies and controls wastes and hazardous materials. The program shall comply with all applicable laws and regulations governing wastes and hazardous materials.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2009.1-2116.4

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 22:

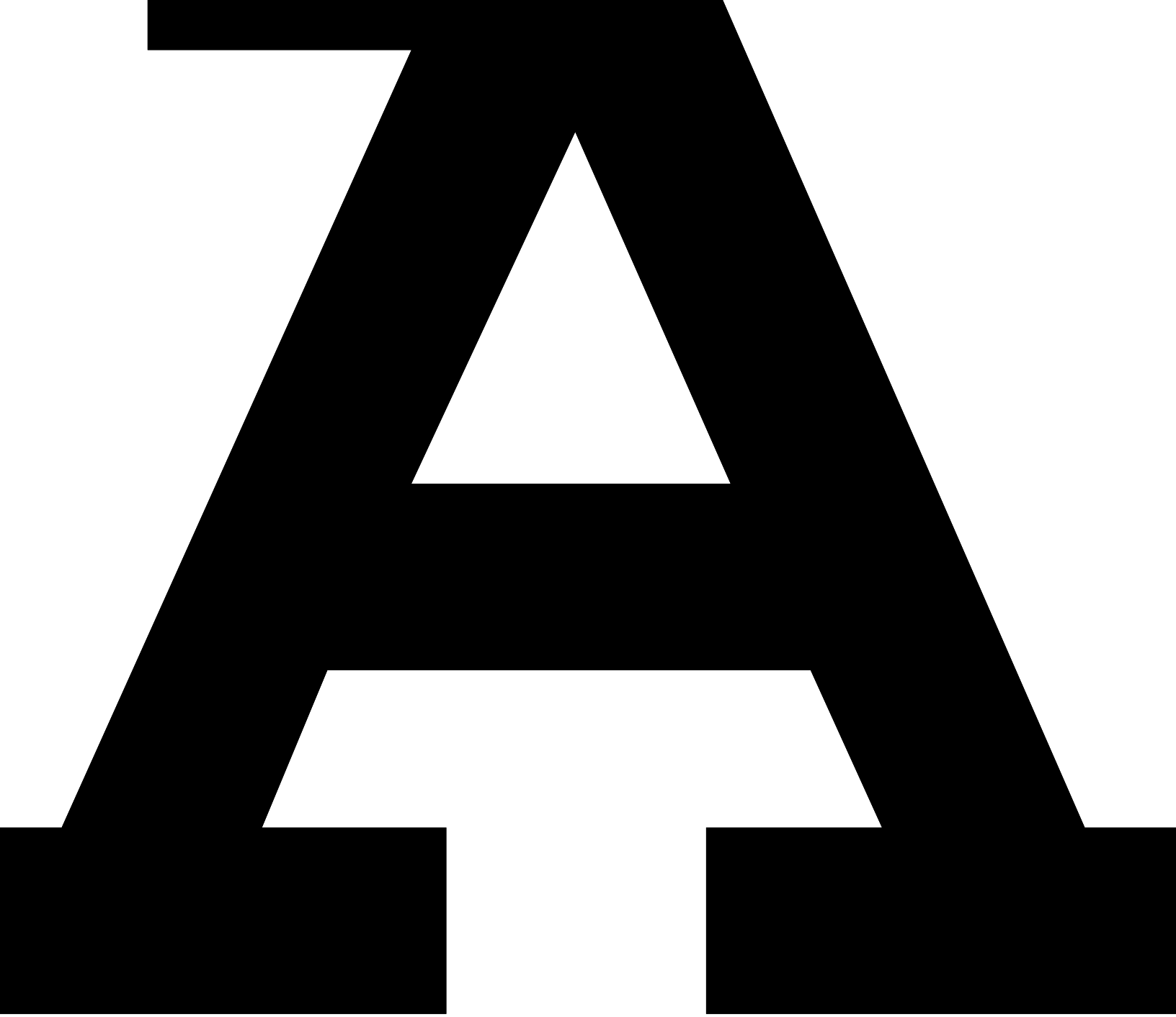
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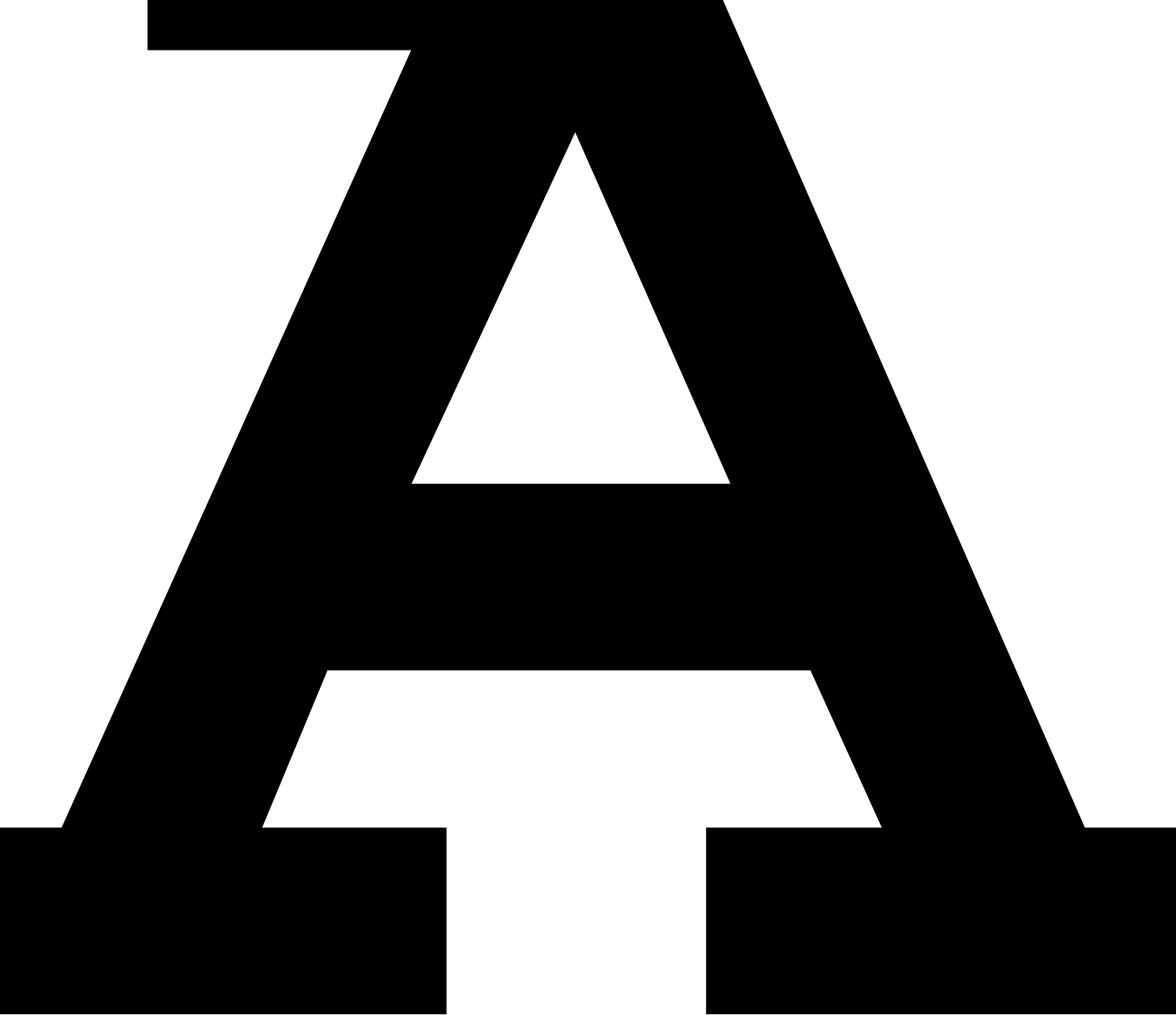


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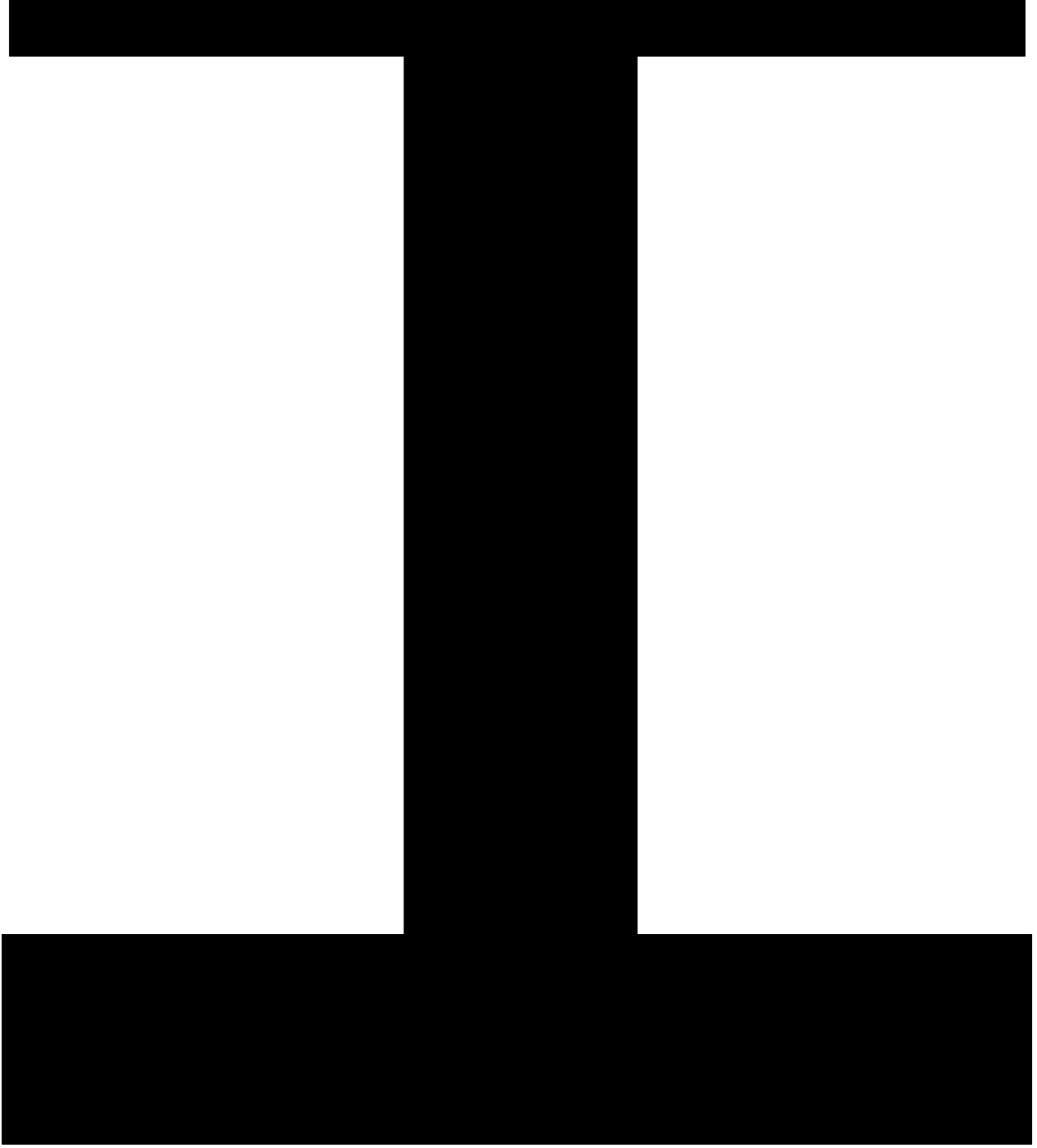






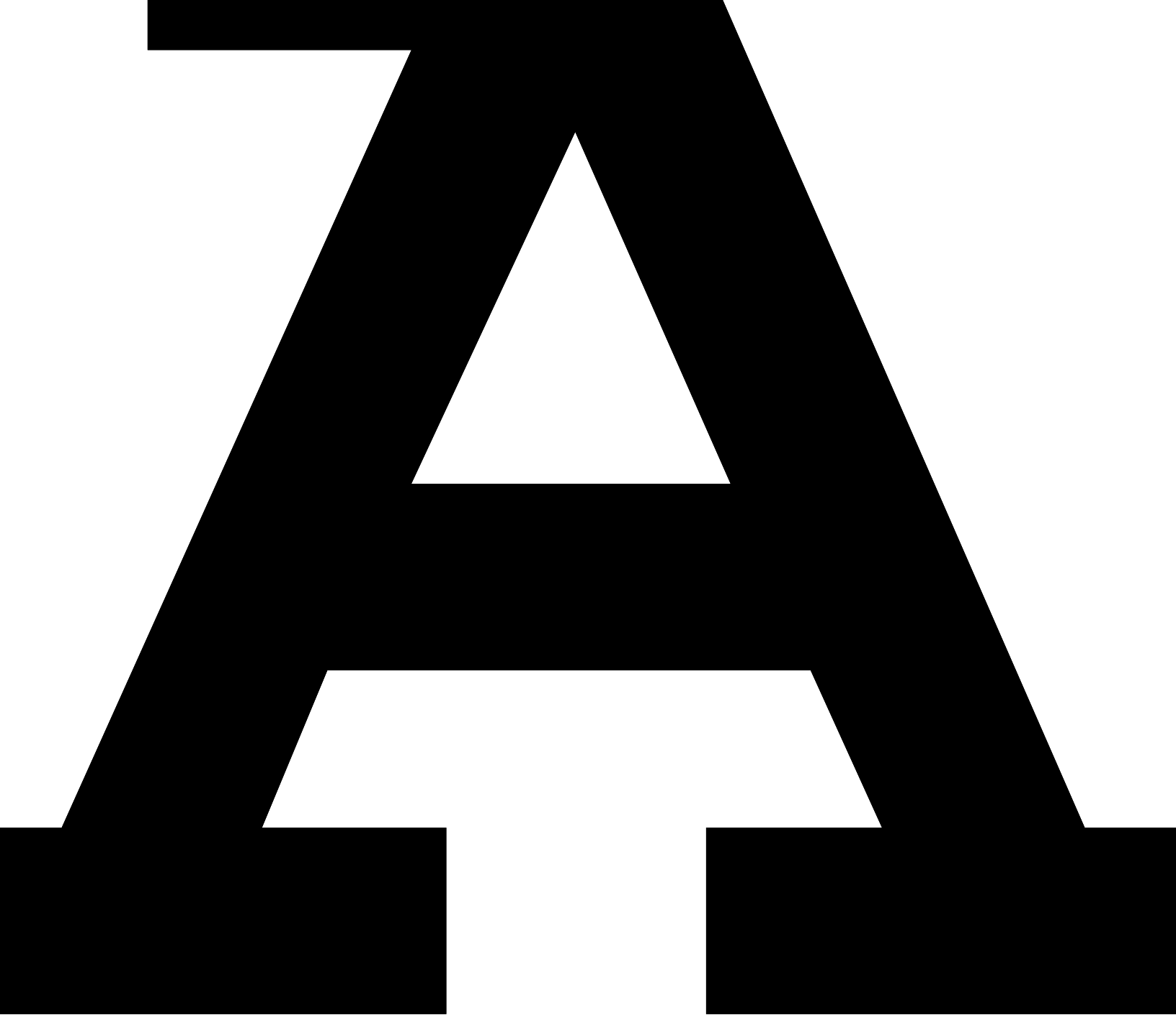




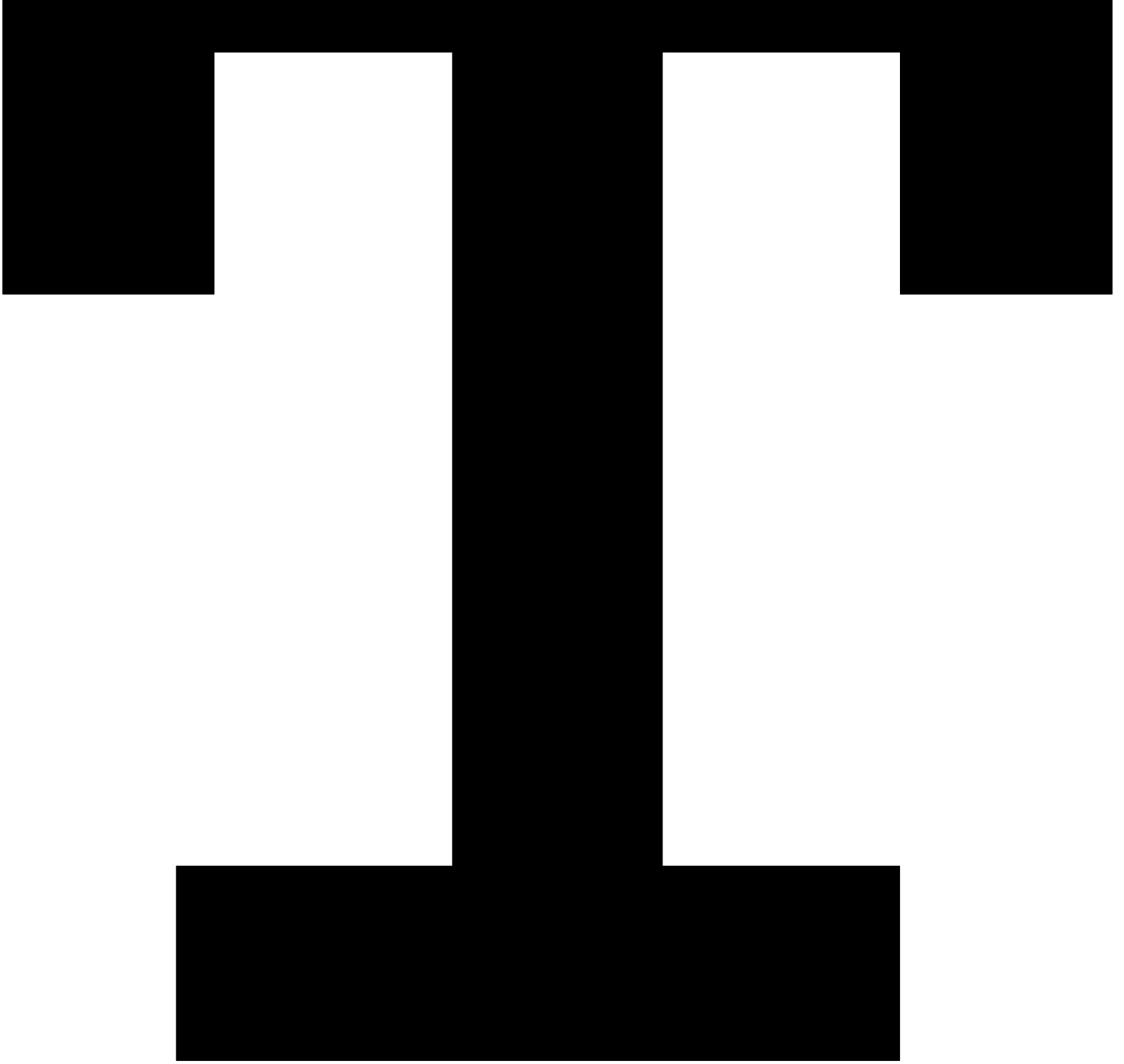


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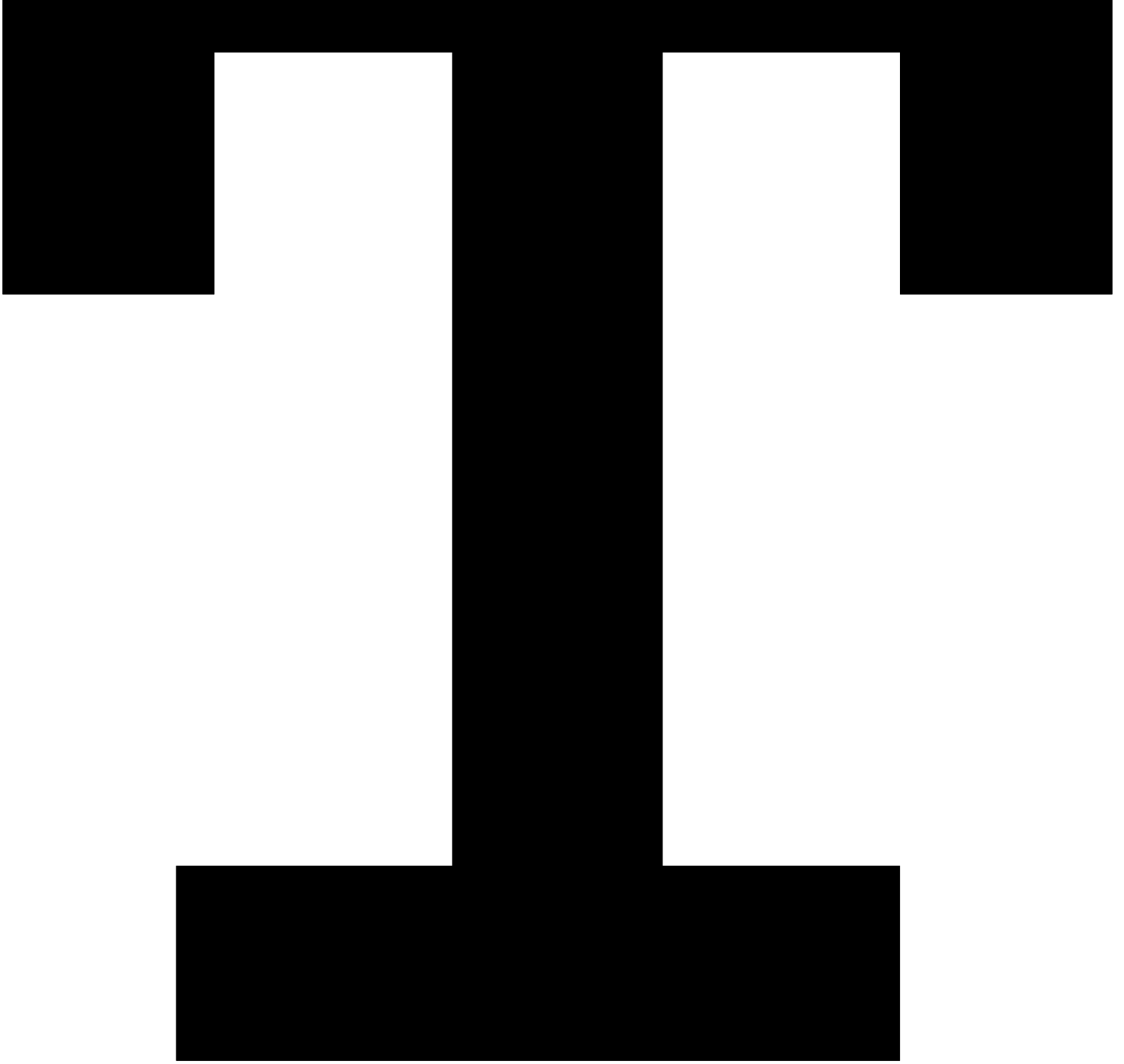
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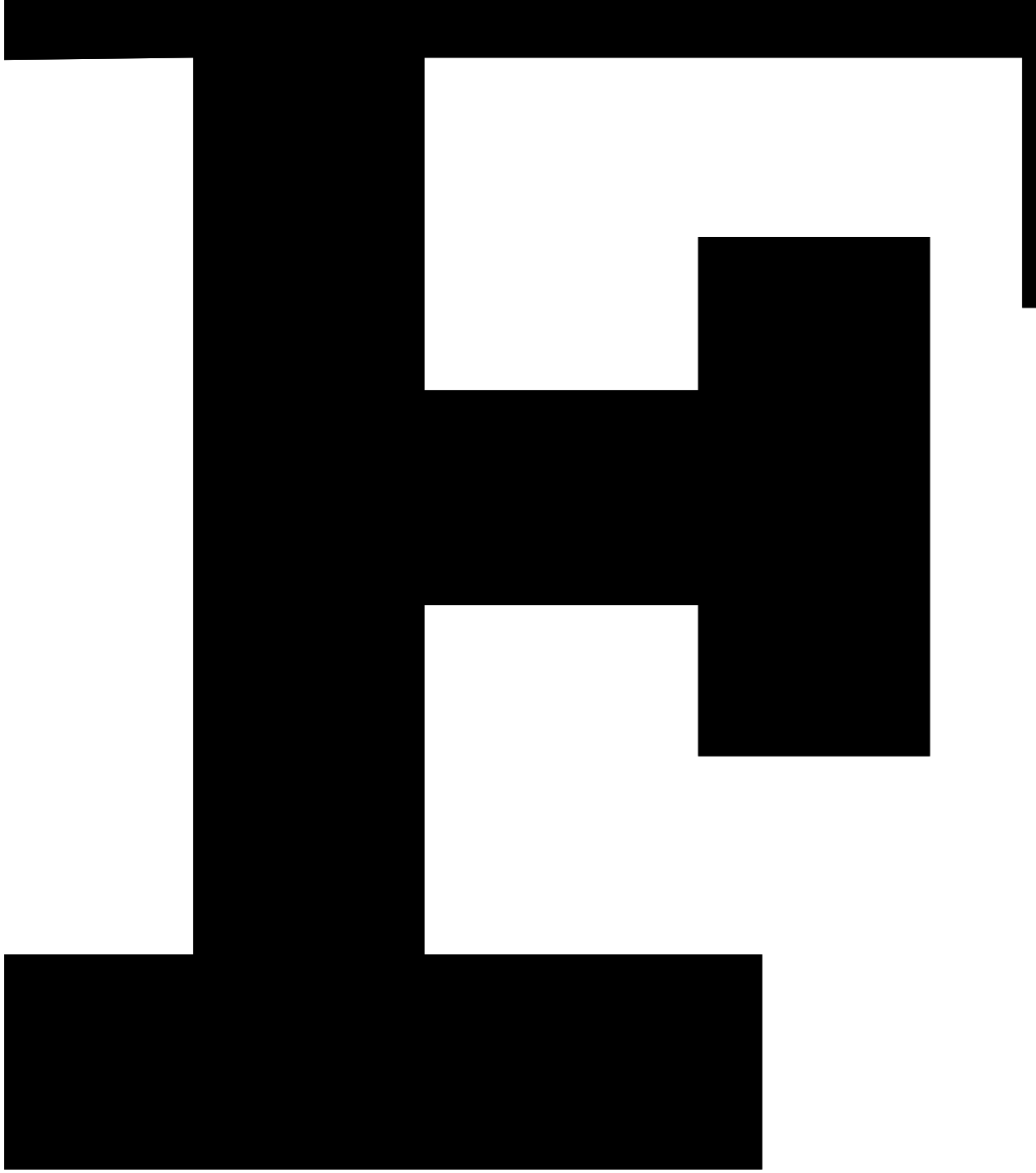


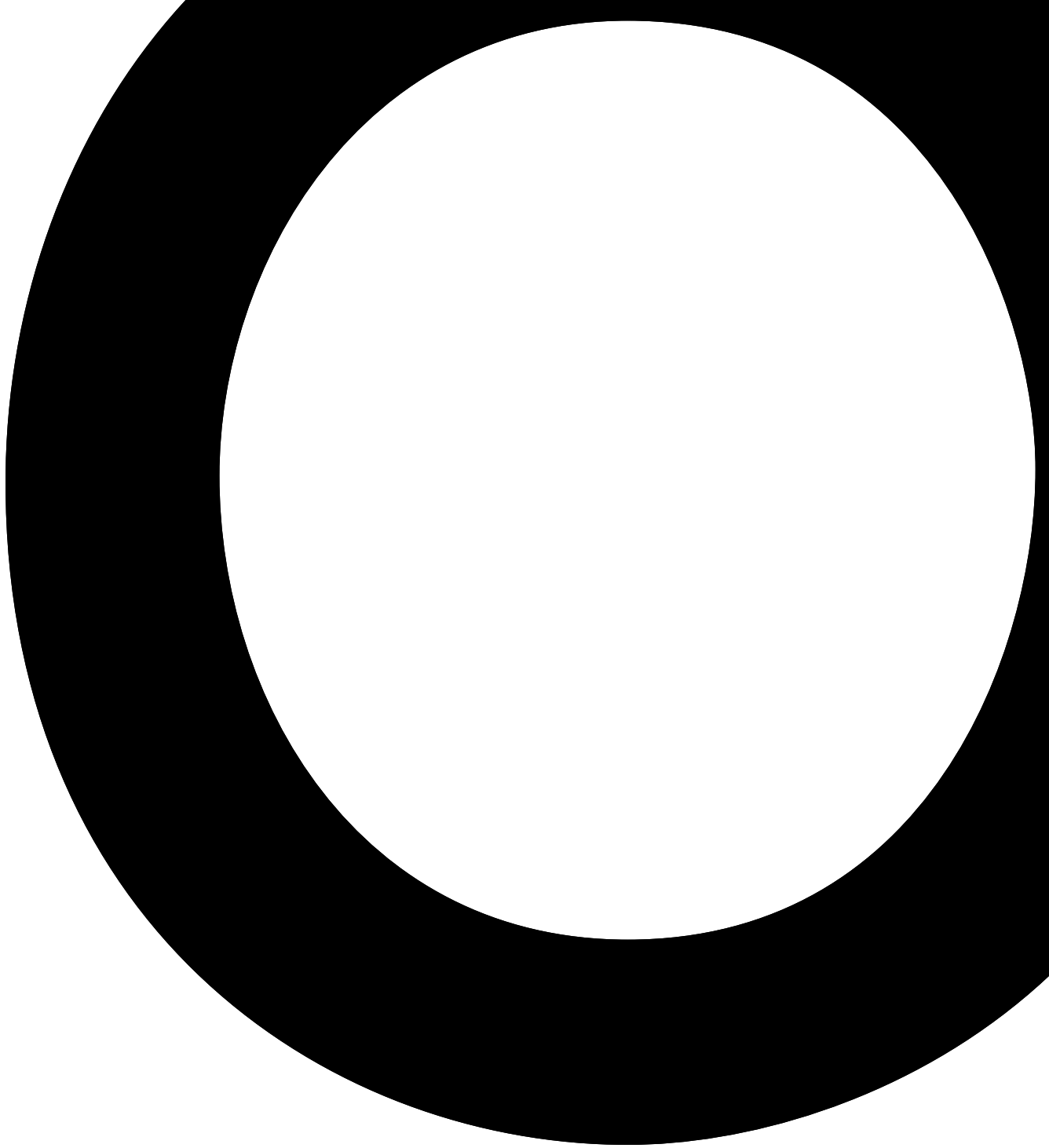








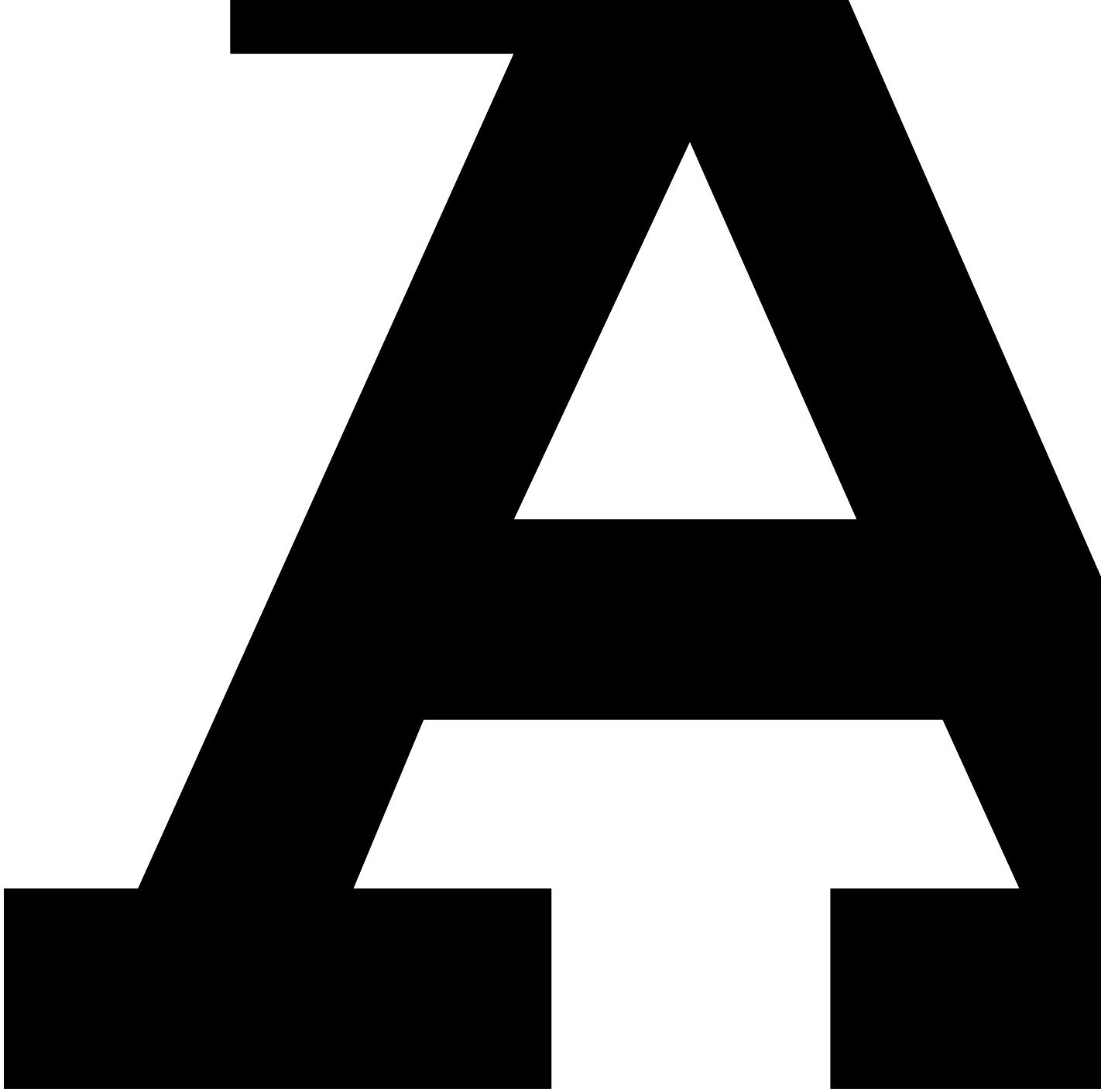


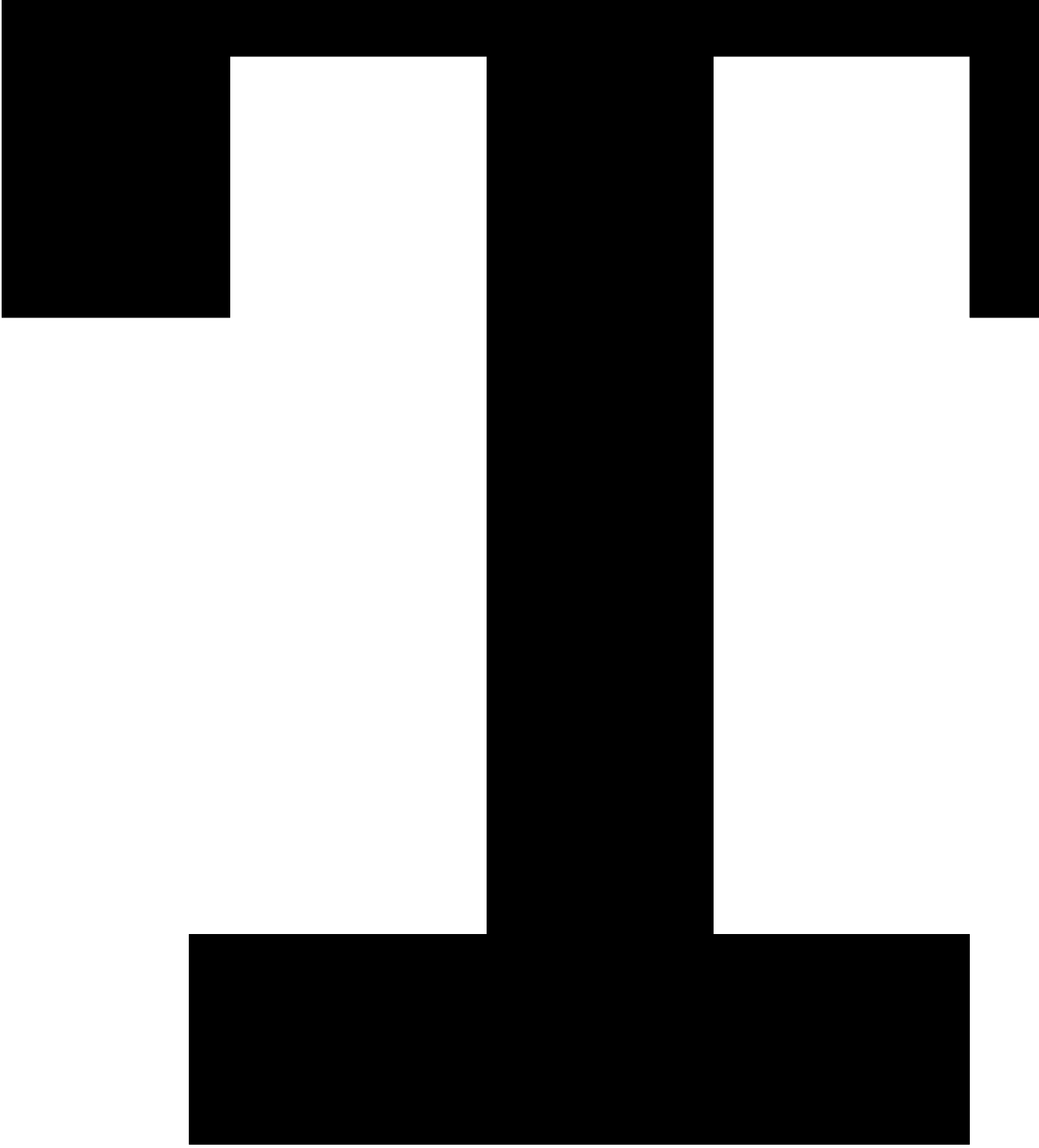


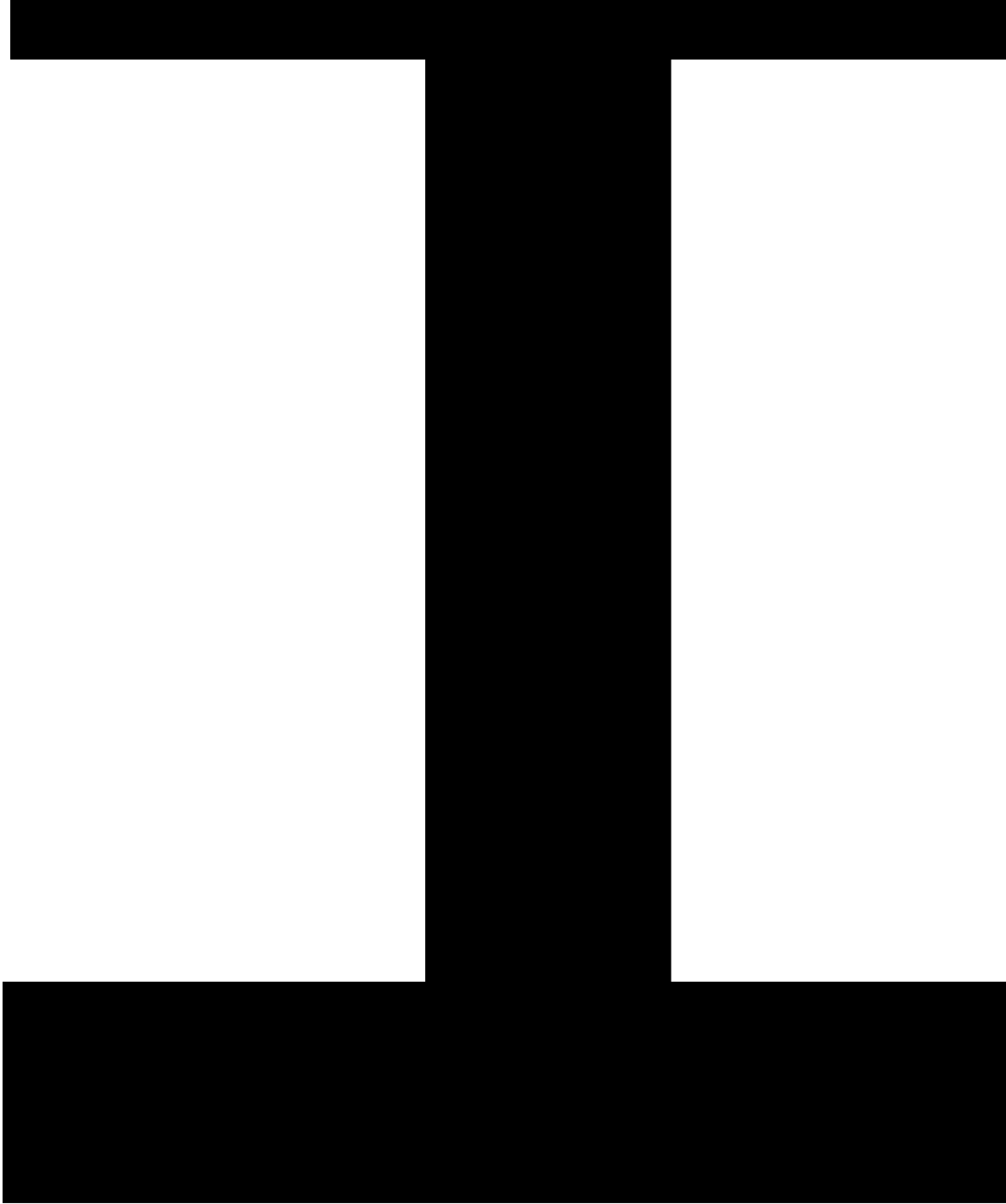
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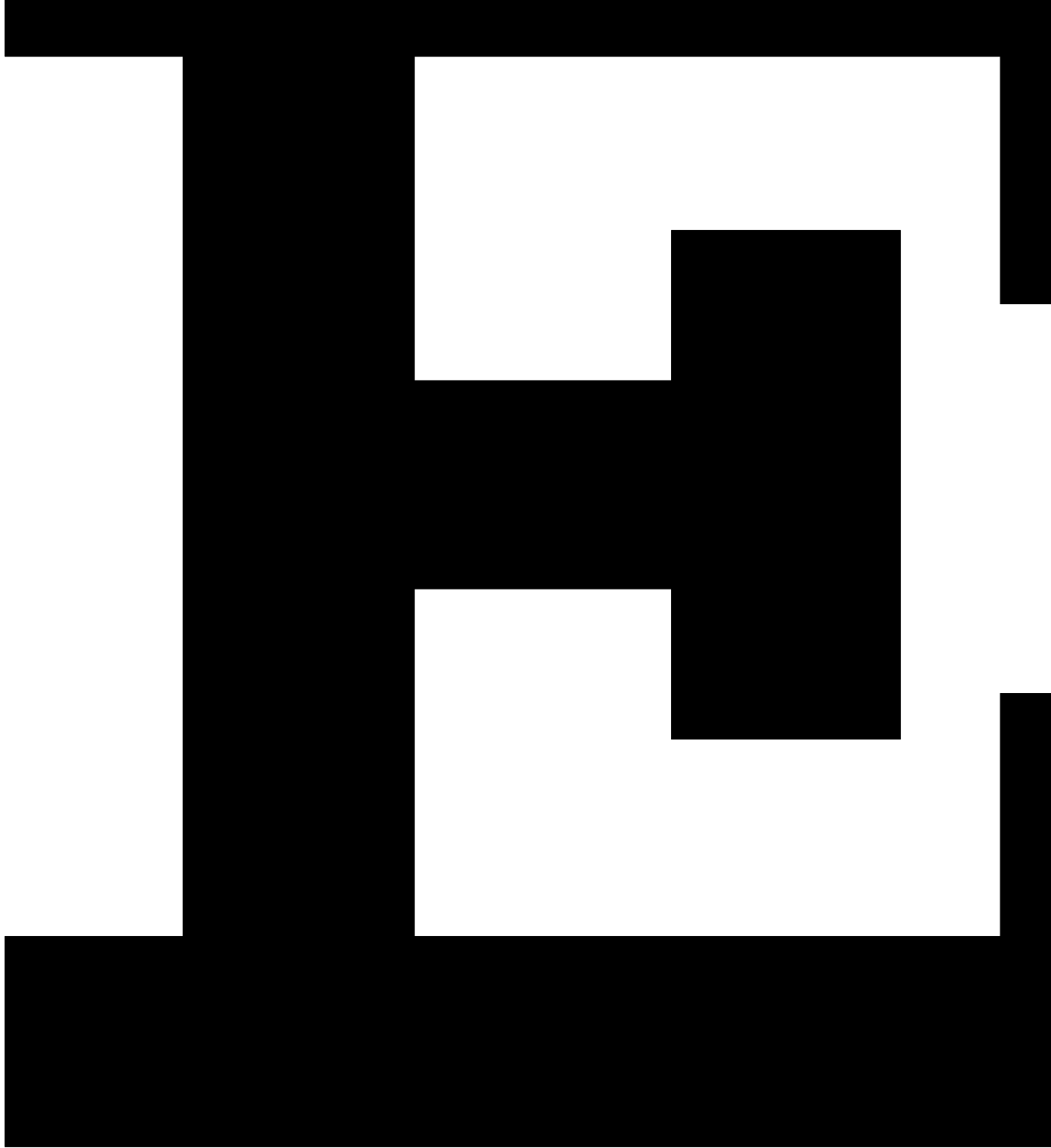
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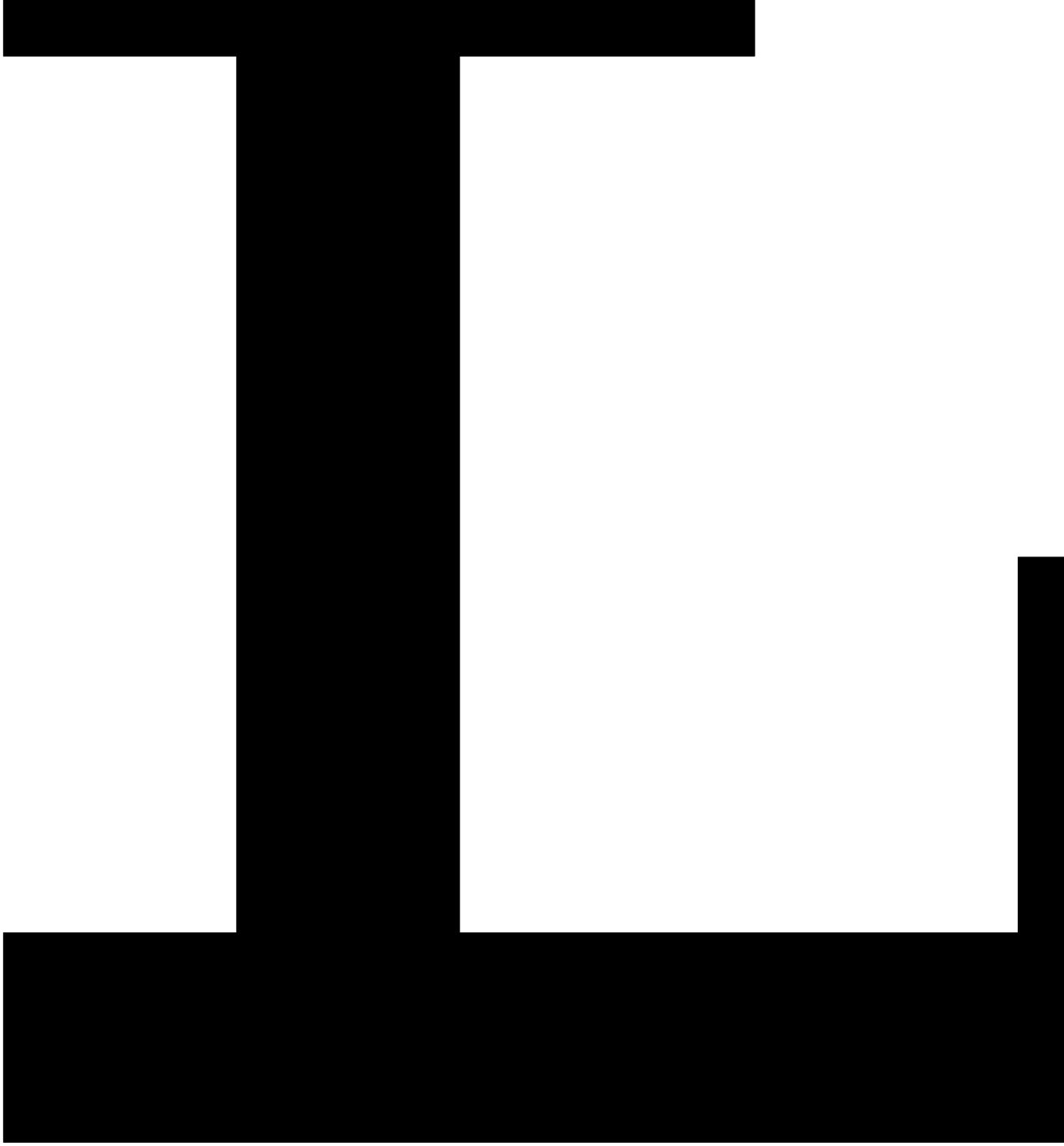


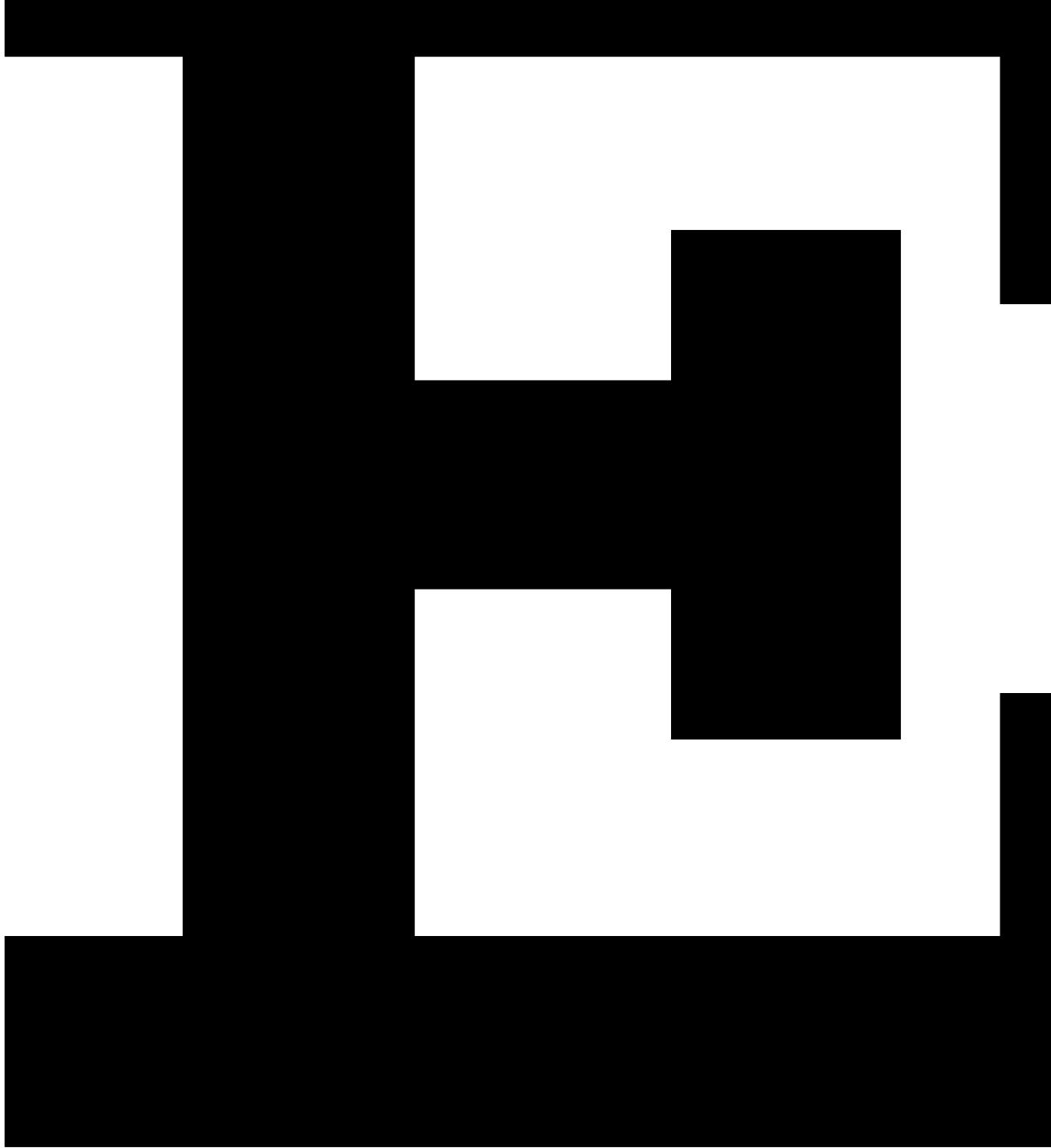




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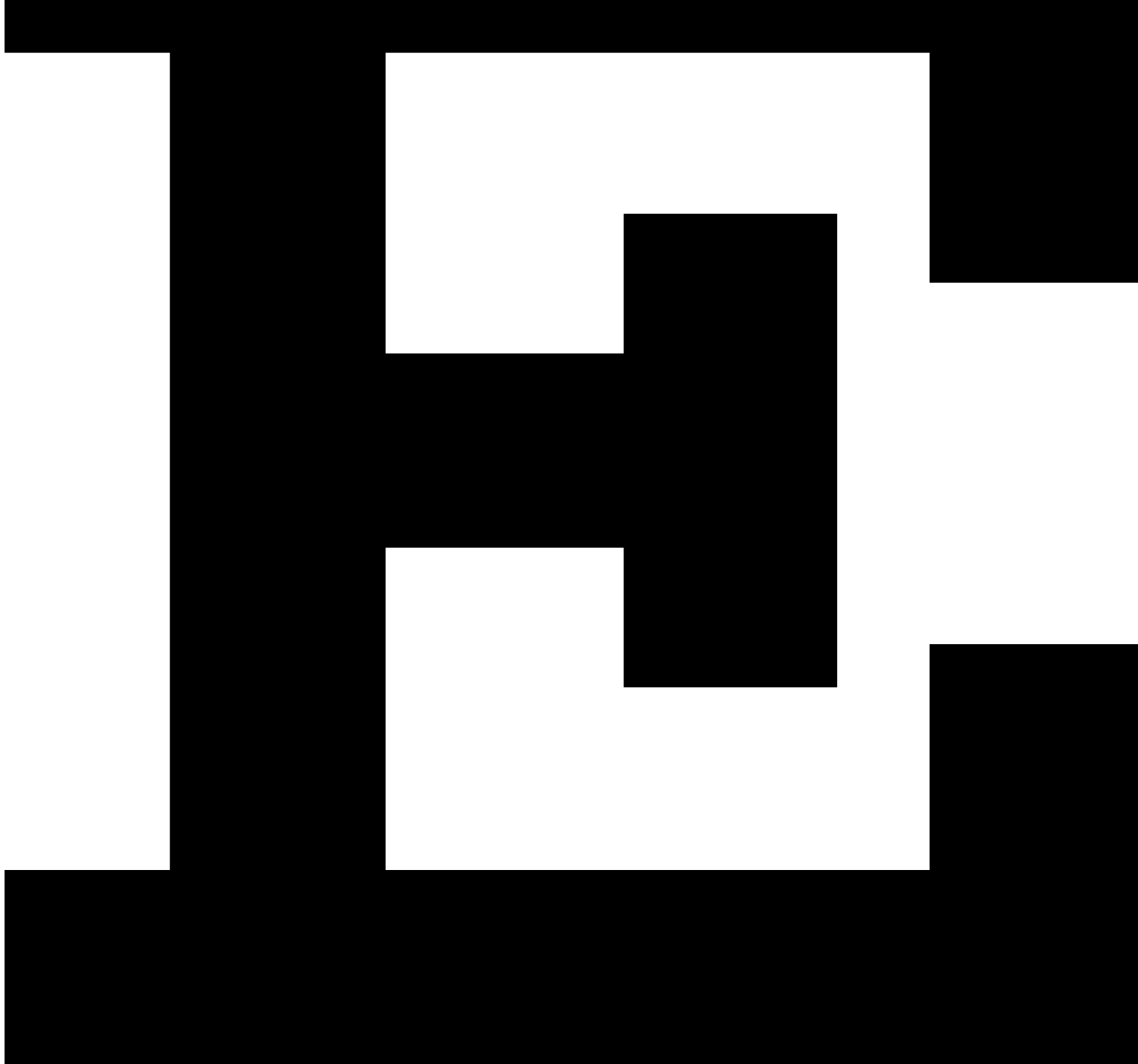


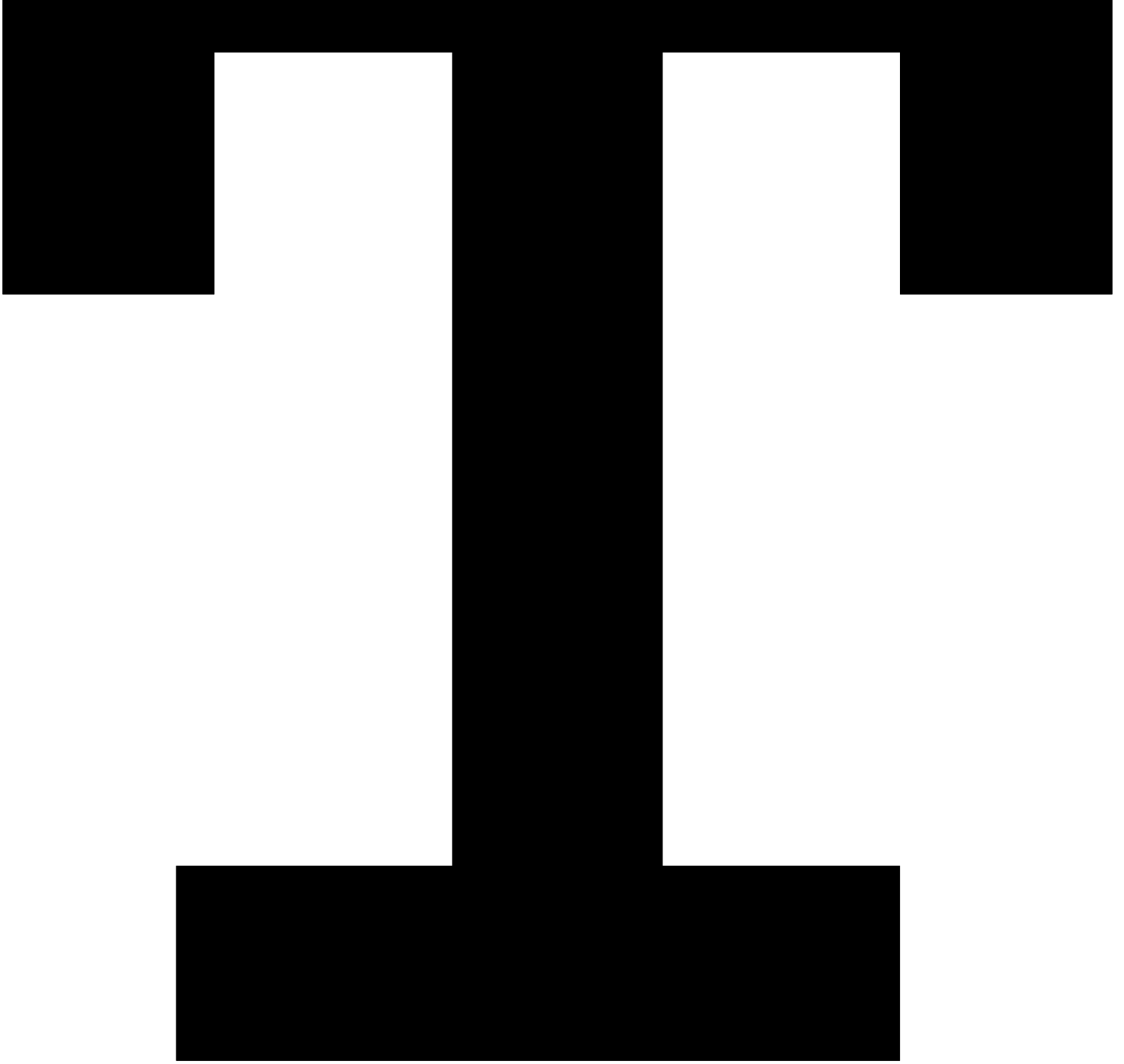
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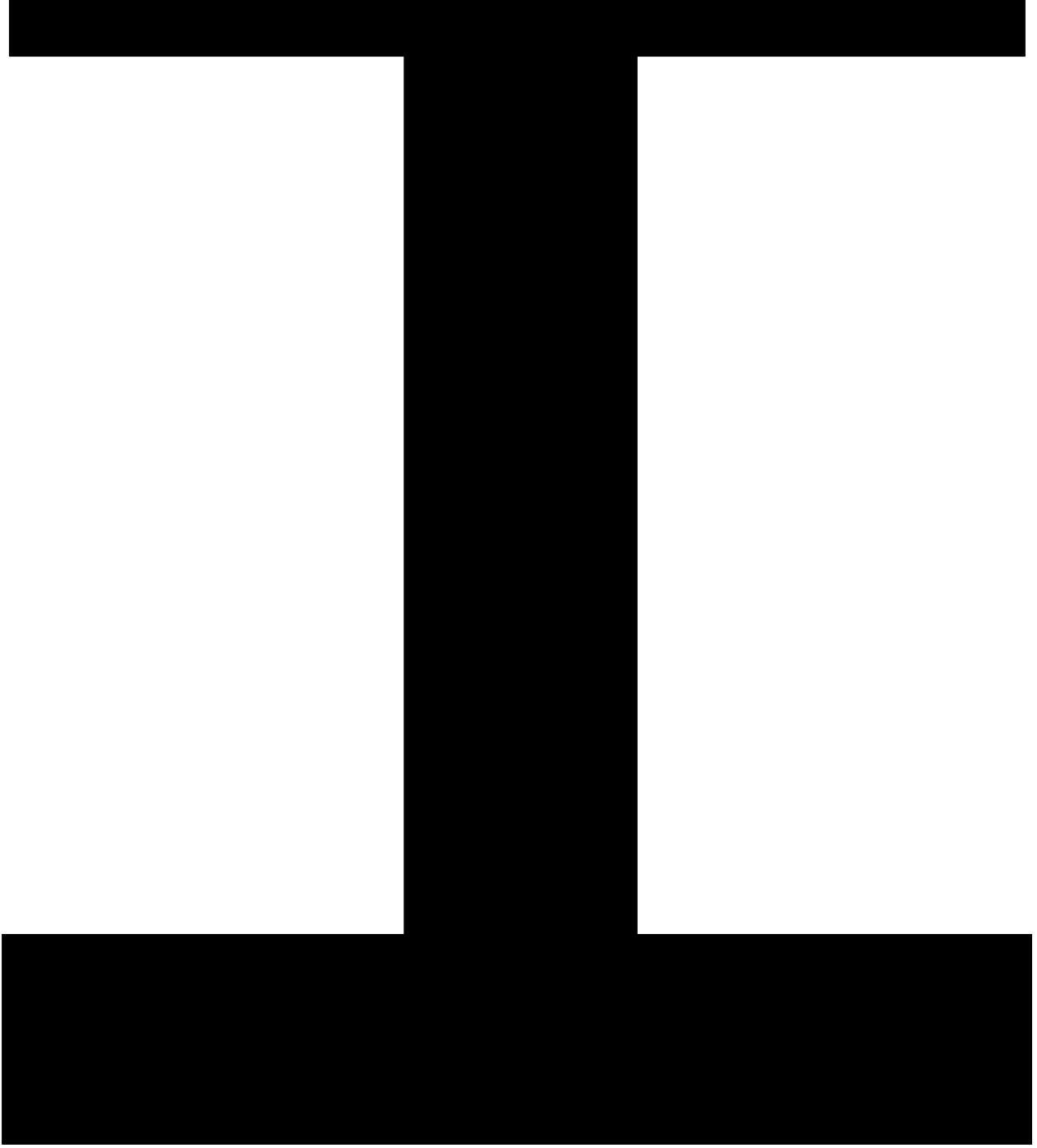
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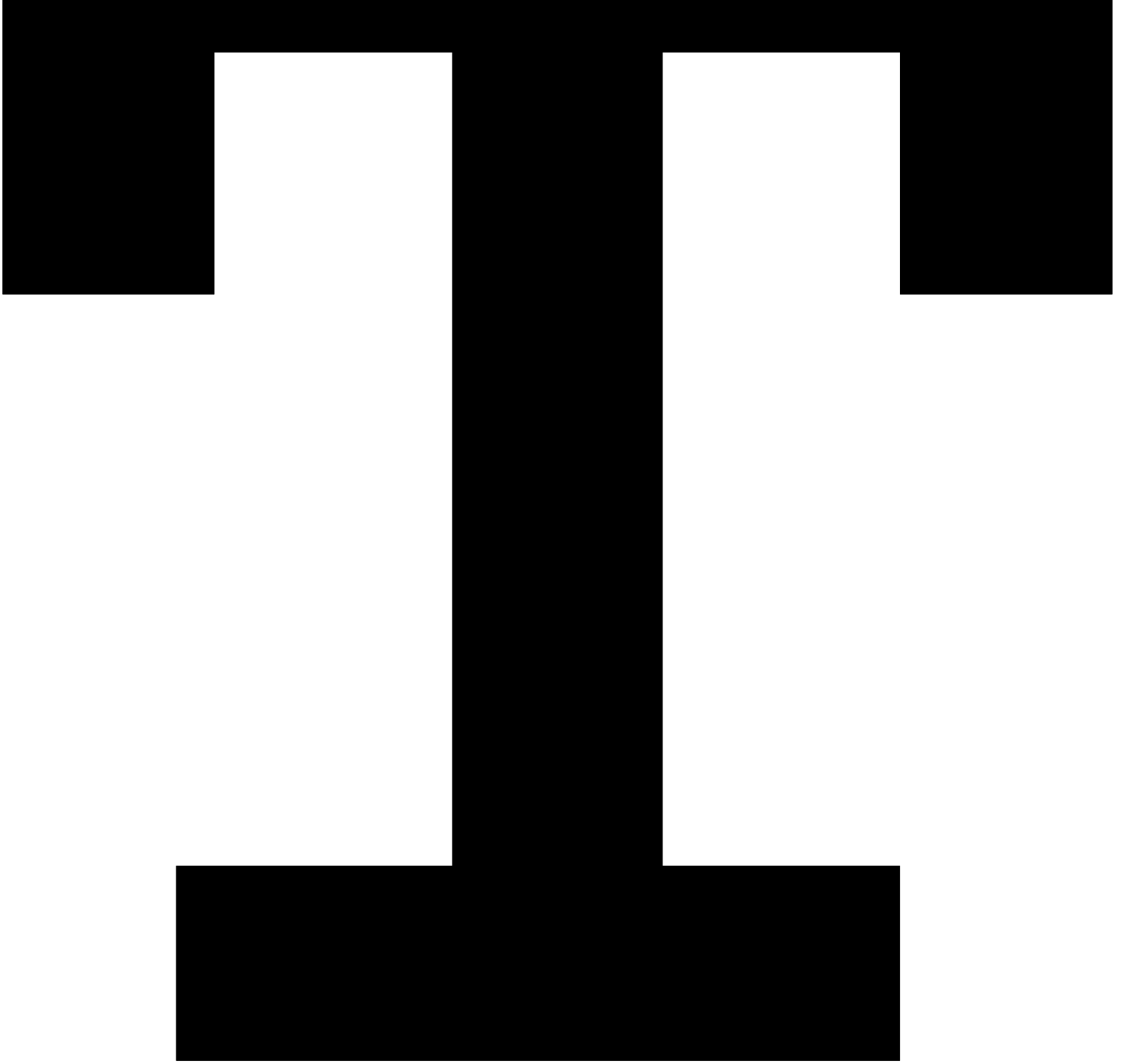
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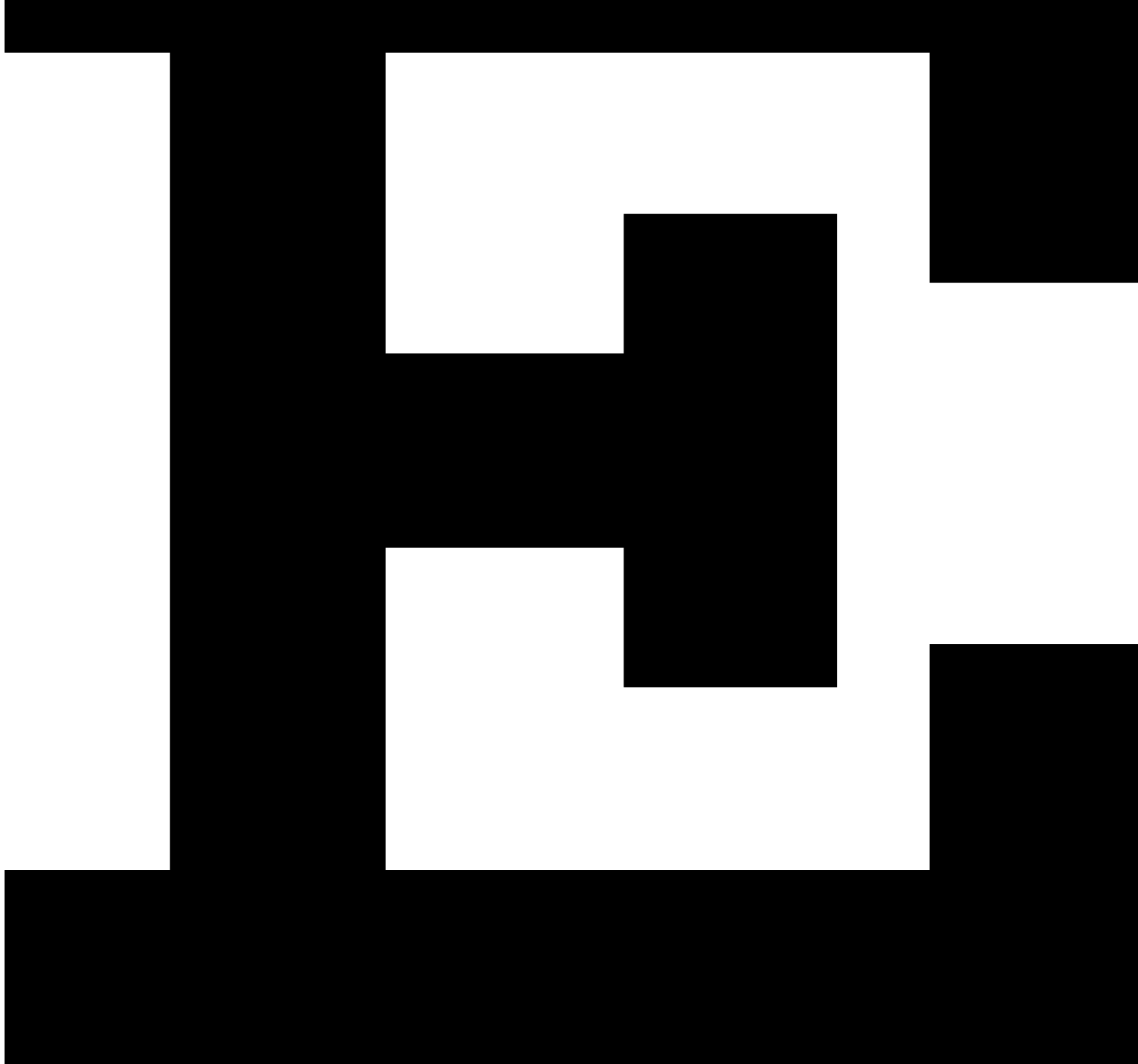


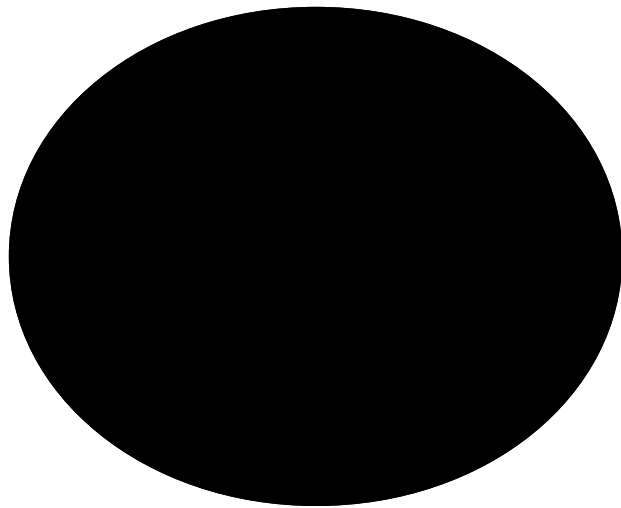
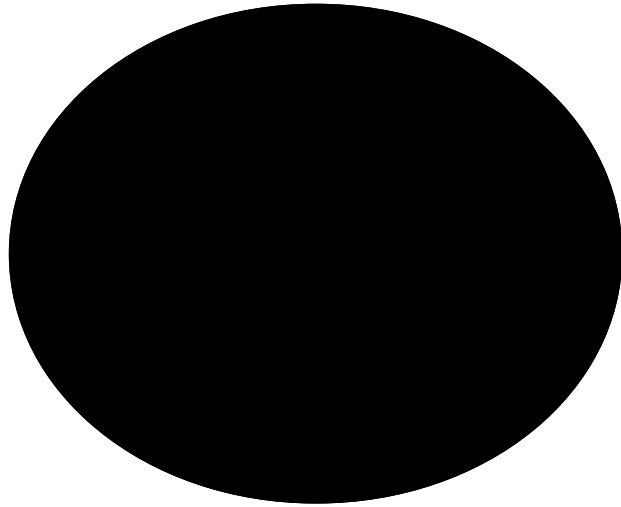










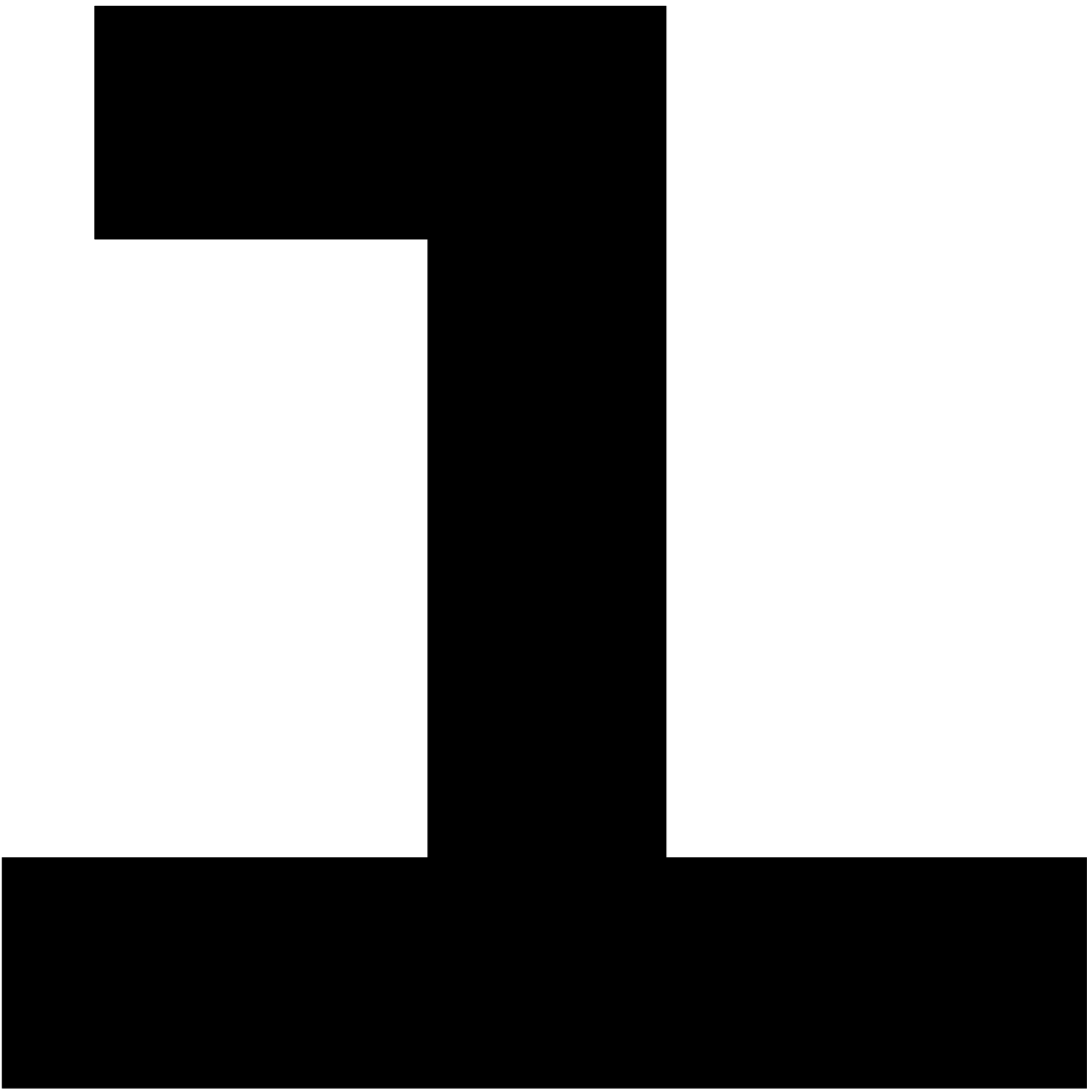


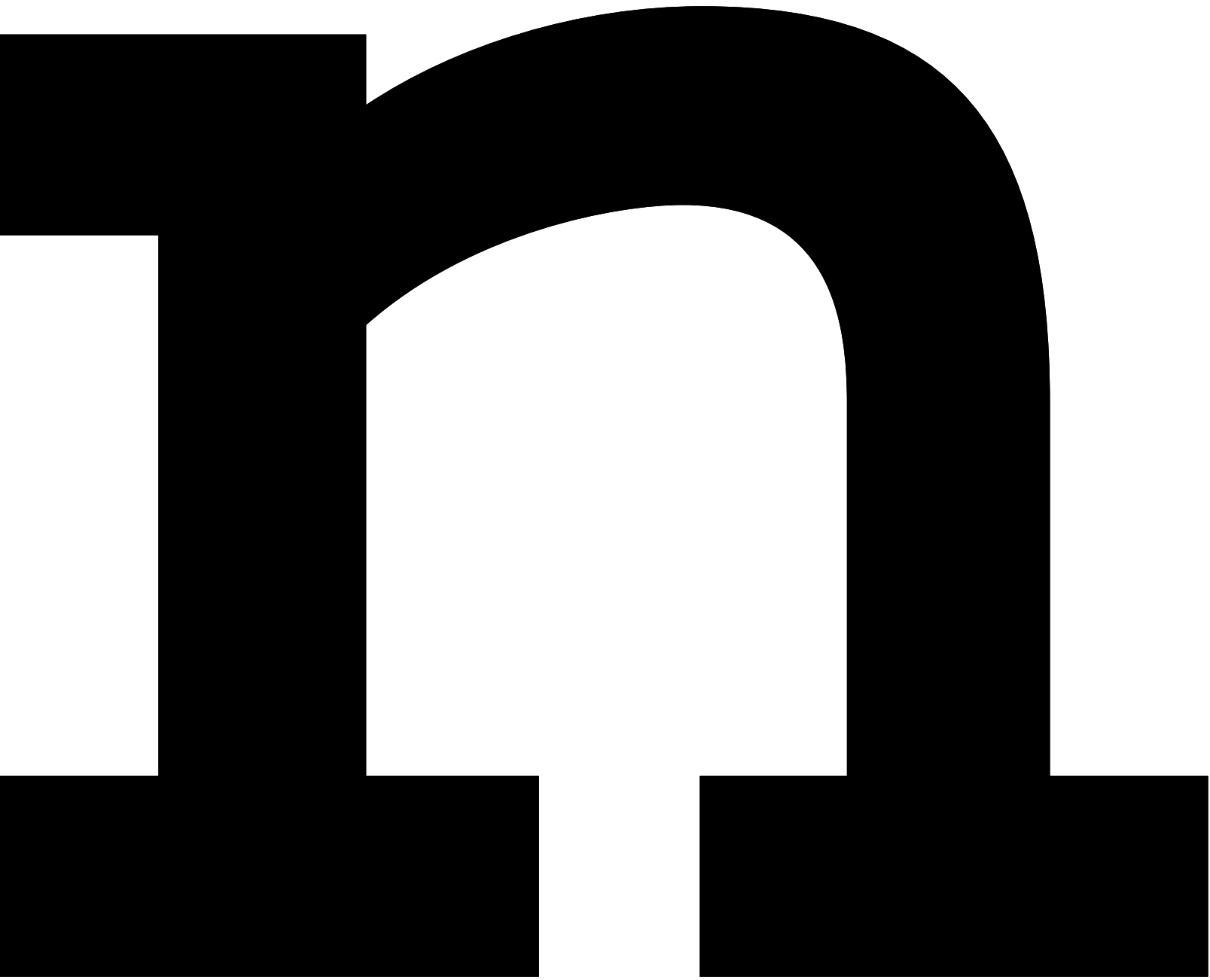


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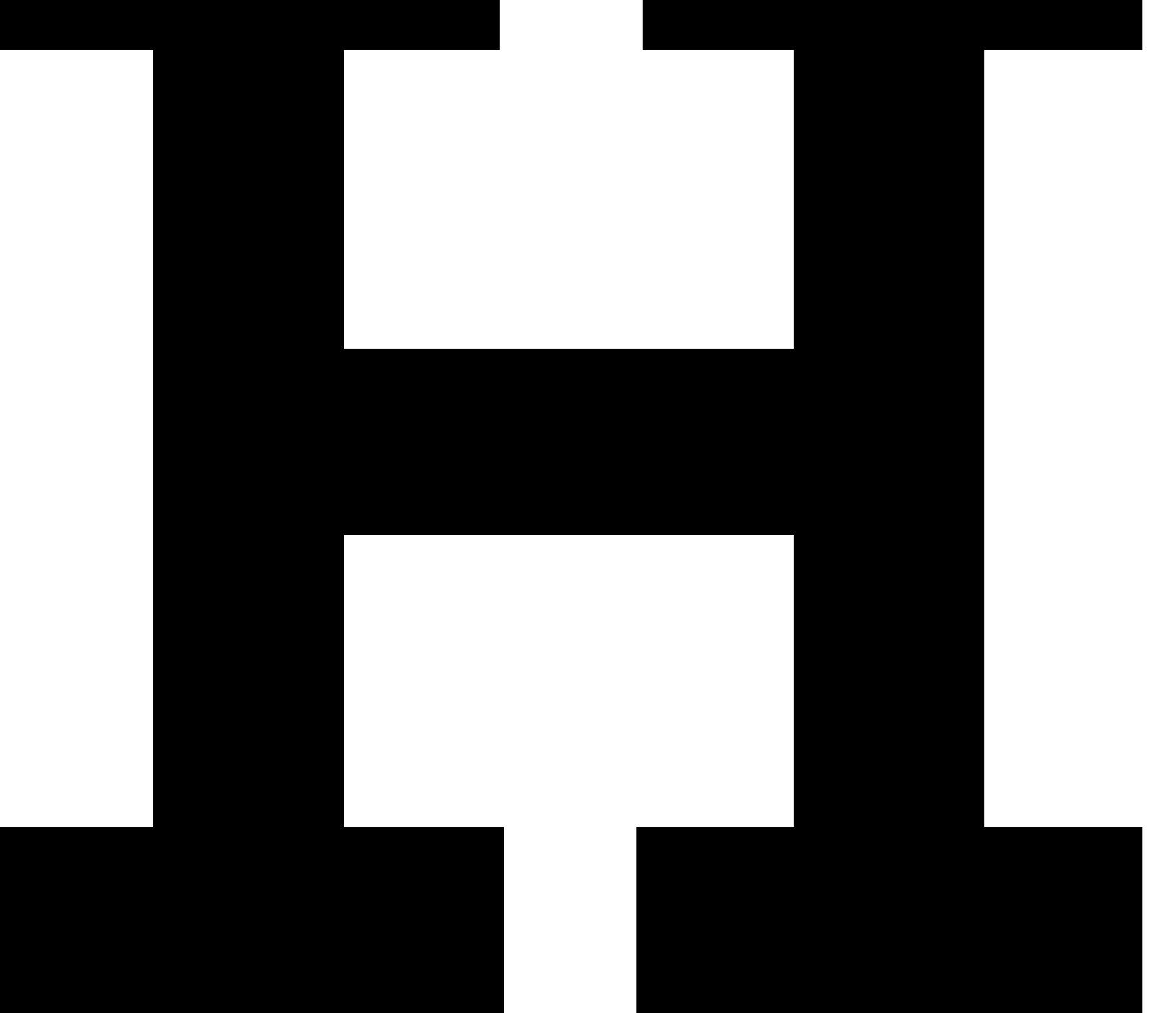


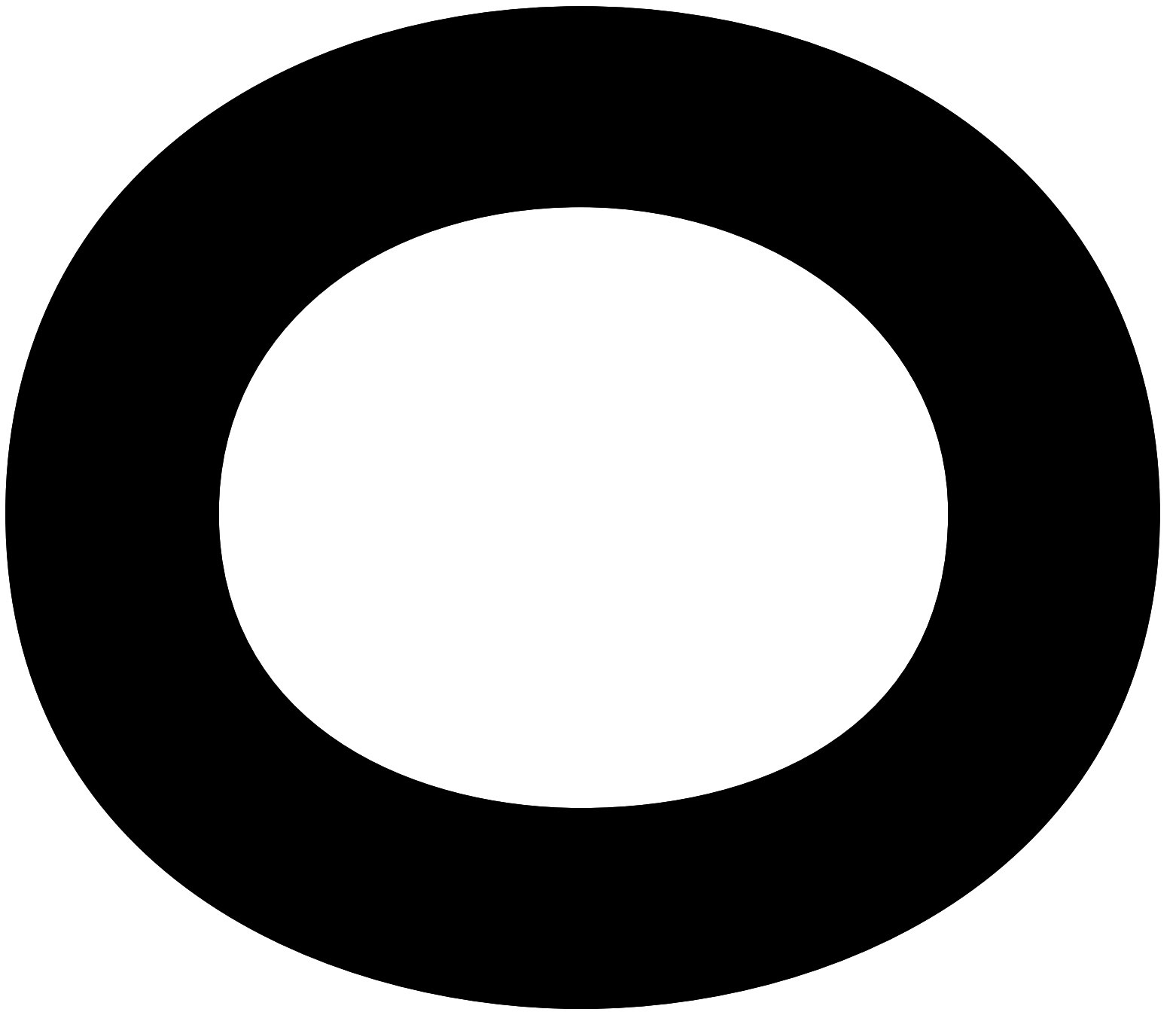
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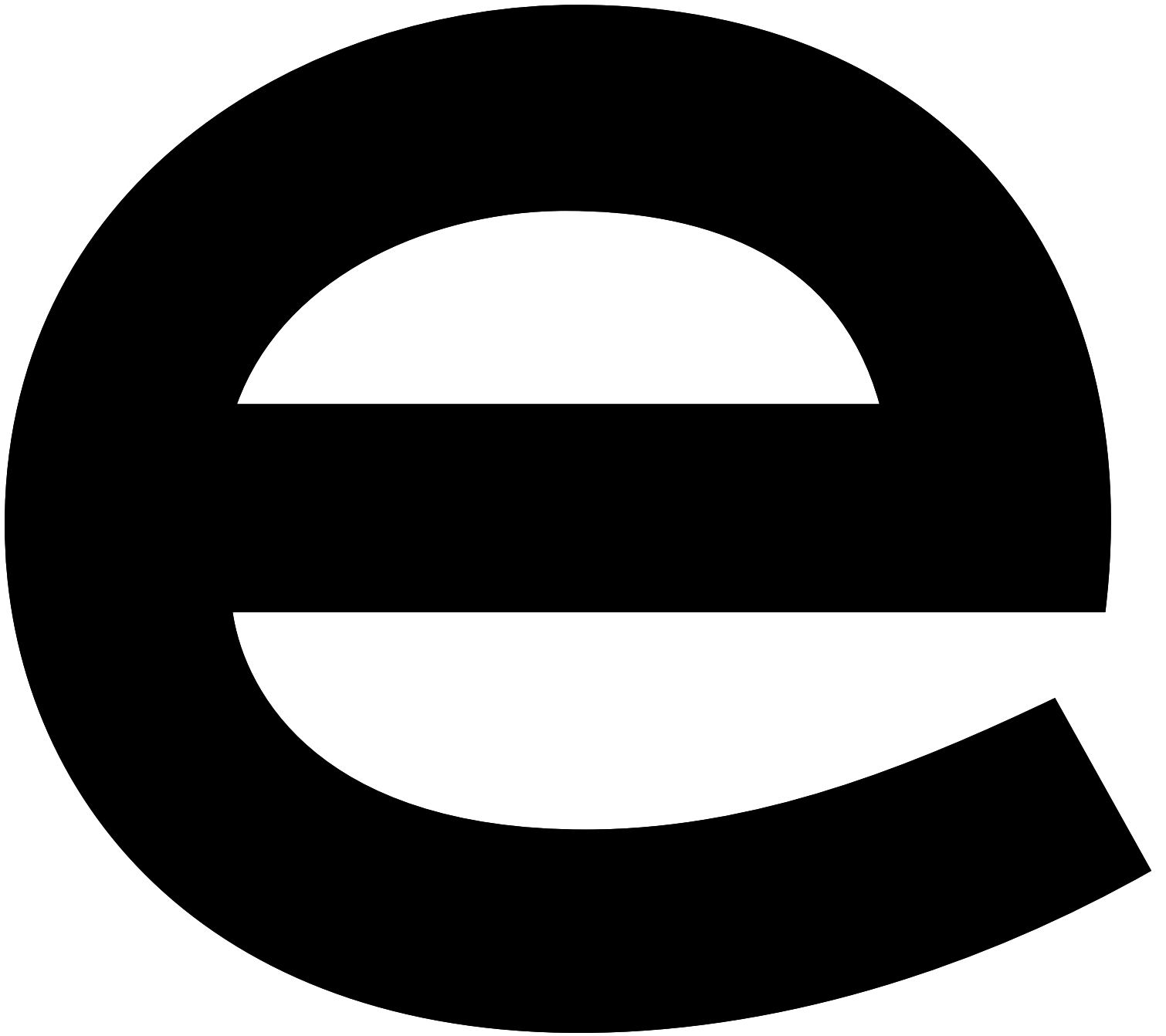


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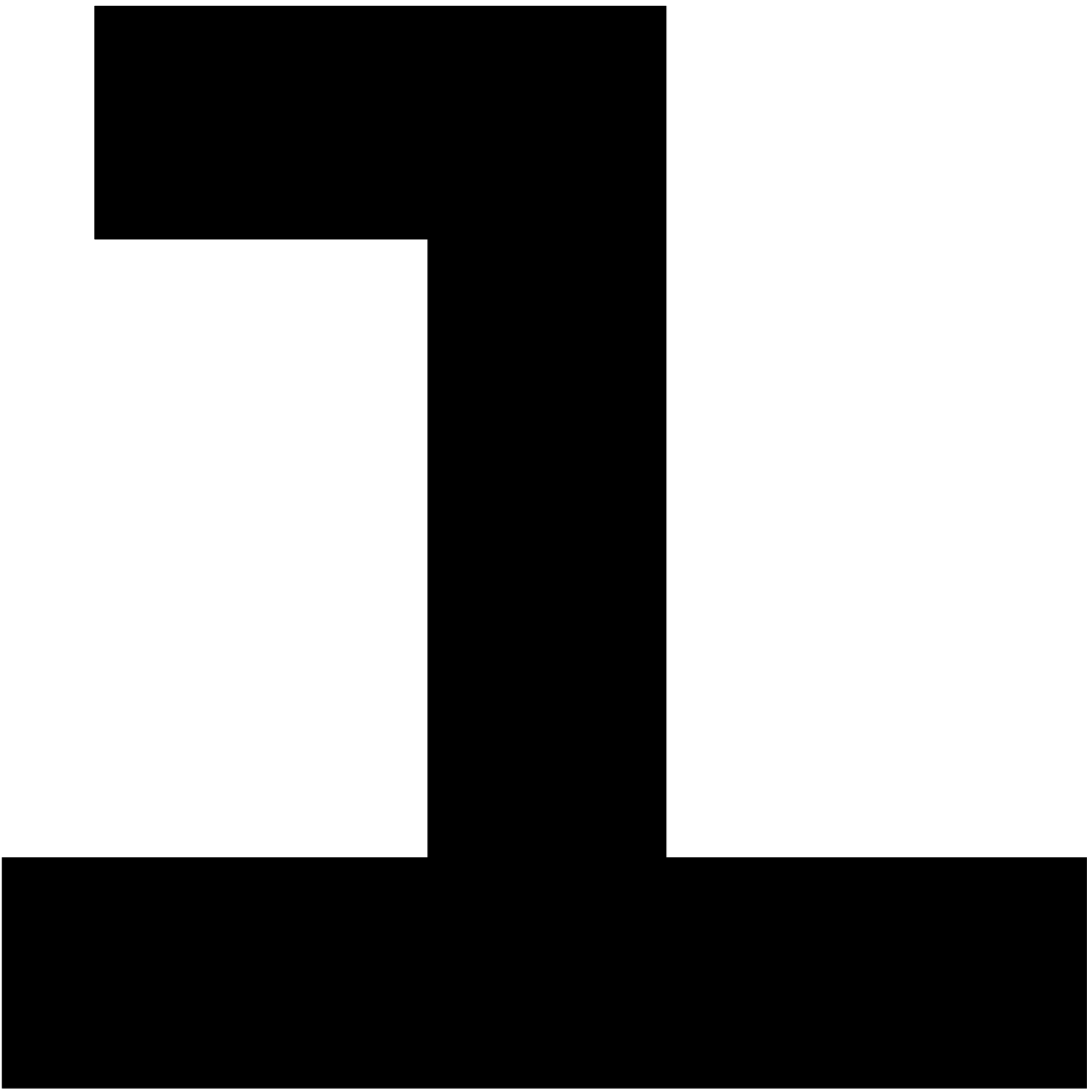


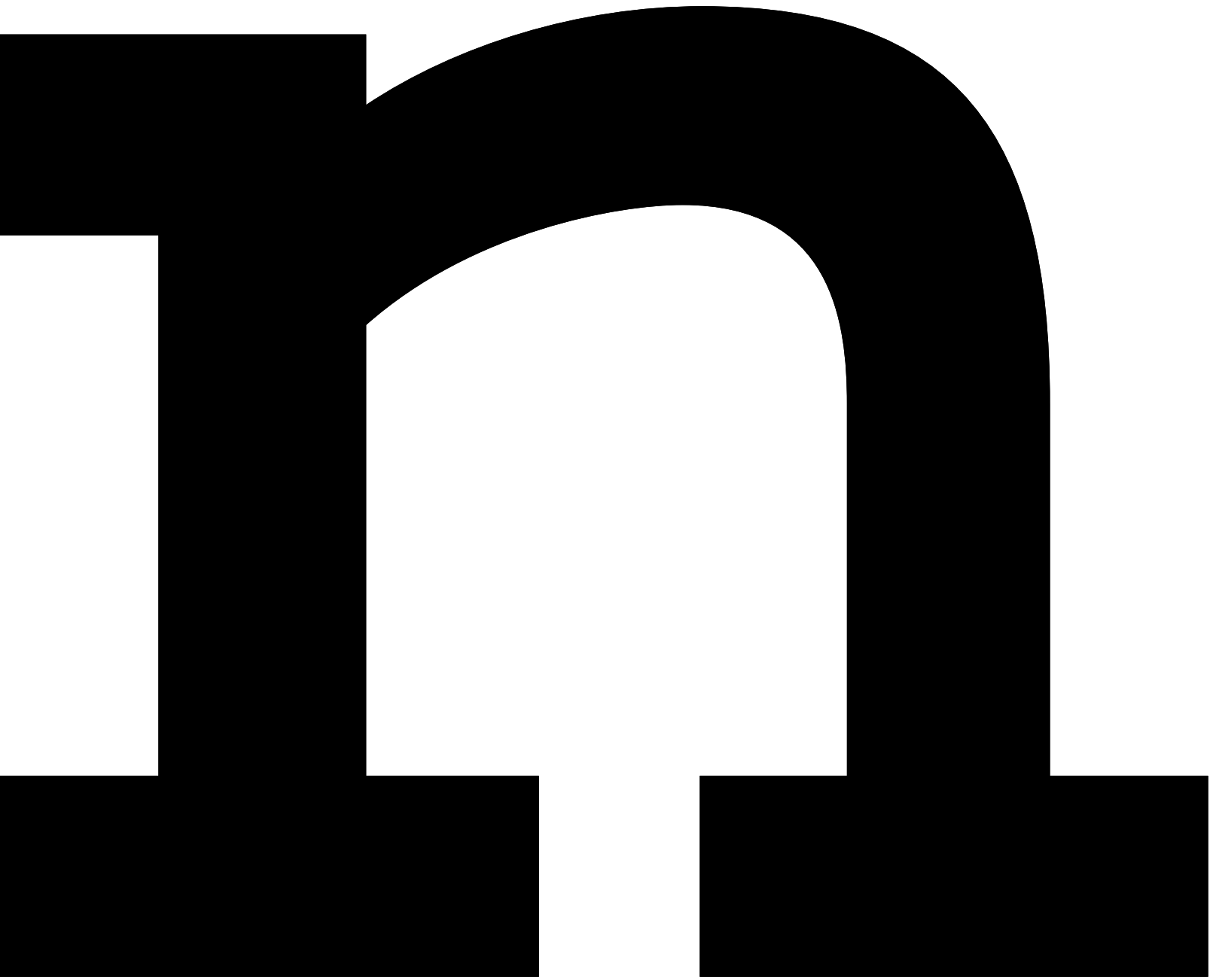


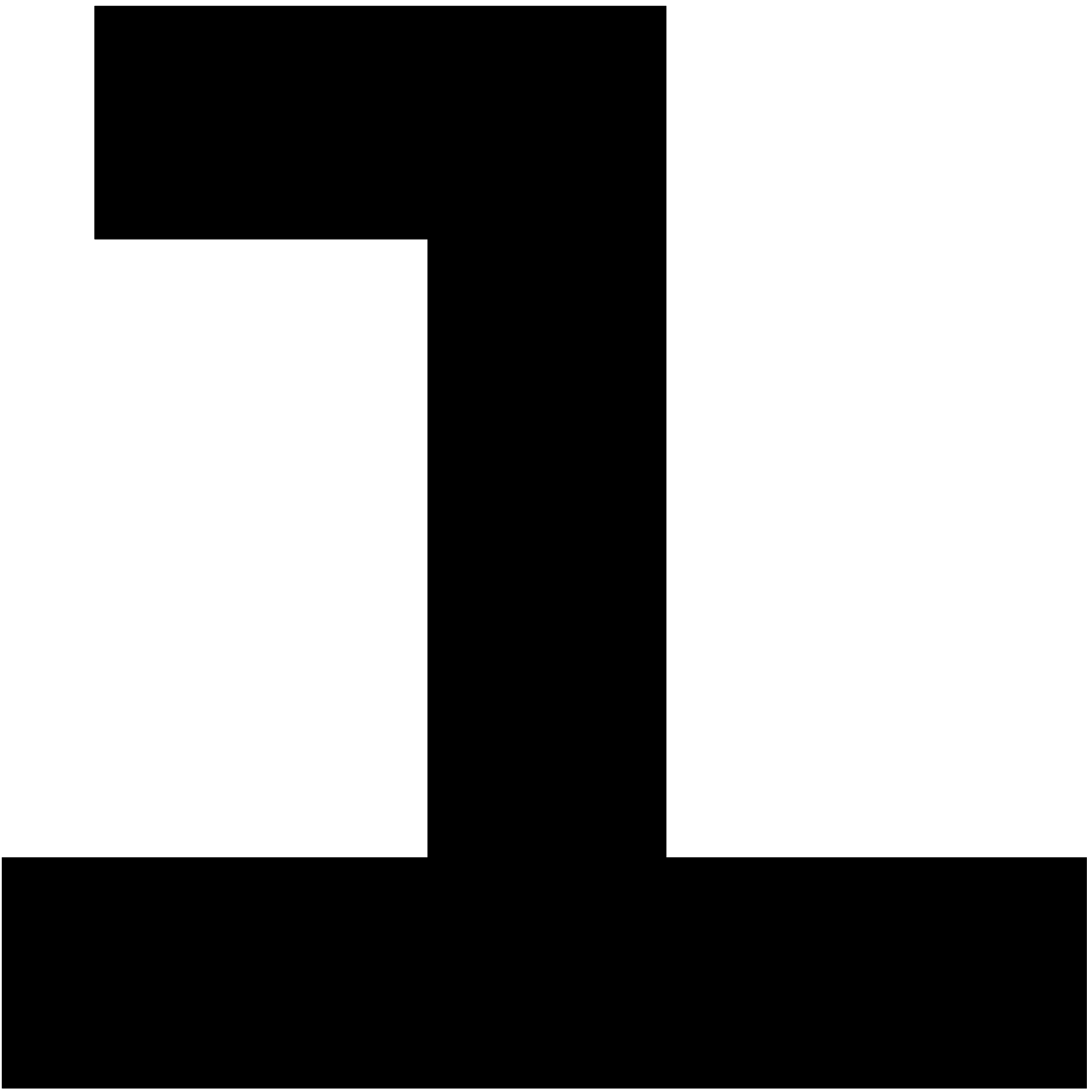




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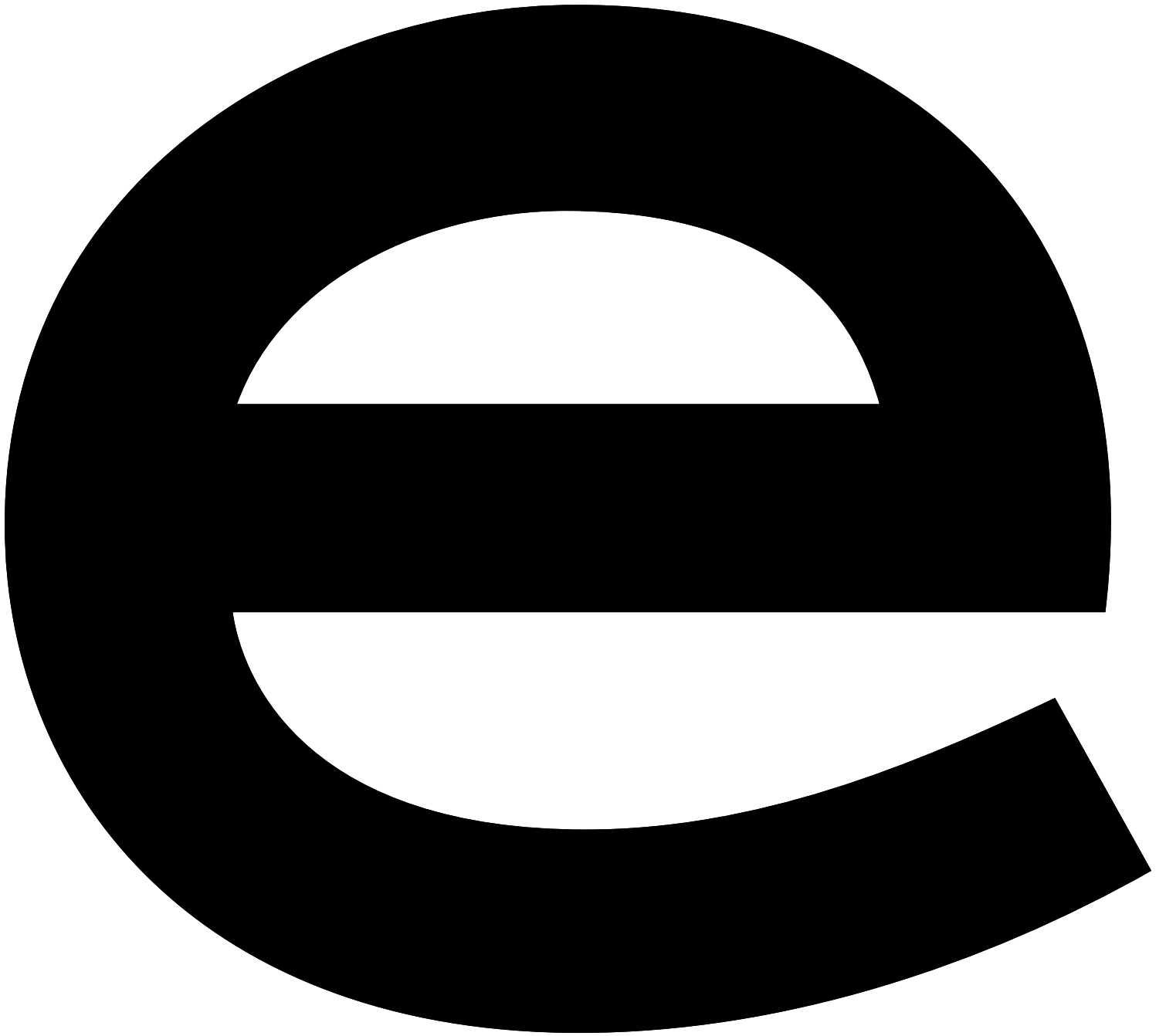


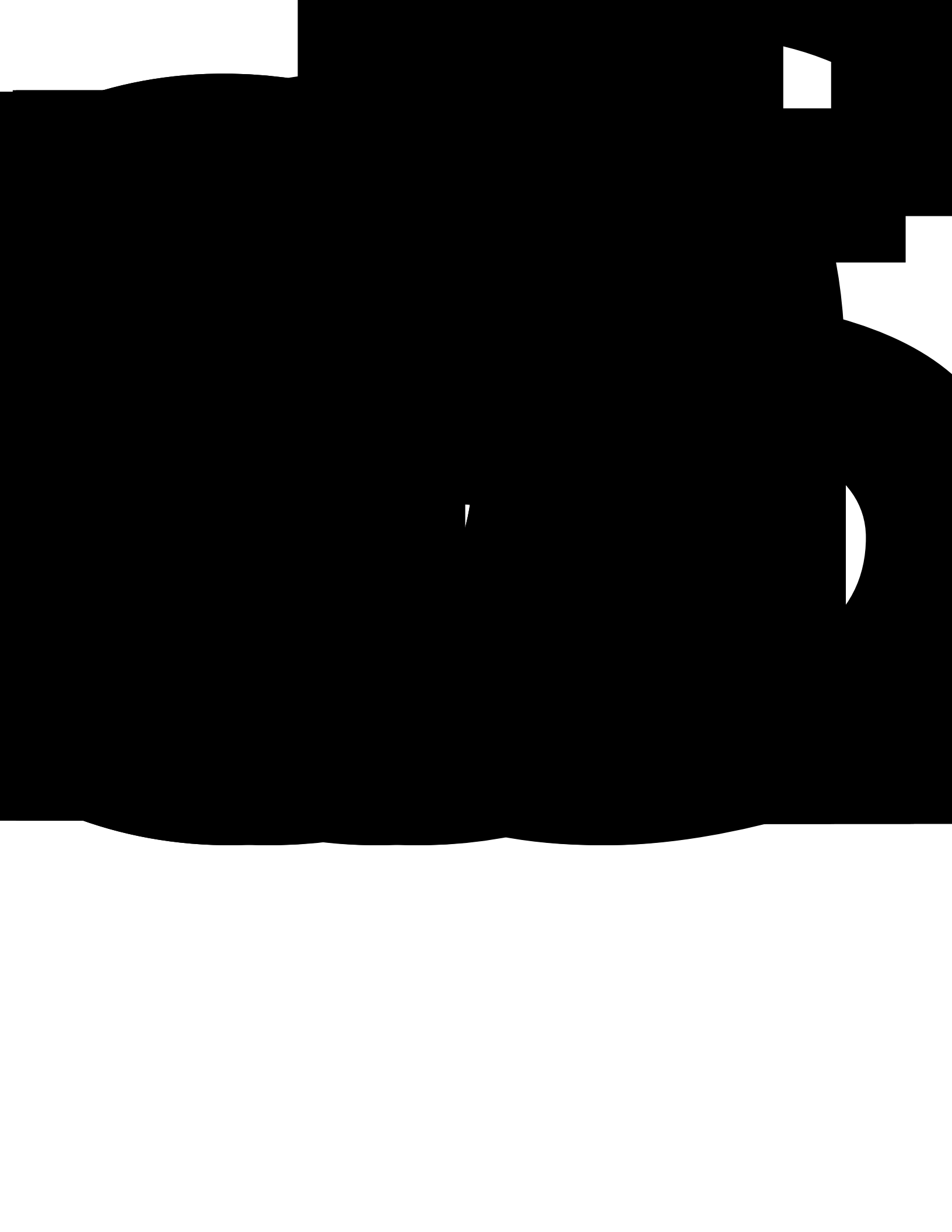


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I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE GOVERNMENTAL UNITS
(Summary)

It is anticipated that implementation of this proposal will result in savings of \$1,000,000 for SFY 1997 but no costs are anticipated for SFY 1998.

II. ESTIMATED EFFECT ON REVENUE COLLECTED BY STATE GOVERNMENTAL UNITS
(Summary)

Implementation of this rule won't impact revenue for state licensure functions.

III. ESTIMATED COSTS AND/OR SAVINGS TO NONGOVERNMENTAL GROUPS
(Summary)

There are no estimated costs or savings to affected persons or nongovernmental groups.

IV. ESTIMATED EFFECT ON STATE GOVERNMENT (Summary)

There is no effect on state government.

Thomas D. Collins
Director

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