

Dear Senators HEIDER, Nuxoll, Bock, and
Representatives WOOD, Perry, Rusche:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of the Department of Health and Welfare - Residential Care or Assisted Living Facilities in Idaho: IDAPA 16.03.22 - Rules Pertaining To Residential Care or Assisted Living Facilities in Idaho (Docket No. 16-0322-1401).

Pursuant to Section 67-454, Idaho Code, a meeting on the enclosed rules may be called by the cochairmen or by two (2) or more members of the subcommittee giving oral or written notice to Research and Legislation no later than fourteen (14) days after receipt of the rules' analysis from Legislative Services. The final date to call a meeting on the enclosed rules is no later than 08/22/2014. If a meeting is called, the subcommittee must hold the meeting within forty-two (42) days of receipt of the rules' analysis from Legislative Services. The final date to hold a meeting on the enclosed rules is 09/19/2014.

The germane joint subcommittee may request a statement of economic impact with respect to a proposed rule by notifying Research and Legislation. There is no time limit on requesting this statement, and it may be requested whether or not a meeting on the proposed rule is called or after a meeting has been held.

To notify Research and Legislation, call 334-4834, or send a written request to the address on the memorandum attached below.



Jeff Youtz
Director

Legislative Services Office Idaho State Legislature

Serving Idaho's Citizen Legislature

MEMORANDUM

TO: Rules Review Subcommittee of the Senate Health & Welfare Committee and the House Health & Welfare Committee
FROM: Senior Legislative Research Analyst - Ryan Bush
DATE: August 5, 2014
SUBJECT: Department of Health and Welfare - Residential Care or Assisted Living Facilities in Idaho

IDAPA 16.03.22 - Rules Pertaining To Residential Care or Assisted Living Facilities in Idaho (Docket No. 16-0322-1401)

The Department of Health and Welfare submits notice of proposed rulemaking at IDAPA 16.03.22 - Rules Pertaining To Residential Care or Assisted Living Facilities in Idaho. The Department states that this rule change is to update licensing requirements in response to requests from living facility operators and updates standards of care. The Department further states that this rulemaking meets best practice and current technology standards while maintaining the health and safety of residents. In addition, this rulemaking accomplishes the following:

- (1) Changes and adds definitions;
- (2) Provides the requirements and enforcement for a plan of operation for an administrator of multiple facilities;
- (3) Provides options for facilities regarding employees working prior to receiving Department criminal history clearance;
- (4) Updates requirements for a facility administrator;
- (5) Updates requirements for handling accidents, incidents or complaints to include identifying and monitoring patterns;
- (6) Revises training requirements for facilities caring for those with dementia or mental disabilities;
- (7) Provides that the Department will not review an application when an applicant has an enforcement action against another license; and
- (8) Revises terminology.

Negotiated rulemaking was conducted and Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the May 2014 Idaho Administrative Bulletin. There is no fiscal impact associated with this rulemaking.

Mike Nugent, Manager
Research & Legislation

Cathy Holland-Smith, Manager
Budget & Policy Analysis

April Renfro, Manager
Legislative Audits

Glenn Harris, Manager
Information Technology

The proposed rule appears to be within the statutory authority granted to the Department in Sections 56-202(b) and 39-3305, Idaho Code.

cc: Department of Health and Welfare - Residential Care or Assisted Living Facilities in Idaho
Beverly Barr and Frank Powell

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.22 - RESIDENTIAL CARE OR ASSISTED LIVING FACILITIES IN IDAHO

DOCKET NO. 16-0322-1401

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 39-3305, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than August 20, 2014.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

To ensure the health and safety of residents living in residential care or assisted living facilities, these rules providing the licensing requirements and standards of care are being updated. Assisted living facility operators have requested operational relief for some of the standards and requirements, and the Department has negotiated with these facilities to streamline its licensing process to meet best practice and current technology standards while maintaining the residents' health and safety. The changes add definitions, allow and provide the requirements and enforcement for a plan of operation for an administrator of multiple facilities, and provides options for facilities around availability of employees to work prior to receiving a Department criminal history clearance, while maintaining resident safety.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: NA

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking:

There is no anticipated fiscal impact to the state general fund or to any other funds due to this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the May 7, 2014, Idaho Administrative Bulletin, [Vol. 14-5, pages 64 and 65](#).

INCORPORATION BY REFERENCE: No materials are being incorporated by reference into these rules.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Jamie Simpson at (208) 334-1962.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 27, 2014.

DATED this 14th day of August, 2014.

Tamara Prisock
DHW - Administrative Rules Unit
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THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 16-0322-1401
(Only those Sections being amended are shown.)

009. CRIMINAL HISTORY AND BACKGROUND CHECK REQUIREMENTS.

01. Criminal History and Background Check. A residential care or assisted living facility must complete a criminal history and background check on employees and contractors hired or contracted with after October 1, 2007, who have direct patient access to residents in the residential care or assisted living facility. The Department check conducted under IDAPA 16.05.06, "Criminal History and Background Checks," satisfies this requirement. Other criminal history and background checks may be acceptable provided they meet the criteria in Subsection 009.02 of this rule and the entity conducting the check issues written findings. The entity must provide a copy of these written findings to both the facility and the employee. (3-26-08)

02. Scope of a Criminal History and Background Check. The criminal history and background check must, at a minimum, be fingerprint-based and include a search of the following record sources: (3-26-08)

- a. Federal Bureau of Investigation (FBI); (3-26-08)
- b. Idaho State Police Bureau of Criminal Identification; (3-26-08)
- c. Sexual Offender Registry; (3-26-08)
- d. Office of Inspector General List of Excluded Individuals and Entities; and (3-26-08)
- e. Nurse Aide Registry. (3-26-08)

03. Availability to Work. Any direct patient access individual hired or contracted with on or after October 1, 2007, must self-disclose all arrests and convictions before having access to residents. ()

a. The individual is allowed to only work under supervision until the criminal history and background check is completed, unless: ()

i. The individual has completed an alternative criminal history and background check that includes a search of the record sources listed in Subsections 009.02.b. through 009.02.e. of this rule; and ()

ii. The facility determines there is no potential danger to residents. ()

b. This alternative criminal history and background check is only in effect until the Department has issued a clearance or denial based on the Department's completed fingerprint based background check. ()

c. If a disqualifying crime as described in IDAPA 16.05.06, "Criminal History and Background Checks," is disclosed, the individual cannot have access to any resident. ~~(3-26-08)~~()

04. Submission of Fingerprints. The individual's fingerprints must be submitted to the entity conducting the criminal history and background check within twenty-one (21) days of his date of hire. (3-26-08)

05. New Criminal History and Background Check. An individual must have a criminal history and background check when: (3-26-08)

- a. Accepting employment with a new employer; and (3-26-08)
- b. His last criminal history and background check was completed more than three (3) years prior to his date of hire. (3-26-08)

06. Use of Previous Criminal History and Background Check. Any employer may use a previous criminal history and background check obtained under these rules if: (3-26-08)

a. The individual has received a criminal history and background check within three (3) years of his date of hire; (3-26-08)

b. The employer has documentation of the criminal history and background check findings; (3-26-08)

c. The employer completes a state-only background check of the individual through the Idaho State Police Bureau of Criminal Identification; and (3-26-08)

d. No disqualifying crimes are found. (3-26-08)

07. Employer Discretion. The new employer, at its discretion, may require an individual to complete a criminal history and background check at any time, even if the individual has received a criminal history and background check within three (3) years of his date of hire. (3-26-08)

010. DEFINITIONS AND ABBREVIATIONS A THROUGH E.

01. Abuse. The non-accidental act of sexual, physical or mental mistreatment, or injury of a resident through the action or inaction of another individual. (3-30-06)

02. Accident. An unexpected, unintended event that can cause a resident injury. (3-30-06)

03. Activities. All organized and directed social and rehabilitative services a facility provides, arranges, or cooperates with. (3-30-06)

04. Activities of Daily Living. The performance of basic self-care activities in meeting an individual's needs to sustain him in a daily living environment, including bathing, washing, dressing, toileting, grooming, eating, communicating, continence, and mobility. (3-30-06)

05. Administrator. An individual, properly licensed by the Bureau of Occupational Licensing, who is responsible for day to day operation of a residential care or assisted living facility. (3-30-06)

06. Administrator Designee. An administrator's designee is a person authorized to act in the absence of the administrator and who is knowledgeable of facility operations, the residents and their needs, emergency procedures, the location and operation of emergency equipment and how the administrator can be reached in the event of an emergency. ()

~~067.~~ **Adult.** A person who has attained the age of eighteen (18) years. (3-30-06)

~~078.~~ **Advance Directive.** A written instruction, such as a living will or durable power of attorney for health care, recognized under State Law, whether statutory or as recognized by the courts of the State, and relates to the provision of medical care when the individual is unable to communicate. (3-30-06)

~~089.~~ **Advocate.** An authorized or designated representative of a program or organization operating under federal or state mandate to represent the interests of a population group served by a facility. (3-30-06)

~~109.~~ **Ambulatory Person.** A person who, unaided by any other person, is physically and mentally capable of walking a normal path to safety, including the ascent and descent of stairs. (3-30-06)

~~101.~~ **Assessment.** The conclusion reached using uniform criteria which identifies resident strengths, weaknesses, risks and needs, to include functional, medical and behavioral needs. (3-30-06)

~~112.~~ **Authentication.** Proof of authorship. (3-30-06)

123. Authorized Provider. An individual who is a nurse practitioner or clinical nurse specialist or physician assistant. (3-30-06)

134. Basement. That portion of a building that is partly or completely below grade plane. A basement will be considered as a story above grade plane where the finished surface of the floor above the basement is: (1) More than six (6) feet (1829 mm) above grade plane; (2) More than six (6) feet (1829 mm) above the finished ground level for more than fifty percent (50%) of the total building perimeter; or (3) More than twelve (12) feet (3658 mm) above the finished ground level at any point. International Building Code-2003. (3-30-06)

145. Behavioral Plan. A written plan which decreases the frequency or intensity of maladaptive behaviors and increases the frequency of adaptive behaviors and introduces new skills. (3-30-06)

156. Call System. A signaling system whereby a resident can contact staff directly from their sleeping room, toilet room, and bathing area. The system may be voice communication; an audible or visual signal; and, may include wireless technology. The call system cannot be configured in such a way as to breach a resident's right to privacy at the facility, including but not limited to, the resident's living quarters, common areas, medical treatment and other services, written and telephonic communications, or in visits with family, friends, advocates, and resident groups. (3-29-10)

167. Chemical Restraint. A medication used to control behavior or to restrict freedom of movement and is not a standard treatment for the resident's condition. (3-30-06)

178. Client of the Department. Any person who receives financial aid, or services, or both from an organized program of the Department. (3-30-06)

189. Complaint. A formal expression of dissatisfaction, discontent, or unhappiness by or on behalf of a resident concerning the care or conditions at the facility. This expression could be oral, in writing, or by alternative means of communication. (3-30-06)

1920. Complaint Investigation. A survey to investigate the validity of allegations of noncompliance with applicable state requirements. (3-30-06)

201. Core Issue. A core issue is any one (1) of the following: abuse; neglect; exploitation; inadequate care; a situation in which the facility has operated for more than thirty (30) days without a licensed administrator designated the responsibility for the day to day operations of the facility; inoperable fire detection or extinguishing systems with no fire watch in place pending the correction of the system; or surveyors denied access to records, residents or facilities. (3-30-06)

212. Criminal Offense. Any crime as defined in Section 18-111, Idaho Code, in 18 U.S.C. Section 4A1.2(o), and 18 U.S.C. Sections 1001 through 1027. (3-30-06)

223. Deficiency. A determination of non-compliance with a specific rule or part of a rule. (3-30-06)

234. Dementia. A chronic deterioration of intellectual function and other cognitive skills severe enough to interfere with the ability to perform activities of daily living and instrumental activities of daily living. (3-30-06)

245. Department. The Idaho Department of Health and Welfare. (3-30-06)

256. Developmental Disability. A developmental disability, as defined in Section 66-402, Idaho Code, means chronic disability of a person which appears before the age of twenty-two (22) years of age and: (3-30-06)

a. Is attributable to an impairment, such as an intellectual disability, cerebral palsy, epilepsy, autism, or other conditions found to be closely related to or similar to one (1) of these impairments that requires similar treatment or services, or is attributable to dyslexia resulting from such impairments; and (3-30-06)

b. Results in substantial functional limitations in three (3) or more of the following areas of major life activity; self-care, receptive and expressive language, learning, mobility, self-direction, capacity of independent

living, or economic self-sufficiency; and (3-30-06)

c. Reflects the need for a combination and sequence of special, interdisciplinary or direct care, treatment or other services which are of life-long or extended duration and individually planned and coordinated. (3-30-06)

267. **Director.** The Director of the Idaho Department of Health and Welfare or his designee. (3-30-06)

278. **Electronic Signature, E-Signature.** The system for signing electronic documents by entering a unique code or password that verifies the identity of the person signing and creates an individual "signature" on the record. (3-30-06)

289. **Exit Conference.** A meeting with the facility administrator or designee to: (1) provide review, discussion and written documentation of non-core issues (Punch List), and (2) to provide preliminary findings of core issues. (3-30-06)

2930. **Exploitation.** The misuse of a resident's funds, property, resources, identity or person for profit or advantage, for example: (3-29-10)

a. Charging a resident for services or supplies not provided; or (3-29-10)

b. Charging a resident for services or supplies not disclosed in the written admission agreement between the resident and the facility. (3-29-10)

011. DEFINITIONS AND ABBREVIATIONS F THROUGH M.

01. Follow-Up Survey. A survey conducted to confirm that the facility is in compliance and has the ability to remain in compliance. (3-30-06)

02. Functional Abilities Assessment. An assessment of the resident's degree of independence with which the resident performs activities of daily living and instrumental activities of daily living. (3-30-06)

03. Governmental Unit. The state, any county, municipality, or other political subdivision or any Department, division, board, or other agency thereof. (3-30-06)

04. Grade Plane. A reference plane representing the average of finished ground level adjoining the building at exterior walls. Where the finished ground level slopes away from the exterior walls, the reference plane will be established by the lowest points within the area between the building and the lot line or, where the lot line is more than six (6) feet (1829 mm) from the building, between the building and a point six (6) feet (1829 mm) from the building. International Building Code - 2003. (3-30-06)

05. Hands On. Physical assistance to the resident beyond verbal prompting. (3-30-06)

06. Hourly Adult Care. Nonresident daily services and supervision provided by a facility to individuals who are in need of supervision outside of their personal residence for a portion of the day. (3-30-06)

07. Immediate Danger. Any resident is subject to an imminent or substantial danger. (3-30-06)

08. Inadequate Care. When a facility fails to provide the services required to meet the terms of the Negotiated Service Agreement, or provide for room, board, activities of daily living, supervision, first aid, assistance and monitoring of medications, emergency intervention, coordination of outside services, a safe living environment, or engages in violations of resident rights or takes residents who have been admitted in violation of the provisions of Section 39-3307, Idaho Code. (3-30-06)

09. Incident. An event that can cause a resident injury. (3-30-06)

10. Incident, Reportable. A situation when a facility is required to report information to the Licensing

and Certification Unit. (3-29-10)

a. Resident injuries of unknown origin. This includes any injury, the source of which was not observed by any person or the source of the injury could not be explained by the resident; or the injury includes severe bruising on the head, neck, or trunk, fingerprint bruises anywhere on the body, laceration, sprains, or fractured bones. Minor bruising and skin tears on the extremities need not be reported. (3-30-06)

b. Resident injury resulting from accidents involving facility-sponsored transportation. Examples: falling from the facility's van lift, wheel chair belt coming loose during transport, or an accident with another vehicle. (3-30-06)

c. Resident elopement of any duration. Elopement is when a resident who is unable to make sound decisions physically leaves the facility premises without the facility's knowledge. (3-30-06)

d. An injury due to resident-to-resident incident. (3-30-06)

e. An incident that results in the resident's need for hospitalization, treatment in a hospital emergency room, fractured bones, IV treatment, dialysis, or death. (3-30-06)

11. Independent Mobility. A resident's ability to move about freely of their own choice with or without the assistance of a mobility device such as a wheelchair, cane, crutches, or walker. (3-30-06)

12. Instrumental Activities of Daily Living. The performance of secondary level of activities that enables a person to live independently in the community, including preparing meals, access to transportation, shopping, laundry, money management, housework, and medication management. (3-30-06)

13. Legal Guardian or Conservator. A court-appointed individual who manages the affairs or finances or both of another who has been found to be incapable of handling his own affairs. (3-30-06)

14. License. A permit to operate a facility. (3-30-06)

15. Licensing and Certification Unit. The ~~section of the~~ Department's Division of Licensing and Certification is responsible for licensing and surveying residential care or assisted living facilities. In this chapter of rules, "Licensing and Certification Unit" and "Licensing and Survey Agency" are synonymous. ~~(3-29-10)(____)~~

16. Medication. Any substance or drug used to treat a disease, condition, or symptom, which may be taken orally, injected, or used externally and is available through prescription or over-the-counter. (3-30-06)

17. Medication Administration. It is a process where a prescribed medication is given to a resident by one (1) of several routes by licensed nurses. (3-30-06)

18. Medication Assistance. The process whereby a non-licensed care provider is delegated tasks by a licensed nurse to aid a person who cannot independently self-administer medications. IDAPA 23.01.01. "Rules of the Idaho State Board of Nursing," Section 010. (3-30-06)

19. Medication Dispensing. The act of filling, labeling and providing a prescribed medication to a resident. (3-30-06)

20. Medication, Self-Administration. The act of a resident taking a single dose of his own medication from a properly labeled container and placing it internally in, or externally on, his own body as a result of an order by a authorized provider. (3-30-06)

21. Mental Disorders. Health conditions that are characterized by alterations in thinking, mood or behavior (or some combination thereof), that are all mediated by the brain and associated with distress and or impaired functioning. (3-30-06)

22. Mental Illness. Refers collectively to all diagnosable mental disorders. (3-30-06)

23. Monitoring Visit. A visit by a representative of the Licensing and Certification Unit for the purpose of assuring residents are not in immediate danger. (3-29-10)

24. Neglect. Failure to provide food, clothing, shelter, or medical care necessary to sustain the life and health of a resident. (3-30-06)

25. Negotiated Service Agreement. The plan reached by the resident and/or their representative and the facility based on the assessment, physician or authorized provider's orders, admission records, and desires of the resident, and which outlines services to be provided and the obligations of the facility and the resident. (3-30-06)

26. Non-Core Issue. Any finding of deficiency that is not a core issue. (3-30-06)

(BREAK IN CONTINUITY OF SECTIONS)

110. FACILITY LICENSE APPLICATION.

01. Facility License. License application forms are available upon written request or online at the Licensing and Survey Agency's website at <http://www.facilitystandards.idaho.gov>. The applicant must provide the following information: (3-30-06)

a. A written statement that the applicant has thoroughly read and reviewed the statute, Title 39, Chapter 33, Idaho Code, and IDAPA 16.03.22, "Rules for Residential Care or Assisted Living Facilities in Idaho," and is prepared to comply with both; (3-30-06)

b. The applicant must provide a written statement and documentation that ~~discloses any~~ demonstrate ~~no~~ license revocation or other ~~disciplinary~~ enforcement action has been taken or is in the process of being taken, against a license held or previously held by the ~~entity~~ applicant in Idaho or any other state or jurisdiction; ~~(3-30-06)~~()

c. When the applicant is a firm, association, organization, partnership, business trust, corporation, government entity, or company, the administrator and other members of the organization ~~who provide direct resident care or~~ who directly influence the facility's operation must provide the information contained in Subsections 110.01.a. and 110.01.b. of these rules. ~~(3-30-06)~~()

d. Each shareholder or investor holding ten percent (10%) or more interest in the business must be listed on the application; (3-30-06)

e. A copy of the Certificate of Assumed Business Name from Secretary of State of Idaho; (3-30-06)

f. A statement from the local fire authority that the facility is located in a lawfully constituted fire district or affirmation that a lawfully constituted fire authority will respond to a fire at the facility; (3-30-06)

g. A statement from a licensed electrician or the local or state electrical inspector that all wiring in the facility complies with current electrical codes; (3-30-06)

h. When the facility does not use an approved municipal water or sewage treatment system, a statement from a local environmental health specialist with the public health district indicating that the water supply and sewage disposal system meet the Department's requirements and standards; (3-30-06)

i. A complete set of printed operational policies and procedures as described in Sections 150 through 162 of these rules. (3-30-06)

j. A detailed floor plan of the facility, including measurements of all rooms, or a copy of architectural drawings must be submitted for evaluation by the Licensing and Survey Agency. See Sections 250-260, 400-410, and

430 of these rules. (3-30-06)

k. A copy of the Purchase Agreement, Lease Agreement, or Deed. (3-30-06)

l. For facilities with nine (9) beds or more, signatures must be obtained from the following: (3-30-06)

i. The local zoning official documenting that the facility meets local zoning codes for occupancy; (3-30-06)

and **ii.** The local building official documenting that the facility meets local building codes for occupancy; (3-30-06)

iii. The local fire official documenting that the facility meets local fire codes for occupancy. (3-30-06)

02. Written Request for Building Evaluation. The applicant must request in writing to the Licensing and Survey Agency for a building evaluation of existing buildings. The request must include the physical address of the building that is to be evaluated; the name, address, and telephone number of the person who is to receive the building evaluation report. (3-30-06)

03. Building Evaluation Fee. This application and request must be accompanied by a five hundred dollar (\$500) initial building evaluation fee. (3-30-06)

04. Identification of the Licensed Administrator. The applicant must provide the following information for the licensed administrator: (3-30-06)

a. A copy of the administrator license; (3-30-06)

b. A current primary residence of the administrator. (3-30-06)

05. Failure to Complete Application Process. Failure of the applicant to complete the Licensing and Survey Agency's application process within six (6) months, of the original date of application, may result in a denial of the application. If the application is denied the applicant is required to initiate a second licensing process. (3-30-06)

111. -- 114. (RESERVED)

115. EXPIRATION AND RENEWAL OF LICENSE.

01. Application for License Renewal. The facility must submit a Licensing and Survey Agency application for renewal of a license at least thirty (30) days prior to the expiration of the existing license. (3-30-06)

02. Existing License. The existing license, unless suspended, surrendered, or revoked, remains in force and effect until the Licensing and Survey Agency has acted upon the application renewal, when such application for renewal has been filed. ~~(3-30-06)~~()

(BREAK IN CONTINUITY OF SECTIONS)

126. EFFECT OF ENFORCEMENT ACTION AGAINST A LICENSE.

The Department will not review an application of an applicant who has an action, either current or in process, against a license held by the applicant either in Idaho or any other state or jurisdiction. ()

~~126~~7. -- 129. (RESERVED)

(BREAK IN CONTINUITY OF SECTIONS)

152. ADMISSION POLICIES.

01. Admissions. Each facility must develop written admission policies and procedures. The written admission policy must include; (3-30-06)

a. The purpose, quantity and characteristics of available services; (3-30-06)

b. Any restrictions or conditions imposed because of religious or philosophical reasons. (3-30-06)

c. Limitations concerning delivery of routine personal care by persons of the opposite gender. (3-30-06)

d. Notification of any residents who are on the sexual offender registry and who live in the facility. The registry may be accessed online at http://isp.idaho.gov/sor_id/search.html. (3-30-06)

e. Appropriateness of placement to meet the needs of the resident, when there are non resident adults or children residing in the facility. (3-30-06)

02. Fee Description. A written description of how fees will be handled by the facility. (3-30-06)

03. Resident Funds Policies. When a resident's funds are deposited with the facility or administrator, the facility must manage the residents' funds as provided in Sections 39-3316 (1), (5) & (6), Idaho Code, and Section 505 and Subsections 550.05 and 550.06 of these rules. Each facility must develop written policies and procedures outlining how residents' funds will be handled. (3-30-06)

a. A statement if the facility does not manage resident funds. (3-30-06)

b. If the facility manages resident funds, how funds are handled and safeguarded. (3-30-06)

04. Resident Admission, Discharge, and Transfer. The facility must have policies addressing admission, discharge, and transfer of residents to, from, or within the facility. (3-30-06)

05. Policies of Acceptable Admissions. Written descriptions of the conditions for admitting residents to the facility must include: (3-30-06)

a. A resident will be admitted or retained only when the facility has the capability, capacity, and services to provide appropriate care, or the resident does not require a type of service for which the facility is not licensed to provide or which the facility does not provide or arrange for, or if the facility does not have the personnel, appropriate in numbers and with appropriate knowledge and skills to provide such services; (3-30-06)

b. No resident will be admitted or retained who requires ongoing skilled nursing or care not within the legally licensed authority of the facility. Such residents include: (3-30-06)

i. A resident who has a gastrostomy tube, arterial-venous (AV) shunts, or supra-pubic catheter inserted within the previous twenty-one (21) days; (3-30-06)

ii. A resident who is receiving continuous total parenteral nutrition (TPN) or intravenous (IV) therapy; (3-30-06)

iii. A resident who requires physical restraints, including bed rails, an exception is a chair with locking wheels or chair in which the resident can not get out of; (3-30-06)

iv. A resident who is comatose, except for a resident who has been assessed by a physician or authorized provider who has determined that death is likely to occur within fourteen (14) to thirty (30) days; (3-30-06)

- v. A resident who is on a mechanically supported breathing system, except for residents who use ~~CPAP, (continuous~~ positive airway pressure) devices only for sleep apnea, such as CPAP or BiPAP; ~~(3-30-06)~~()
- vi. A resident who has a tracheotomy who is unable to care for the tracheotomy independently; (3-30-06)
- vii. A resident who is fed by a syringe; (3-30-06)
- viii. A resident with open, draining wounds for which the drainage cannot be contained; (3-30-06)
- ix. A resident with a Stage III or IV pressure ulcer; (3-30-06)
- x. A resident with any type of pressure ulcer or open wound that is not improving bi-weekly; (3-30-06)
- ~~xi. A resident who has MRSA (methicillin resistant staphylococcus aureus) in an active stage (infective stage). (3-30-06)~~
- c. For any resident who has needs requiring a nurse, the facility must assure a licensed nurse is available to meet the needs of the resident. (3-30-06)
- d. A resident will not be admitted or retained who has physical, emotional, or social needs that are not compatible with the other residents in the facility; (3-30-06)
- e. A resident that is violent or a danger to himself or others; (3-30-06)
- f. Any resident requiring assistance in ambulation must reside on the first story unless the facility complies with Sections 401 through 404 of these rules; (3-30-06)
- g. Residents who are not capable of self evacuation must not be admitted or retained by a facility which does not comply with the NFPA Standard #101, "Life Safety Code, 2000 Edition, Chapter 33, Existing Residential Board and Care Impracticable Evacuation Capability;" and (3-30-06)
- ~~h. Until July 1, 2010, Waivered Level 3 Small Facilities will be exempt from complying with the requirements under Subsection 152.05.g. of this rule, including the requirement to have at least a residential fire sprinkler system. On July 1, 2010, all Waivered Level 3 Small Facilities that admit or retain residents who are incapable of self evacuation will be required to comply with the requirements under Subsection 152.05.g. of this rule. This includes being equipped with at least an operable residential fire sprinkler system. Any facility sold prior to July 1, 2010, must meet the requirements under Subsection 403.03 of these rules before a new license will be issued. (3-30-07)~~

(BREAK IN CONTINUITY OF SECTIONS)

215. REQUIREMENTS FOR A FACILITY ADMINISTRATOR.

Each facility must be organized and administered under one (1) licensed administrator assigned as the person responsible for the operation of the facility. Multiple facilities under one (1) administrator may be allowed by the Department based on an approved plan of operation described in Section 216 of these rules. ~~(3-30-06)~~()

01. Administrator Responsibility. The administrator is responsible for assuring that policies and procedures required in Title 39, Chapter 33, Idaho Code and IDAPA 16.03.22, "Residential Care or Assisted Living Facilities in Idaho" are implemented. (3-30-06)

02. Availability of Administrator. The facility's administrator must be on site sufficiently to provide for safe and adequate care of the residents to meet the terms in the Negotiated Service Agreement. The facility's

administrator or his designee must be available to be on-site at the facility within two (2) hours. (3-30-06)

03. Thirty Day Operation Limit. The facility may not operate for more than thirty (30) days without a licensed administrator. (3-30-06)

04. Representation of Residents. The owner or administrator, ~~his~~ their relatives, or employees cannot act as or seek to become the legal guardian of, or have power of attorney for any resident. Specific limited powers of attorney to address emergency procedures where competent consent cannot otherwise be obtained are permitted. ~~(3-30-06)~~ ()

05. Responsibility for Acceptable Admissions. The administrator must assure that no resident is knowingly admitted or retained who requires care as defined in Section 39-3307, Idaho Code, and Subsection 152.05 of these rules. (3-30-06)

06. Sexual Offender. The administrator must assure that a non-resident on the sexual offender registry is not allowed to live or work in the facility. The registry may be accessed online at http://isp.idaho.gov/sor_id/search.html. (3-30-06)

07. Notification of Adult Protection and Law Enforcement. The administrator must assure that adult protection and law enforcement are notified in accordance with Section 39-5310, Idaho Code. (3-30-06)

08. Procedures for Investigations. The administrator must assure the facility procedures for investigation of incidents, accidents, and allegations of abuse, neglect, or exploitation are implemented to assure resident safety. (3-30-06)

09. Identify and Monitor Patterns of Incidents and Accidents. The administrator must identify and monitor patterns related to incidents and accidents and develop interventions to prevent recurrences. ()

109. Notification of Reportable Incidents. The administrator must assure notification to the Licensing and Certification Unit of reportable incidents. (3-29-10)

101. Administrator's Designee. A person authorized in writing to act in the absence of the administrator ~~and who is knowledgeable of facility operations, the residents and their needs, emergency procedures, the location and operation of emergency equipment, and how the administrator can be reached in the event of an emergency.~~ An administrator's designee may act in the absence of the administrator for no longer than thirty (30) consecutive days when the administrator: ~~(3-30-06)~~ ()

a. Is on vacation; ()

b. Has days off; ()

c. Is ill; or ()

d. Is away for training or meetings. ()

112. Ability to Reach Administrator or Designee. The administrator or his designee must be reachable and available at all times. (3-30-06)

123. Minimum Age of Personnel. The administrator will assure that no personnel providing hands-on care or supervision services will be under eighteen (18) years of age unless they have completed a certified nursing assistant (CNA) certification course. (3-30-06)

134. Notification to Licensing and Certification Unit. The facility must notify the Licensing and Certification Unit, in writing, within three (3) business days of a change of administrator. (3-29-10)

216. REQUIREMENTS FOR A MULTIPLE FACILITY ADMINISTRATOR.

Each facility must have a Department approved plan of operation to have one (1) administrator assigned as the person responsible for the operation of multiple facilities. ()

01. Approved Plan of Operation. Under Section 39-3321, Idaho Code, multiple facilities under one (1) administrator may be approved when the following is provided in the plan of operation: ()

a. The multiple facility administrator must provide proof of a current license in Idaho with no actions or pending actions taken against licensee; ()

b. The plan must provide for full-time on-site supervision by trained and experienced staff, including: ()

i. Who is responsible for on-site management of each facility when administrator is not on-site; and ()

ii. How each individual responsible for on-site management of each facility is qualified to perform those duties. ()

02. Facility Change To An Approved Plan of Operation. A new plan of operation must be submitted to the Department and approved before any facility in the plan is changed. ()

03. Number of Facilities or Beds Allowed Under One Administrator. Based on an approved plan of operation, the Department will allow one (1) licensed administrator to oversee: ()

a. Up to three (3) facilities when each of the facilities has sixteen (16) beds or fewer; ()

b. Two (2) facilities when either of the facilities has more than sixteen (16) beds but less than fifty (50) beds, and the combined number of beds for both facilities cannot exceed eighty (80) beds; or ()

c. One (1) facility with fifty (50) beds or more. A plan of operation for a multiple facility administrator will not be approved for a facility with fifty (50) beds or more. ()

04. No Unresolved Core Issues. None of the multiple facilities operated under one (1) administrator can have any unresolved core issue deficiencies described in Section 010 of these rules. The administrator approved to oversee more than one (1) facility must have an established record of compliance, which includes: ()

a. No repeat deficiencies; ()

b. No enforcement actions; ()

c. A history of submitting acceptable plans of corrections within the time frame established in Subsection 130.08 of these rules; ()

d. A history of submitting acceptable evidence of resolution of deficiencies within the time frame established in Subsection 130.09 of these rules; and ()

e. The administrator's record must show that he has two (2) years or more of experience working as a licensed residential care administrator in Idaho. ()

05. Administrator Hours On-site in Each Facility. The administrator must be on-site at each facility for at least: ()

a. Ten (10) hours per week in facilities with fewer than sixteen (16) beds; ()

b. Fifteen (15) hours per week in facilities with more than (16) beds; and ()

c. Each facility's record must include documentation of the number of hours per week the ()

administrator is on-site. For each week the Administrator is not on-site, the documentation must include the reasons for his absence such as illness, vacation, or training. ()

06. Administrator Response Time for Each Facility. A multiple facility administrator must not have a primary residence more than seventy-five (75) miles from any of the facilities. Each facility with a multiple facility administrator must be within two (2) hours driving distance from each other. ()

07. On-Site Supervision in Each Facility. The plan of operation must include full-time on-site supervision by trained and experienced staff. ()

08. Dually Licensed Administrator. A skilled nursing facility and an assisted living facility with less than fifty (50) beds may have a multiple facility administrator with an approved plan of operation. A dually licensed administrator, who is licensed in Idaho as both a Nursing Home Administrator and a Residential Care Facility Administrator, may be approved as a multiple facility administrator only when the two (2) facilities are on the same property or campus. ()

217. RESCIND APPROVAL FOR MULTIPLE FACILITY ADMINISTRATOR.

01. Rescind Plan of Operation Approval. When the conditions in the approved plan of operation are not met, the ability to have one (1) administrator for multiple facilities will be rescinded by the Department. ()

02. Reasons for Rescission or Denial of a Multiple Facility Administrator. Any and all facilities with a multiple facility administrator included in its approved plan of operation that receives repeat deficiencies, enforcement actions, or fails to submit acceptable plans of correction and evidence of resolution within the time frames established in Subsections 130.08 and 130.09 of these rules, may have its multiple facility administrator approval rescinded. ()

03. Rescission Review of Department Action. When the facility disagrees with the reasons for the rescission of the ability to have a multiple facility administrator, the administrator can request a rescission review. This request does not stay the rescission. The request must: ()

- a.** Be in writing; ()
- b.** Be received within fourteen (14) days of the date the Department's rescission letter was issued; and ()
- c.** State the specific reasons for disagreement with the Department's rescission action. ()

04. Review Decision. Within thirty (30) days from the date the review request is received, the Department will review and issue a decision. This decision is not appealable. ()

~~216.~~—218. (RESERVED)

(BREAK IN CONTINUITY OF SECTIONS)

221. REQUIREMENTS FOR TERMINATION OF ADMISSION AGREEMENT.

01. Conditions for Termination of the Admission Agreement. The admission agreement cannot be terminated, except under the following conditions: (3-30-06)

- a.** Giving the other party thirty (30) calendar days written notice for any reason; (3-30-06)
- b.** The resident's death; (3-30-06)
- c.** Emergency conditions that requires the resident to be transferred to protect the resident or other

residents in the facility from harm; (3-30-06)

d. The resident's mental or medical condition deteriorates to a level requiring care as described in Section 33-3307, Idaho Code, and Subsection 152.05 of these rules; (3-30-06)

e. Nonpayment of the resident's fees; (3-30-06)

f. When the facility can not meet resident needs due to changes in services, in house or contracted, or inability to provide the services; or (3-30-07)

g. Other written conditions as may be mutually established between the resident, the resident's legal guardian or conservator and the administrator of the facility at the time of admission. (3-30-06)

02. Facility Responsibility During Resident Discharge. The facility is responsible to assist the resident with transfer by providing a list of skilled nursing facilities, other residential care or assisted living facilities, and certified family homes that may meet the needs of the resident. (3-30-06)

03. Resident's Appeal of Involuntary Discharge. A resident may appeal all discharges with the exception of an involuntary discharge in the case of non-payment, emergency conditions that require the resident to be transferred to protect the resident or other residents in the facility from harm. (3-30-06)

a. Before a facility discharges a resident, the facility must notify the resident, and if known, a family member, or his legal representative of the discharge and the reasons for the discharge. (3-30-06)

b. This notice must be in writing and in a language and manner the resident or his representative can understand. (3-30-06)

04. Written Notice of Discharge. The written notice of discharge must include the following: (3-30-06)

a. The reason for the discharge; (3-30-06)

b. Effective date of the discharge; (3-30-06)

c. A statement that the resident has the right to appeal the discharge to the Department within thirty (30) calendar days of receipt of written notice of discharge; (3-30-06)

d. The name and address of where the appeal must be submitted; (3-30-06)

e. The name, address, and telephone number of the local ombudsman, for residents sixty (60) years of age or older; and (3-30-06)

f. The name, address and telephone number of ~~COAD~~ [Disability Rights Idaho](#), for residents with developmental disabilities or mental illness. ~~(3-30-06)~~()

g. If the resident fails to pay fees to the facility, as agreed to in the admission agreement, during the discharge appeal process, the resident's appeal of the involuntary discharge becomes null and void and the discharge notice applies. (3-30-06)

h. When the notice does not contain all the above required information, the notice is void and must be reissued. (3-30-06)

05. Receipt of Appeal. Request for an appeal must be received by the Department within thirty (30) calendar days of the resident's or resident's representative's receipt of written notice of discharge to stop the discharge before it occurs. (3-30-06)

(BREAK IN CONTINUITY OF SECTIONS)

305. LICENSED PROFESSIONAL NURSE RESPONSIBILITY REQUIREMENTS.

The licensed professional nurse must assess and document, including date and signature, for each resident as described in Subsections 305.01 through 305.08 of these rules. (3-30-06)

01. Resident Response to Medications and Therapies. Conduct a nursing assessment of each resident's response to medications and prescribed therapies. (3-30-06)

02. Current Medication Orders and Treatment Orders. Assure the residents' medication and treatment orders are current by verifying: ()

a. That the medication listed on the medication distribution container, including over-the-counter medications as appropriate, are consistent with physician or authorized provider orders: ()

b. That the physician or authorized provider orders related to therapeutic diets, treatments, and medications for each resident are followed; and ()

c. A copy of the actual written, signed and dated orders ~~must be~~ are present in each resident's care record. (~~3-30-06~~)()

03. Resident Health Status. Conduct a nursing assessment of the health status of each resident by identifying symptoms of illness, or any changes in mental or physical health status. (3-30-06)

04. Recommendations. Make recommendations to the administrator regarding any medication needs, other health needs requiring follow up, or changes needed to the Negotiated Service Agreement. (3-30-06)

05. Progress of Previous Recommendations. Conduct a review and follow-up of the progress on previous recommendations made to the administrator regarding any medication needs or other health needs that require follow up. Report to the attending physician or authorized provider and state agency if recommendations for care and services are not implemented that have affected or have the potential to affect the health and safety of residents. (3-30-06)

06. Self-Administered Medication. Conduct an initial nursing assessment on each resident participating in a self-administered medication program as follows: (3-30-06)

a. Before the resident can self-administer medication to assure resident safety; and (3-30-06)

b. Evaluate the continued validity of the assessment to assure the resident is still capable to safely continue the self-administered medication for the next ninety (90) days. (3-30-06)

07. Medication Interactions and Usage. Conduct a review of the resident's use of all prescribed and over-the-counter medications for side effects, interactions, abuse or a combination of these adverse effects. The nurse must notify the resident's physician or authorized provider of any identified concerns. (3-30-06)

08. Resident and Facility Staff Education. Assess, document and recommend any health care related educational needs, for both the resident and facility staff, as the result of the assessment or at the direction of the resident's health care provider. (3-30-06)

306. -- 309. (RESERVED)

310. REQUIREMENTS FOR MEDICATION.

01. Medication Distribution System. Each facility must use medi-sets or blister packs for prescription medications. The facility may use multi-dose medication distribution systems that are provided for resident's receiving medications from the Veterans Administration or Railroad benefits. The medication system must be filled

by a pharmacist and appropriately labeled in accordance with pharmacy standards and physician or authorized provider instructions. A licensed nurse may fill medi-sets, blister packs, or other Licensing and Survey Agency approved system as provided in Section 39-3326, Idaho Code and Section 157 of these rules. ~~(3-30-06)~~()

- a. All medications will be kept in a locked area such as a locked box or room; (3-30-06)
- b. Poisons, toxic chemicals, and cleaning agents will be stored in separate locked areas apart from medications, such as a locked medication cart, locked box or room; (3-30-06)
- c. Biologicals and other medications requiring cold storage will be refrigerated. A covered container in a home refrigerator will be considered to be satisfactory storage if the temperature is maintained at thirty-eight to forty-five degrees (38-45°F) Fahrenheit. The temperature will be monitored and documented on a daily basis; (3-30-06)
- d. Assistance with medication must comply with the Board of Nursing requirements; (3-30-06)
- e. Each prescription medication must be given to the resident directly from the medi-set, blister pack or medication container; and ~~(3-30-06)~~()
- f. Each resident must be observed taking the medication. (3-30-06)

02. Unused Medication. Unused, discontinued, or outdated medications cannot accumulate at the facility for longer than thirty (30) days. The unused medication must be disposed of in a manner that assures it cannot be retrieved. The facility may enter into agreement with a pharmacy to return unused, unopened medications to the pharmacy for proper disposition and credit. See IDAPA 16.03.09, "Medicaid Basic Plan Benefits," Sections 664 and 665, and IDAPA 27.01.01, "Rules of the Idaho Board of Pharmacy." A written record of all drug disposals must be maintained in the facility and include: (3-30-06)

- a. A description of the drug, including the amount; (3-30-06)
- b. Name of resident for prescription medication; (3-30-06)
- c. The reason for disposal; (3-30-06)
- d. The method of disposal; (3-30-06)
- e. The date of disposal; and (3-30-06)
- f. Signatures of responsible facility personnel and witness. (3-30-06)

03. Controlled Substances. The facility must track all controlled substances entering the facility in accordance with Title 37, Chapter 27, Idaho Code, and IDAPA 27.01.01, "Rules of the Idaho Board of Pharmacy," Section 495, and IDAPA 23.01.01, "Rules of the Idaho Board of Nursing Rules," Section 490. (3-30-06)

04. Psychotropic or Behavior Modifying Medication. (3-30-06)

- a. Psychotropic or behavior modifying medication intervention must not be the first resort to address behaviors. The facility must attempt non-drug interventions to assist and redirect the resident's behavior. (3-30-06)
- b. Psychotropic or behavior modifying medications must be prescribed by a physician or authorized provider. (3-30-06)
- c. The facility will monitor the resident to determine continued need for the medication based on the resident's demonstrated behaviors. (3-30-06)
- d. The facility will monitor the resident for any side effects that could impact the resident's health and safety. (3-30-06)

e. The use of psychotropic or behavior modifying medications must be reviewed by the physician or authorized provider at least every six (6) months. The facility must provide behavior updates to the physician or authorized provider to help facilitate an informed decision on the continuing use of the psychotropic or behavior modifying medication. (3-30-06)

(BREAK IN CONTINUITY OF SECTIONS)

335. REQUIREMENTS FOR INFECTION CONTROL.

The administrator is responsible for assuring that infection control policy and procedure are implemented. (3-30-06)

01. Implementation of Policies. Staff must implement facility policy and procedure. (3-30-06)

02. Staff With Infectious Disease. Staff with an infectious disease must not work until the infectious stage is corrected or must be reassigned to a work area where contact with others is not expected and likelihood of transmission of infection is absent. (3-30-06)

03. Universal Standard Precautions. *Universal Standard Precautions* must be used in the care of residents to prevent transmission of infectious disease according to the Centers for Disease Control and Prevention (CDC) guidelines. These guidelines may be accessed on the CDC website at <http://www.cdc.gov/hai/>. (3-30-06)()

04. Reporting of Individual With Infectious Disease. The name of any resident or facility personnel with a reportable disease listed in IDAPA 16.02.10, "Idaho Reportable Diseases," will be reported immediately to the local Health District authority and appropriate infection control procedures must be immediately implemented as directed by that local health authority. (3-30-06)

(BREAK IN CONTINUITY OF SECTIONS)

350. REQUIREMENTS FOR HANDLING ACCIDENTS, INCIDENTS, OR COMPLAINTS.

The administrator must assure that the facilities policies and procedures are implemented. (3-30-06)

01. Notification of Accidents, Incidents, and Complaints. The administrator or person designated by the administrator must be notified of all accidents, incidents, reportable, or complaints according to the facility's policies and procedures. (3-30-06)

02. Administrator or Designee Investigation Within Thirty Days. The administrator or designee must complete an investigation and written report of the finding within thirty (30) calendar days for each accident, incident, complaint, or allegation of abuse, neglect or exploitation. (3-30-06)

03. Resident Protection. Any resident involved must be protected during the course of the investigation. (3-30-06)

04. Written Response to Complaint Within Thirty Days. The person making the complaint must receive a written response from the facility of the action taken to resolve the matter or reason why no action was taken within thirty (30) days of the complaint. (3-30-06)

05. Facility Notification to Appropriate Agencies. The facility must notify the Idaho Commission on Aging or its Area Agencies on Aging, and law enforcement in accordance with Section 39-5303, Idaho Code. (3-30-06)

06. Corrective Action for Known Allegations. When an allegation of abuse, neglect or exploitation is known by the facility, corrective action must be immediately taken and monitored to assure the problem does not recur. (3-30-06)

07. **Notification of Licensing and Survey Agency Within Twenty-Four Hours.** When a reportable incident occurs, the administrator or designee must notify the Licensing and Survey Agency within twenty-four (24) hours of the incident. (3-30-06)

08. **Identify and Monitor Patterns.** ~~The administrator or person designated by the administrator must identify and monitor patterns of accidents, incidents, or complaints to assure the facility's policies and procedures protect the safety of the residents.~~ ()

(BREAK IN CONTINUITY OF SECTIONS)

600. REQUIREMENTS FOR STAFFING STANDARDS.

01. **On-Duty Staff During Residents' Sleeping Hours for Facilities of Fifteen Beds or Less.** For facilities licensed for fifteen (15) beds or less, there must be at least one (1), or more qualified and trained staff, up, awake, and immediately available, in the facility during resident sleeping hours. ~~If any resident has been assessed as having night needs or is incapable of calling for assistance staff must be up and awake.~~ (3-30-06)()

02. **On-Duty Staff Up and Awake During Residents' Sleeping Hours for Facilities Licensed for Sixteen Beds or More.** For facilities licensed for sixteen (16) beds or more, qualified and trained staff must be up and awake and immediately available, in the facility during resident sleeping hours. (3-30-06)

03. **Detached Buildings or Units.** Facilities with residents housed in detached buildings or units, must have at least one (1) staff present, and available in each building or unit when residents are present in the building or unit. The facility must also assure that each building or unit complies with the requirements for on-duty staff during resident sleeping hours to be up, awake, and immediately available in accordance with the facility's licensed bed capacity as provided in Subsections 600.01 and 600.02 of these rules. The Licensing and Survey Agency will consider a variance based on the facility's written submitted plan of operation. (3-30-06)()

04. **Mental Health Bed Contract Facility.** Facilities that have entered into a Mental Health Bed contract with the Department must be staffed with at least one (1) staff up and awake at night to assure the safety of all residents. (3-30-06)

05. **Supervision.** The administrator must provide supervision for all personnel to include contract personnel. Staff who have not completed the orientation training requirements must work under the supervision of a staff who has completed the orientation training. (3-30-06)

06. **Sufficient Personnel.** The facility will employ and the administrator will schedule sufficient personnel to: (3-30-06)

a. Provide care, during all hours, required in each resident's Negotiated Service Agreement, to assure residents' health, safety, comfort, and supervision, and to assure the interior and exterior of the facility is maintained in a safe and clean manner; and (3-30-06)

b. To provide for at least one (1) direct care staff with certification in first aid and cardio-pulmonary resuscitation (CPR) in the facility at all times. Facilities with multiple buildings or units will have at least one (1) direct care staff with certification in first aid and CPR in each building or each unit at all times. (3-30-06)

(BREAK IN CONTINUITY OF SECTIONS)

625. ORIENTATION TRAINING REQUIREMENTS.

01. **Number of Hours of Training.** A minimum of sixteen (16) hours of job-related orientation training must be provided to all new personnel before they are allowed to provide unsupervised personal assistance to

residents. The means and methods of training are at the facility's discretion. (3-30-06)

02. Timeline for Completion of Training. All orientation training must be completed within ~~one (1) month~~ thirty (30) days of hire. (~~3-30-06~~)()

03. Content for Training. Orientation training must include the following: (3-30-06)

a. The philosophy of residential care or assisted living and how it guides care giving; (3-30-06)

b. Resident Rights; (3-30-06)

c. Cultural awareness; (3-30-06)

d. Providing assistance with activities of daily living and instrumental activities of daily living; (3-30-06)

e. How to respond to emergencies; (3-30-06)

f. Documentation associated with resident care needs and the provision of care to meet those needs; (3-30-06)

g. Identifying and reporting changes in residents' health and mental condition or both; (3-30-06)

h. Documenting and reporting adverse outcomes (such as resident falls, elopement, lost items); (3-30-06)

i. Advance Directives and do not resuscitate (DNR) orders; (3-30-06)

j. Relevant policies and procedures; (3-30-06)

k. The role of the Negotiated Service Agreement; and (3-30-06)

l. All staff employed by the facility, including housekeeping personnel, or contract personnel, or both, who may come into contact with potentially infectious material, must be trained in infection control procedures for universal precautions. (3-30-06)

626. -- 629. (RESERVED)

630. TRAINING REQUIREMENTS FOR FACILITIES ADMITTING RESIDENTS WITH DIAGNOSIS OF DEMENTIA, MENTAL ILLNESS, DEVELOPMENTAL DISABILITY, OR TRAUMATIC BRAIN INJURY.

A facility admitting and retaining residents with diagnosis of dementia, mental illness, developmental disability, or traumatic brain injury must train staff to meet the specialized needs of these residents. Staff must receive specialized training within thirty (30) days of hire or of admission of a resident with one (1) of these conditions. The means and methods of training are at the facility's discretion. The training should address the following areas: (~~3-30-06~~)()

01. Dementia: (3-30-06)

a. Overview of dementia; (3-30-06)

b. Symptoms and behaviors of people with memory impairment; (3-30-06)

c. Communication with people with memory impairment; (3-30-06)

d. Resident's adjustment to the new living environment; (3-30-06)

e. Behavior management; (3-30-06)

- f. Activities of daily living; and (3-30-06)
- g. Stress reduction for facility personnel and resident. (3-30-06)
- 02. Mental Illness:** (3-30-06)
 - a. Overview of mental illnesses; (3-30-06)
 - b. Symptoms and behaviors specific to mental illness; (3-30-06)
 - c. Resident's adjustment to the new living environment; (3-30-06)
 - d. Behavior management; (3-30-06)
 - e. Communication; (3-30-06)
 - f. Activities of daily living; (3-30-06)
 - g. Integration with rehabilitation services; and (3-30-06)
 - h. Stress reduction for facility personnel and resident. (3-30-06)
- 03. Developmental Disability:** (3-30-06)
 - a. Overview of developmental disabilities; (3-30-06)
 - b. Interaction and acceptance; (3-30-06)
 - c. Promotion of independence; (3-30-06)
 - d. Communication; (3-30-06)
 - e. Behavior management; (3-30-06)
 - f. Assistance with adaptive equipment; (3-30-06)
 - g. Integration with rehabilitation services; (3-30-06)
 - h. Activities of daily living; and (3-30-06)
 - i. Community integration. (3-30-06)
- 04. Traumatic Brain Injury:** (3-30-06)
 - a. Overview of traumatic brain injuries; (3-30-06)
 - b. Symptoms and behaviors specific to traumatic brain injury; (3-30-06)
 - c. Adjustment to the new living environment; (3-30-06)
 - d. Behavior management; (3-30-06)
 - e. Communication; (3-30-06)
 - f. Integration with rehabilitation services; (3-30-06)

- g.** Activities of daily living; (3-30-06)
- h.** Assistance with adaptive equipment; and (3-30-06)
- i.** Stress reduction for facility personnel and resident. (3-30-06)

631. -- 639. (RESERVED)

640. CONTINUING TRAINING REQUIREMENTS.

Each employee must receive a minimum of eight (8) hours of job-related continuing training per year. ~~(3-30-06)~~

~~**01. Staff Not Trained in Appropriate Areas.** When a resident is admitted with a diagnosis of dementia, mental illness, developmental disability, or traumatic brain injury, or a resident acquires one (1) of these diagnoses, if staff have not been trained in the appropriate areas outlined in Section 630 of these rules, staff must be trained within thirty (30) calendar days. In the interim the facility must meet the resident's needs. (3-30-06)~~

~~**02. Additional Training Related to Changes.** When policies or procedures are added, modified, or deleted staff must receive additional training relating to the changes. ~~(3-30-06)~~()~~

(BREAK IN CONTINUITY OF SECTIONS)

730. FACILITY ADMINISTRATIVE RECORDS FOR PERSONNEL AND STAFFING.

The administrator must assure that the facility's personnel and staffing records are maintained as described in Subsections 730.01 through 730.03 of these rules. (3-30-06)

01. Personnel. A record for each employee must be maintained and available which includes the following: (3-30-06)

- a.** Name, address, phone number, and date of hire; (3-30-06)
- b.** Job description that includes purpose, responsibilities, duties, and authority; (3-30-06)
- c.** Evidence that on or prior to hire, staff were notified in writing that the facility does not carry professional liability insurance. If the facility cancels the professional liability insurance, all staff must be notified of the change in writing; (3-30-06)
- d.** A copy of a current license for all nursing staff and verification from the Board of Nursing that the license is in good standing or identification of restrictions; (3-30-06)
- e.** Signed evidence of training; (3-30-06)
- f.** CPR, first aid, and assistance with medication certification; (3-30-06)
- g.** Criminal history clearance as required by Section 56-1004A, Idaho Code, and IDAPA 16.05.06, "Criminal History and Background Checks," and Section 009 of these rules; ~~(3-30-06)~~()
- h.** Documentation by the licensed professional nurse of delegation to unlicensed staff to assist residents with medications and other nursing tasks; (3-30-06)
- i.** A signed document authorizing by position title of, the individual responsible for acting on behalf of the administrator in his absence. (3-30-06)

02. Work Records. Work records must be maintained in writing for the previous three (3) years which reflect: (3-30-06)

- a. Personnel on duty, at any given time; and (3-30-06)
- b. The first and last names, of each employee, and their position. (3-30-06)
- 03. **Contract Records.** Copies of contracts with outside service providers and contract staff. (3-30-06)

(BREAK IN CONTINUITY OF SECTIONS)

925. ENFORCEMENT REMEDY OF CIVIL MONETARY PENALTIES.

01. Civil Monetary Penalties. Civil monetary penalties are based upon one (1) or more deficiencies of noncompliance. Nothing will prevent the Department from imposing this remedy for deficiencies which existed prior to the survey or complaint investigation through which they are identified. Actual harm to a resident or residents does not need to be shown. A single act, omission or incident will not give rise to imposition of multiple penalties, even though such act, omission or incident may violate more than one (1) rule. (3-30-06)

02. Assessment Amount for Civil Monetary Penalty. When civil monetary penalties are imposed, such penalties are assessed for each day the facility is or was out of compliance. The amounts below are multiplied by the total number of occupied licensed beds according to the records of the Department at the time non-compliance is established. (3-30-06)

- a. Initial deficiency is eight dollars (\$8). Example below:

Number of Occupied Beds in Facility	Initial Deficiency	Times Number of Days Out of Compliance	Amount of Penalty
11	\$8.00	45 days	\$3960

(3-30-06)

- b. Repeat deficiency is ten dollars (\$10). Example below:

Number of Occupied Beds in Facility	Repeat Deficiency	Times Number of Days Out of Compliance	Amount of Penalty
11	\$10.00	30 days	\$3300

(3-30-06)

c. In any ninety (90) day period, the penalty amounts may not exceed the limits shown in the following table:

Limits on Accruing Civil Monetary Amount.		
Number of Occupied Beds in Facility	Initial Deficiency	Repeat Deficiency
3-4 Beds	\$1440	\$2880
5-50 Beds	\$3200	\$6400
51-100 Beds	\$5400	\$10,800
101-150 Beds	\$8800	\$17,600

Limits on Accruing Civil Monetary Amount.		
Number of Occupied Beds in Facility	Initial Deficiency	Repeat Deficiency
151 or More Beds	\$14,600	\$29,200

(3-30-06)

03. Notice of Civil Monetary Penalties and Appeal Rights. The Department will give written notice informing the facility of the amount of the penalty, the basis for its assessment and the facility's appeal rights.

(3-30-06)

04. Payment of Penalties. The facility must pay the full amount of the penalty within thirty (30) calendar days from the date the notice is received, unless the facility requests an administrative review of the decision to assess the penalty. The amount of a civil monetary penalty determined through administrative review must be paid within thirty (30) calendar days of the facility's receipt of the administrative review unless the facility requests an administrative hearing. The amount of the civil monetary penalty determined through an administrative hearing must be paid within thirty (30) calendar days of the facility's receipt of the administrative hearing decision unless the facility files a petition for judicial review. Interest accrues on all unpaid penalties at the legal rate of interest for judgments. Such interest accrual will begin one (1) calendar day after:

~~(3-30-06)~~

~~a.~~ ~~The date of the initial assessment of the penalty;~~ ~~(3-30-06)~~ ()

~~b.~~ ~~The date of the issuance of the administrative review, administrative hearing or the final judicial review.~~ ~~(3-30-06)~~

05. Failure to Pay. Failure of a facility to pay the entire penalty, together with any interest, is cause for revocation of the license or the amount will be withheld from Medicaid payments to the facility.

(3-30-06)

(BREAK IN CONTINUITY OF SECTIONS)

940. ENFORCEMENT REMEDY OF REVOCATION OF FACILITY LICENSE.

01. Revocation of Facility's License. The Department may revoke a license when the facility endangers the health or safety of residents, or when the facility is not in substantial compliance with the provisions of Title 39, Chapter 33, Idaho Code, or this chapter of rules.

(3-30-06)

02. Reasons for Revocation or Denial of a Facility License. The Department may revoke or deny any facility license for any of the following reasons:

(3-30-06)

a. The licensee has willfully misrepresented or omitted information on the application or other documents pertinent to obtaining a license;

(3-30-06)

b. When persuaded by a preponderance of the evidence that such conditions exist which endanger the health or safety of any resident;

(3-30-06)

c. Any act adversely affecting the welfare of residents is being permitted, aided, performed, or abetted by the person or persons in charge of the facility. Such acts may include, but are not limited to, neglect, physical abuse, mental abuse, emotional abuse, violation of civil rights, criminal activity, or exploitation;

(3-30-06)

d. The licensee has demonstrated or exhibited a lack of sound judgment essential to the operation and management of a facility;

(3-30-06)

e. The licensee has violated any of the conditions of a provisional license;

(3-30-06)

- f.** The facility lacks adequate personnel, as required by these rules or as directed by the Department, to properly care for the number and type of residents residing at the facility; (3-30-06)
- g.** Licensee refuses to allow the Department or the Protection and Advocacy agencies full access to the facility environment, facility records, and the residents as described in Subsections 130.04 through 130.06, and 550.18 through 550.19 of these rules; (3-30-06)
- h.** The licensee has been guilty of fraud, gross negligence, abuse, assault, battery, or exploitation with respect to the operation of a health facility or residential care or assisted living facility or certified family home; (3-30-07)
- i.** The licensee is actively affected in his performance by alcohol or the use of drugs classified as controlled substances; (3-30-07)
- j.** The licensee has been convicted of a criminal offense other than a minor traffic violation within the past five (5) years; (3-30-07)
- k.** The licensee is of poor moral and responsible character or has been convicted of a felony or defrauding the government; (3-30-07)
- l.** The licensee has been denied, or the licensee's wrong doing, has caused the revocation of any license or certificate of any health facility, residential care or assisted living facility, or certified family home; (3-30-07)
- m.** The licensee has ~~been convicted of~~ previously ~~operating~~ ed any health facility or residential care or assisted living facility without a license or certified family home without a certificate; ~~(3-30-07)~~ ()
- n.** The licensee is directly under the control or influence of any person who has been the subject of proceedings as described in Subsection 940.02.m. of these rules; (4-11-06)
- o.** The licensee is directly under the control or influence of any person who is of poor moral and responsible character or has been convicted of a felony or defrauding the government; (4-11-06)
- p.** The licensee is directly under the control or influence of any person who has been convicted of a criminal offense other than a minor traffic violation in the past five (5) years; (4-11-06)
- q.** The licensee fails to pay civil monetary penalties imposed by the Department as described in Section 925 of these rules; (4-11-06)
- r.** The licensee fails to take sufficient corrective action as described in Sections 900, 905 and 910 of these rules; or (4-11-06)
- s.** The number of residents currently in the facility exceeds the number of residents the facility is licensed to serve. (4-11-06)