

IN THE SENATE

SENATE BILL NO. 1102

BY HEALTH AND WELFARE COMMITTEE

AN ACT

1 RELATING TO THE IDAHO RESIDENTIAL CARE OR ASSISTED LIVING ACT; AMENDING
2 SECTION 39-3301, IDAHO CODE, TO REVISE LEGISLATIVE INTENT AND DECLARATIONS;
3 AMENDING SECTION 39-3302, IDAHO CODE, TO REVISE DEFINITIONS
4 AND TO DEFINE TERMS; AMENDING SECTION 39-3303, IDAHO CODE, TO REVISE
5 PROVISIONS REGARDING PAYMENT LEVELS; AMENDING SECTION 39-3305, IDAHO
6 CODE, TO REVISE PROVISIONS REGARDING RULES; AMENDING SECTION 39-3307,
7 IDAHO CODE, TO REVISE PROVISIONS REGARDING ADMISSIONS; AMENDING SECTION
8 39-3308, IDAHO CODE, TO REVISE PROVISIONS REGARDING ASSESSMENT;
9 AMENDING SECTION 39-3309, IDAHO CODE, TO REVISE PROVISIONS REGARDING
10 NEGOTIATED SERVICE AGREEMENTS; AMENDING SECTION 39-3316, IDAHO CODE,
11 TO REVISE PROVISIONS REGARDING RESIDENT RIGHTS; AMENDING CHAPTER 33,
12 TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-3316A, IDAHO
13 CODE, TO ESTABLISH PROVISIONS REGARDING NOTICE OF RESIDENTS RIGHTS;
14 AMENDING SECTION 39-3318, IDAHO CODE, TO REVISE PROVISIONS REGARDING
15 A FACILITY'S RESPONSE TO INCIDENTS AND COMPLAINTS; AMENDING SECTION
16 39-3321, IDAHO CODE, TO REVISE PROVISIONS REGARDING QUALIFICATIONS AND
17 REQUIREMENTS OF ADMINISTRATORS; AMENDING SECTION 39-3322, IDAHO CODE,
18 TO REMOVE A PROVISION REGARDING QUALIFICATIONS AND REQUIREMENTS FOR
19 FACILITY STAFF; AMENDING SECTION 39-3326, IDAHO CODE, TO REVISE PROVISIONS
20 REGARDING MEDICATION; AMENDING SECTION 39-3340, IDAHO CODE, TO REVISE
21 PROVISIONS REGARDING LICENSING; AMENDING SECTION 39-3351, IDAHO CODE,
22 TO REVISE PROVISIONS REGARDING EXEMPTIONS; AMENDING SECTION 39-3352,
23 IDAHO CODE, TO REVISE A PROVISION REGARDING UNLICENSED RESIDENTIAL CARE OR
24 ASSISTED LIVING FACILITIES; REPEALING SECTION 39-3354A, IDAHO CODE,
25 RELATING TO PERMITTING SPECIAL WAIVERS; AMENDING CHAPTER 33, TITLE 39,
26 IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-3355A, IDAHO CODE, TO
27 ESTABLISH PROVISIONS REGARDING INSPECTIONS; AMENDING CHAPTER 33, TITLE 39,
28 IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-3355B, IDAHO CODE, TO
29 ESTABLISH PROVISIONS REGARDING PLANS OF CORRECTION; AMENDING SECTION 39-3356,
30 IDAHO CODE, TO REVISE PROVISIONS REGARDING COMPLAINTS; AMENDING SECTION 39-3357,
31 IDAHO CODE, TO PROVIDE FOR CERTAIN REQUIREMENTS REGARDING THE ENFORCEMENT
32 PROCESS; AMENDING SECTION 63-701, IDAHO CODE, TO PROVIDE A CORRECT CODE
33 REFERENCE; PROVIDING THAT CERTAIN ADMINISTRATIVE RULES CONTAINED IN IDAPA
34 16.03.22 SHALL BE NULL, VOID, AND OF NO FORCE AND EFFECT; AND DECLARING AN
35 EMERGENCY AND PROVIDING AN EFFECTIVE DATE.
36
37

38 Be It Enacted by the Legislature of the State of Idaho:

39 SECTION 1. That Section 39-3301, Idaho Code, be, and the same is hereby
40 amended to read as follows:

41 39-3301. LEGISLATIVE INTENT AND DECLARATION. The purpose of a resi-
42 dential care or assisted living facility in Idaho is to provide a humane,

1 safe, and homelike living arrangement for adults who need ~~some~~ assistance
 2 with activities of daily living and personal care but do not require the
 3 level of care identified under section 39-1301(b), Idaho Code, other than
 4 for short exceptional stays meaning a treatment window designed to allow a
 5 resident to receive treatment for a short term acute episode as determined by
 6 a licensed professional nurse.

7 The state will encourage the development of facilities tailored to the
 8 needs of individual populations ~~which that~~ operate in integrated settings ~~in~~
 9 ~~communities where sufficient supportive services exist to provide the res-~~
 10 ~~ident, if appropriate, an opportunity to work and be involved in recreation~~
 11 ~~and education opportunities. Employment, recreational and educational op-~~
 12 ~~portunities for people with disabilities shall be offered in the most inte-~~
 13 ~~grated setting consistent with their needs.~~

14 A residential care or assisted living facility shall be operated and
 15 staffed by individuals who have the knowledge and experience required to
 16 provide safe and appropriate services to all residents of the facility.

17 The administrator or manager of the facility shall ensure that an objec-
 18 tive, individualized assessment to determine resident needs is conducted,
 19 develop a comprehensive negotiated plan of care to meet those needs, deliver
 20 appropriate services to meet resident needs, and ensure resident rights are
 21 honored.

22 SECTION 2. That Section 39-3302, Idaho Code, be, and the same is hereby
 23 amended to read as follows:

24 39-3302. DEFINITIONS. As used in this chapter:

25 (1) "Abuse" means a nonaccidental act of sexual, physical or mental
 26 mistreatment or injury of a resident through the action or inaction of an-
 27 other individual.

28 (2) "Accident" means an unexpected, unintended event that can cause a
 29 resident injury.

30 ~~(2) (3)~~ "Accreditation" means a process of review that allows health
 31 care organizations to meet regulatory requirements and standards estab-
 32 lished by a recognized accreditation organization.

33 ~~(3) (4)~~ "Accreditation commission" means the commission on accredita-
 34 tion of rehabilitation facilities (CARF), the joint commission, or another
 35 nationally recognized accreditation organization approved by the director.

36 ~~(4) (5)~~ "Activities of daily living" means the performance of basic
 37 self-care activities in meeting an individual's needs to sustain him in a
 38 daily living environment.

39 ~~(5) (6)~~ "Administrator" means an individual, properly licensed by the
 40 division of occupational and professional licenses, who is responsible for
 41 ~~day-to-day~~ operation of a residential care or assisted living facility.

42 (7) "Administrator's designee" means a person authorized in writing to
 43 act in the absence of the administrator for no more than thirty (30) consec-
 44 utive days when the administrator is on vacation, has days off, is ill, or is
 45 away for trainings or meetings. This individual shall be knowledgeable of
 46 facility operations, the residents and their needs, emergency procedures,
 47 the location and operation of emergency equipment, and how the administrator
 48 can be reached in the event of an emergency.

1 ~~(6)~~ (8) "Adult" means a person who has attained the age of eighteen (18)
2 years.

3 ~~(7)~~ (9) "Advocate" means an authorized or designated representative of
4 a program or organization operating under federal or state mandate to rep-
5 resent the interests of mentally ill, developmentally disabled, or elderly
6 residents.

7 ~~(8)~~ (10) "Assessment" means the conclusion reached using uniform crite-
8 ria, which identifies resident strengths, weaknesses, risks and needs, to
9 include functional, medical and behavioral needs. The assessment criteria
10 shall be developed by the department and residential care or assisted living
11 council.

12 ~~(9)~~ (11) "Authorized provider" in this chapter means an individual who
13 is a nurse practitioner or clinical nurse specialist or a physician assis-
14 tant.

15 ~~(10)~~ (12) "Board" means the board of health and welfare.

16 ~~(11)~~ (13) "Chemical restraint" means a medication used to control be-
17 havior or to restrict freedom of movement and is not a standard treatment for
18 the resident's condition.

19 (14) "Complaint" means a formal expression of dissatisfaction, discon-
20 tent, or unhappiness by, or on behalf of, a resident concerning the care or
21 conditions at the facility. This expression could be oral or in writing or by
22 an alternate means of communication.

23 ~~(12)~~ (15) "Core issues" means abuse, neglect, exploitation, inadequate
24 care, a situation in which the facility has operated for more than thirty
25 ~~(30)~~ days without a licensed administrator designated the responsibility
26 ~~for the day-to-day operations of the facility,~~ inoperable fire detection or
27 extinguishing systems with no fire watch in place pending the correction of
28 the system, and surveyors denied access to records, residents, or facili-
29 ties.

30 (16) "Deficiency" means a determination of noncompliance with any sec-
31 tion of this chapter.

32 ~~(13)~~ (17) "Department" means the Idaho department of health and wel-
33 fare.

34 ~~(14)~~ (18) "Director" means the director of the Idaho department of
35 health and welfare.

36 (19) "Exit conference" means a meeting with the facility administrator
37 or his designee to provide review, discussion, and written documentation of
38 non-core issues and to provide preliminary findings of core issues.

39 ~~(15)~~ (20) "Exploitation" means the misuse of a resident's funds, prop-
40 erty, resources, identity or person for profit or advantage.

41 ~~(16)~~ (21) "Facility" means a residential care or assisted living facil-
42 ity.

43 (22) "Follow-up survey" means a survey conducted to confirm the facil-
44 ity is in compliance and has the ability to remain in compliance.

45 ~~(17)~~ (23) "Governmental unit" means the state, any county, any city,
46 other political subdivision, or any department, division, board, or other
47 agency thereof.

48 (24) "Immediate jeopardy" means that immediate corrective action is re-
49 quired because the facility is noncompliant with health and safety require-
50 ments placing patients at risk of serious harm, injury, or death.

1 ~~(18)~~ (25) "Inadequate care" occurs when a facility fails to provide the
 2 services required to meet the terms of the negotiated service agreement or
 3 provide for room, board, activities of daily living, supervision, first aid,
 4 assistance and monitoring of medications, emergency intervention, coordi-
 5 nation of outside services, a safe living environment; or engages in viola-
 6 tions of residents' rights, or takes residents who have been admitted in vi-
 7 olation of the provisions of section 39-3307, Idaho Code engages in actions
 8 or omissions that cause harm to a resident or create a situation likely to
 9 result in immediate jeopardy to the health, safety, or well-being of a resi-
 10 dent.

11 ~~(19)~~ (26) "License" means a basic permit to operate a residential care
 12 or assisted living facility.

13 ~~(20)~~ (27) "Licensee" means the owner of a license to operate a residen-
 14 tial care or assisted living facility under this chapter.

15 ~~(21)~~ (28) "Licensing agency" means the unit of the department of health
 16 and welfare that conducts inspections and surveys and issues licenses based
 17 on compliance with this chapter.

18 (29) "Manager" means the individual delegated by the administrator to
 19 manage the day-to-day operations of the facility.

20 ~~(22)~~ (30) "Neglect" means failure to provide food, clothing, shelter,
 21 or medical care necessary to sustain the life and health of a resident.

22 ~~(23)~~ (31) "Negotiated service agreement" means the agreement reached by
 23 the resident and/or the resident's representative and the facility, based on
 24 the assessment, physician's orders, admission records, and desires of the
 25 resident, and which outlines services to be provided and the obligations of
 26 the facility and the resident.

27 (32) "Non-core issue" means any finding of deficient practice that is
 28 not a core issue.

29 ~~(24)~~ (33) "Personal assistance" means the provision by the staff of the
 30 facility of one (1) or more of the following services:

31 (a) Assisting the resident with activities of daily living;

32 (b) Arranging for supportive services;

33 (c) Being aware of the resident's general whereabouts; and

34 (d) Monitoring the activities of the resident while on the premises of
 35 the facility to ensure the resident's health, safety and well-being.

36 (34) "Physical restraint" means any device or physical force that re-
 37 stricts the free movement of a portion of an individual's body, except for
 38 the temporary treatment of a medical condition, such as the use of a cast for
 39 a broken bone.

40 ~~(25)~~ (35) "Political subdivision" means a city or county.

41 ~~(26)~~ (36) "Resident" means an adult who lives in a residential care or
 42 assisted living facility.

43 ~~(27)~~ (37) "Residential care or assisted living facility" means a facil-
 44 ity or residence, however named, operated on either a profit or nonprofit
 45 basis for the purpose of providing necessary supervision, personal assis-
 46 tance, meals and lodging to three (3) or more adults not related to the owner.

47 ~~(28)~~ (38) "Room and board" means lodging and meals.

48 ~~(29)~~ (39) "Substantial compliance" means a facility has no core issue
 49 deficiencies.

1 ~~(30)~~ (40) "Supervision" means administrative activity which provides
2 the following: protection, guidance, knowledge of the resident's general
3 whereabouts, and assistance with activities of daily living. The admin-
4 istrator or manager is responsible for providing appropriate supervision
5 based on each resident's negotiated service agreement or other legal re-
6 quirements.

7 ~~(31)~~ (41) "Supportive services" means the specific services that are
8 provided to the resident in the community.

9 SECTION 3. That Section 39-3303, Idaho Code, be, and the same is hereby
10 amended to read as follows:

11 39-3303. PAYMENT LEVELS. (1) Clients of the department who are receiv-
12 ing financial aid as set out in sections 56-207, 56-208 and 56-209a, Idaho
13 Code, seeking placement in a residential care or assisted living facility
14 will be assessed by the department regarding their need for specific types
15 of services and supports. This assessment will determine the reimbursement
16 rate to the service provider.

17 Eligible participants must be allowed to choose the facility or ser-
18 vices that are appropriate to meet their medical needs and financial ability
19 to pay. The department ~~shall~~ is authorized to promulgate rules, subject to
20 legislative approval, outlining the payment policy and calculations for
21 clients of the department through negotiated rulemaking.

22 (2) Residents who are not clients of the department shall:

23 (a) Be assessed by the facility regarding their need for specific types
24 of services and supports. This assessment, and the individual negoti-
25 ated service agreement, shall determine the rate charged to the resi-
26 dent.

27 (b) Receive a full description of services provided by the facility and
28 associated costs upon admission, according to facility policies and
29 procedures. A thirty (30) day notice must be provided prior to a change
30 in facility billing practices or policies. When a resident's level of
31 care changes, a facility is entitled to charge the increased rate no
32 sooner than the date that notice is provided. Billing practices shall
33 be transparent and understandable.

34 (c) Be charged for the use of furnishings, equipment, supplies and ba-
35 sic services as agreed upon in the negotiated service agreement or as
36 identified in the admission agreement.

37 SECTION 4. That Section 39-3305, Idaho Code, be, and the same is hereby
38 amended to read as follows:

39 39-3305. RULES. (1) The board ~~shall have the authority~~ is authorized
40 to adopt, amend, repeal and enforce such rules, subject to legislative ap-
41 proval, as may be necessary or proper to carry out the purpose and intent of
42 this chapter which are designed to protect the health, safety and individual
43 rights of residents in residential care or assisted living facilities. The
44 department shall exercise the powers and perform the duties conferred upon
45 it by this chapter, not inconsistent with any statute of this state. These
46 rules ~~shall~~ are authorized, subject to legislative approval, to be promul-
47 gated in accordance with the provisions of the Idaho administrative proce-

1 dure act. The department ~~shall~~ is authorized to, through negotiated rule-
 2 making, promulgate rules in the following areas, subject to legislative ap-
 3 proval:

- 4 (a) Minimum criteria for the assessment;
 5 (b) Minimum criteria for the negotiated service agreement;
 6 (c) Guidelines for the facility's physical environment and location;
 7 (d) Criteria for the facility's license, to include:
 8 (i) Initial license application criteria and procedures;
 9 (ii) License renewal criteria, procedures and timing;
 10 (iii) Inspection criteria and procedures;
 11 (iv) Denial and revocation of license criteria and procedures;
 12 and
 13 (v) Effect of previous revocation or denial of license.
 14 (e) Remedy and enforcement provisions for noncompliance with statute.

15 (2) Rules ~~shall~~ are authorized to be drafted and promulgated, subject
 16 to legislative approval, following negotiation with interested providers,
 17 assisted living ~~nurse~~ associations, and advocates.

18 SECTION 5. That Section 39-3307, Idaho Code, be, and the same is hereby
 19 amended to read as follows:

20 39-3307. ADMISSIONS. (1) A residential care or assisted living facil-
 21 ity shall not admit or retain any resident requiring a level of services or
 22 type of service for which the facility is not licensed or which the facility
 23 does not provide or arrange for, or if the facility does not have the staff,
 24 appropriate in numbers and with appropriate skills, to provide. ~~Prospective~~
 25 ~~residents will also be informed of options and rights available through~~
 26 ~~other programs, to include medicare benefits where applicable. The depart-~~
 27 ~~ment shall provide forms for this.~~

28 (2) The department ~~shall~~ is authorized to develop rules, subject to
 29 legislative approval, governing admissions to residential care or assisted
 30 living facilities.

31 SECTION 6. That Section 39-3308, Idaho Code, be, and the same is hereby
 32 amended to read as follows:

33 39-3308. ASSESSMENT. (1) Initial assessments may be completed within
 34 thirty (30) days prior to a resident's move into a residential care or as-
 35 sisted living facility, but must be completed prior to admission.

36 (2) The department shall employ uniform assessment criteria to assess
 37 function and cognitive disability. The conclusions shall be deemed the as-
 38 sessment and shall be used to provide appropriate placement and funding for
 39 service needs. The assessment shall also be used to ensure funding is cost-
 40 effective and appropriate when compared to other state programs relevant to
 41 the needs of the client being assessed. The department ~~shall~~ is authorized
 42 to develop rules, subject to legislative approval, regarding:

- 43 ~~(1) (a) Qualifications of persons making the assessments-;~~
 44 ~~(2) (b) Department's responsibility for state pay clients-;~~
 45 ~~(3) Time frames for completing an assessment-~~
 46 ~~(4) (c) Information to be included in an assessment-;~~

1 ~~(5)~~ (d) Use of an assessment in developing the negotiated service
2 agreement;

3 ~~(6)~~ (e) Use of assessments in determining facility staffing ratios;
4 and

5 ~~(7)~~ (f) Use of assessments for determining the ability of provider and
6 facility to meet residents' needs and special training or licenses that
7 may be required in caring for certain residents.

8 (3) The administrator shall ensure policies and procedures are devel-
9 oped and implemented to ensure nursing services are performed in accordance
10 with applicable state regulations and the provisions of this chapter.

11 (4) (a) A licensed nurse shall visit the facility at least once every
12 ninety (90) days to conduct quarterly nursing assessments for each res-
13 ident. A licensed nurse is responsible for delegating to others as ap-
14 propriate based on the nurse's license.

15 (b) The licensed nurse shall be available to address changes in a resi-
16 dent's health or mental status, to review and implement new orders, and
17 to notify a physician or authorized provider when a resident repeatedly
18 refuses to follow physician orders.

19 SECTION 7. That Section 39-3309, Idaho Code, be, and the same is hereby
20 amended to read as follows:

21 39-3309. NEGOTIATED SERVICE AGREEMENT. (1) Each resident shall be
22 provided a negotiated service agreement to provide for coordination of ser-
23 vices and for guidance of the staff and management of the facility where the
24 person resides. Upon completion, the agreement shall clearly identify the
25 resident and describe the services to be provided to the resident and how
26 such services are to be delivered. The negotiated service agreement shall
27 be reviewed at least annually and upon any change in a diagnosis for the res-
28 ident or other condition requiring substantially different additional or
29 replacement services.

30 (2) A negotiated service agreement shall be based on the person's:

31 (a) Assessment;

32 (b) Service needs for activities of daily living;

33 (c) Need for limited nursing services;

34 (d) Need for medication assistance;

35 (e) Frequency of needed services;

36 (f) Level of assistance, i.e., standby, reminding, total;

37 (g) Signature and approval of agreement; and

38 (h) Signing date that the plan was approved ~~and date plan will be re-~~
39 ~~viewed.~~

40 (3) The administrator or manager shall consult the resident, or the
41 resident's family, guardian, representative, friends, or case manager
42 and/or consumer coordinator, as necessary, in the development of the resi-
43 dent's service agreement.

44 (4) A copy of the agreement shall be given to the resident and a copy
45 placed in the resident's records file no later than two (2) weeks from admis-
46 sion.

47 (5) A resident shall be given the choice and control of how and what ser-
48 vices the facility shall provide, or external vendors shall provide, to the

1 extent the resident can make choices, so long as the resident's choice does
2 not violate the provisions of section 39-3307(1), Idaho Code.

3 (6) On an exception basis, a record shall be made of any changes or in-
4 ability to provide services outlined in the negotiated service agreement.

5 (7) The agreement shall include a statement regarding when there is ~~no~~ a
6 need for ~~access to~~ external services.

7 (8) There shall be documentation of refusal of certain treatments by
8 competent resident or legal health care representative.

9 SECTION 8. That Section 39-3316, Idaho Code, be, and the same is hereby
10 amended to read as follows:

11 39-3316. RESIDENT RIGHTS. A The administrator of a residential care or
12 assisted living facility must ensure that policies and procedures are devel-
13 oped and implemented that protect and promote the rights of each resident,
14 including each of the following rights:

15 (1) Resident records. Upon request, a resident or others authorized
16 by law shall be provided immediate access to information on the resident's
17 record and shall be provided with copies of such information within two (2)
18 business days. Each facility must maintain and keep current a record of the
19 following information on each resident:

20 (a) A copy of the resident's current negotiated service agreement and
21 physician's order.

22 (b) Written acknowledgment that the resident has received copies of the
23 rights.

24 (c) A record of all personal property and funds that the resident has
25 entrusted to the facility, including copies of receipts for the prop-
26 erty.

27 (d) Information about any specific health problems of the resident that
28 may be useful in a medical emergency.

29 (e) The name, address and telephone number of an individual identified
30 by the resident who should be contacted in the event of an emergency or
31 death of the resident.

32 (f) Any other health-related, emergency, or pertinent information the
33 resident requests the facility to keep on record.

34 (g) The current admission agreement between the resident and the facil-
35 ity.

36 (2) Privacy. Each resident must be assured the right to privacy with
37 regard to accommodations, medical and other treatment, written and tele-
38 phone communications, visits, and meetings of family and resident groups.

39 (3) Humane care and environment, (dignity, and respect).

40 (a) Each resident shall have the right to humane care and a humane envi-
41 ronment, including the following:

42 (i) The right to a diet consistent with any religious or health-
43 related restrictions.

44 (ii) The right to refuse a restricted diet.

45 (iii) The right to a safe and sanitary living environment.

46 (b) Each resident shall have the right to be treated with dignity and
47 respect, including:

48 (i) The right to be treated in a courteous manner by staff.

- 1 (ii) The right to receive a response from the facility to any re-
 2 quest of the resident within a reasonable time.
- 3 (iii) The right to be communicated with, orally and/or in writing,
 4 in a language the resident understands.
- 5 (4) Personal possessions. Each resident shall have the right to:
- 6 (a) Wear his own clothing.
- 7 (b) Determine his own dress or hair style.
- 8 (c) Retain and use his own personal property in his own living area so as
 9 to maintain individuality and personal dignity.
- 10 ~~(d) Be provided a separate storage area in his own living area and at~~
 11 ~~least one (1) locked cabinet or drawer for keeping personal property.~~
- 12 (5) Personal funds. Residents whose board and care is paid for by pub-
 13 lic assistance shall retain, for their personal use, the difference between
 14 their total income and the applicable ~~board and care~~ rent, utilities, and
 15 food allowance established by department rules.
- 16 (a) A facility shall not require a resident to deposit his personal
 17 funds with the facility.
- 18 (b) Once the facility accepts the written authorization of the resi-
 19 dent, it must hold, safeguard, and account for such personal funds under
 20 a system established and maintained by the facility in accordance with
 21 this paragraph.
- 22 (6) Management of personal funds. Upon a facility's acceptance of
 23 written authorization of a resident, the facility must manage and account
 24 for the personal funds of the resident deposited with the facility as fol-
 25 lows:
- 26 (a) The facility must deposit any amount of a resident's personal funds
 27 ~~in excess of five (5) times the personal needs allowance in an interest-~~
 28 ~~bearing account (or accounts) that is separate from any of the facil-~~
 29 ~~ity's operating accounts and credit all interest earned on such sepa-~~
 30 ~~rate account to such account. The facility must maintain any other per-~~
 31 ~~sonal funds in a noninterest-bearing account or petty cash fund.~~
- 32 (b) The facility must assure a full and complete separate accounting of
 33 each resident's personal funds, maintain a written record of all finan-
 34 cial transactions involving each resident's personal funds deposited
 35 with the facility, and afford each resident ~~(or a legal representative~~
 36 ~~of each resident)~~ reasonable access to such record.
- 37 (c) Upon the death of a resident with such an account, the facility must
 38 promptly convey the resident's personal funds ~~(and a final accounting~~
 39 ~~of such funds)~~ to the individual administering the resident's estate.
 40 For clients of the department, the remaining balance of funds shall be
 41 refunded to the ~~department~~ medicaid estate recovery unit.
- 42 (7) Access and visitation rights. Each facility must permit:
- 43 (a) Immediate in-person access to any resident by any representative of
 44 the department, by the state ombudsman for the elderly or his designees,
 45 or by the resident's individual physician.
- 46 (b) Immediate in-person access to a resident, subject to the resident's
 47 right to deny or withdraw consent at any time, by immediate family or
 48 other relatives.

1 (c) Immediate access to a resident, subject to reasonable restrictions
2 and the resident's right to deny or withdraw consent at any time, by oth-
3 ers who are visiting with the consent of the resident.

4 (d) Reasonable access to a resident by any entity or individual that
5 provides health, social, legal, or other services to the resident, sub-
6 ject to the resident's right to deny or withdraw consent at any time.

7 (8) Employment. Each resident shall have the right to refuse to per-
8 form services for the facility except as contracted for by the resident and
9 the administrator of the facility. If the resident is hired by the facility
10 to perform services as an employee of the facility, the wage paid to the resi-
11 dent shall be consistent with state and federal law.

12 (9) Confidentiality. Each resident shall have the right to confiden-
13 tiality of personal and clinical records.

14 (10) Freedom from abuse, neglect, and restraints. Each resident shall
15 have the right to be free from physical, mental, or sexual abuse, neglect,
16 corporal punishment, involuntary seclusion, and any physical or chemical
17 restraints. The use of supportive devices with restraining qualities is
18 permissible if the following conditions are met:

19 (a) For residents with the cognitive ability to consent, the facility
20 shall document the following:

21 (i) The resident specifically requests or approves of the device
22 and a licensed health care professional has informed the individ-
23 ual of the risks and benefits associated with the device;

24 (ii) A facility nurse acting within the nurse's scope of license
25 has conducted a thorough assessment;

26 (iii) The facility has documented other less restrictive alterna-
27 tives evaluated prior to the use of the device and obtained written
28 consent from the patient or representative; and

29 (iv) The facility has instructed direct care staff on the correct
30 use and precautions related to the device.

31 (b) Supportive devices with restraining qualities are permissible for
32 residents who are unable to evaluate the risks and benefits of the de-
33 vice when the conditions contained in paragraph (a) (ii) through (iv)
34 of this subsection are present and documented by the facility. The
35 facility shall also obtain and document the consent of the resident's
36 guardian, representative, or power of attorney as applicable.

37 (c) Documentation of the use of supportive devices with restraining
38 qualities shall be included in the resident's service plan and evalu-
39 ated on a quarterly basis.

40 (11) Freedom of religion. Each resident shall have the right to prac-
41 tice the religion of his choice or to abstain from religious practice. Res-
42 idents shall also be free from the imposition of the religious practices of
43 others.

44 (12) Control and receipt of health-related services. Each resident
45 shall have the right to control his receipt of health-related services, in-
46 cluding:

47 (a) The right to retain the services of his own personal physician, den-
48 tist and other health care professionals.

49 (b) The right to select the pharmacy or pharmacist of his choice so long
50 as it meets the statute and rules governing residential care or assisted

1 living and the policies and procedures of the residential care or as-
2 sisted living facility.

3 (c) The right to confidentiality and privacy concerning his medical or
4 dental condition and treatment.

5 (d) The right to refuse medical services based on informed decision-
6 making. ~~Refusal of treatment does not relieve the facility of its obli-~~
7 ~~gations under this chapter.~~

8 (i) The facility shall document that the resident and the res-
9 ident's legal guardian have been informed of the consequences of
10 the refusal; and

11 (ii) The facility shall document that the resident's physician or
12 authorized provider has been notified of the resident's refusal.

13 (13) Grievances. Each resident shall have the right to voice grievances
14 with respect to treatment or care that is (or fails to be) furnished with-
15 out discrimination or reprisal for voicing the grievances and the right to
16 prompt efforts by the facility to resolve grievances the resident may have,
17 including those with respect to the behavior of other residents.

18 (14) Participation in resident and family groups. Each resident shall
19 have the right to organize and participate in resident groups in the facility
20 and the right of the resident's family to meet in the facility with the fami-
21 lies of other residents in the facility.

22 (15) Participation in other activities. Each resident shall have the
23 right to participate in social, religious, and community activities that do
24 not interfere with the rights of other residents in the facility.

25 (16) Examination of survey results. Each resident shall have the right
26 to examine, upon reasonable request, the results of the most recent survey of
27 the facility conducted by the department with respect to the facility and any
28 plan of correction in effect with respect to the facility.

29 (17) Access by advocates and representatives. A residential care or as-
30 sisted living facility shall permit advocates and representatives of commu-
31 nity legal services programs, whose purposes include rendering assistance
32 without charge to residents, to have access to the facility at reasonable
33 times in order to:.

34 ~~(a) Visit, talk with, and make personal, social and legal services~~
35 ~~available to all residents.~~

36 ~~(b) Inform residents of their rights and entitlements, and their cor-~~
37 ~~responding obligations, under state, federal and local laws by distri-~~
38 ~~bution of educational materials and discussion in groups and with indi-~~
39 ~~viduals.~~

40 ~~(c) Assist residents in asserting their legal rights regarding claims~~
41 ~~for public assistance, medical assistance and social security benefits~~
42 ~~and in all other matters in which residents are aggrieved, which may~~
43 ~~be provided individually or in a group basis and may include organiza-~~
44 ~~tional activity, counseling and litigation.~~

45 ~~(d) Engage in all other methods of assisting, advising and representing~~
46 ~~residents so as to extend to them the full enjoyment of their rights.~~

47 ~~(e) Communicate privately and without restrictions with any resident~~
48 ~~who consents to the communication.~~

49 ~~(f) Observe all common areas of the facility.~~

1 (18) Access by protection and advocacy system. A residential care or
 2 assisted living facility shall permit advocates and representatives of the
 3 protection and advocacy system, designated by the governor pursuant to 42
 4 U.S.C. 15043 and 10801 et seq., access to residents, facilities and records
 5 in accordance with applicable federal statutes and regulations.

6 (19) Access by the long-term care ombudsman. A residential care or
 7 assisted living facility shall permit advocates and representatives of
 8 the long-term care ombudsman program, pursuant to 42 U.S.C. 3058, section
 9 67-5009, Idaho Code, and IDAPA 15.01.03, rules of the commission on aging,
 10 access to residents, facilities and records in accordance with applicable
 11 federal and state law, rules and regulations.

12 (20) A facility may not require precautions, such as health screenings,
 13 for in-person visitors that are more stringent than precautions for facil-
 14 ity staff, and in-person access pursuant to subsection (7) (a) and (b) of this
 15 section shall not be precluded on the basis of a visitor's vaccination sta-
 16 tus.

17 (21) Each resident shall have the right to be transferred or discharged
 18 only for medical reasons, for the resident's welfare or the welfare of other
 19 residents, or for nonpayment of the resident's stay. In non-emergency con-
 20 ditions, the resident shall be given at least thirty (30) calendar days no-
 21 tice of discharge. A resident has the right to appeal any involuntary dis-
 22 charge.

23 SECTION 9. That Chapter 33, Title 39, Idaho Code, be, and the same is
 24 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
 25 ignated as Section 39-3316A, Idaho Code, and to read as follows:

26 39-3316A. NOTICE OF RESIDENTS' RIGHTS. Each facility shall:

27 (1) Inform each resident, orally and in writing, at the time of admis-
 28 sion to the facility of the resident's legal rights during the stay at the fa-
 29 cility;

30 (2) Make available to each resident, upon reasonable request, a written
 31 statement of such rights, and notify a resident when such rights change;

32 (3) Ensure the written statement of legal rights includes a description
 33 of the protection of personal funds and a statement that a resident may file a
 34 complaint with the department regarding resident abuse, neglect, and misap-
 35 propriation of resident property in the facility at any time; and

36 (4) Conspicuously post the residents' rights in the facility at all
 37 times.

38 SECTION 10. That Section 39-3318, Idaho Code, be, and the same is hereby
 39 amended to read as follows:

40 39-3318. FACILITY RESPONSE TO INCIDENTS AND COMPLAINTS. ~~(1)~~ In addi-
 41 tion to any other requirements of this chapter, the residential care or as-
 42 sisted living facility shall ~~provide a procedure approved by the licensing~~
 43 ~~agency for immediate response to incidents and complaints. This procedure~~
 44 ~~shall include a method of assuring that the administrator or designee has~~
 45 ~~personally investigated the matter, and that the person making the complaint~~
 46 ~~or reporting the incident has received a response of action taken or a rea-~~
 47 ~~son why no action needs to be taken. In the case of anonymous complaints, the~~

1 ~~administrator or designee shall document the action taken or a reason why no~~
 2 ~~action needs to be taken~~ have a process in place to address incidents and com-
 3 plaints.

4 ~~(2) In order to assure the opportunity for complaints from the resi-~~
 5 ~~dents, the neighborhood, and the community to be made directly to the ad-~~
 6 ~~ministrator or designee, each facility shall, within a reasonable period of~~
 7 ~~time, meet with a complainant.~~

8 SECTION 11. That Section 39-3321, Idaho Code, be, and the same is hereby
 9 amended to read as follows:

10 39-3321. QUALIFICATIONS AND REQUIREMENTS OF ADMINISTRATOR. (1) Each
 11 residential care or assisted living facility must employ at least one (1) ad-
 12 ministrator licensed by the division of occupational and professional li-
 13 censes, which is responsible for licensing residential care facility admin-
 14 istrators for the state of Idaho. Multiple Up to three (3) multiple ~~facili-~~
 15 ~~ties under one (1) administrator may will be allowed by the department based~~
 16 ~~on an approved plan of operation.~~

17 (2) The administrator or the administrator's designee is responsible
 18 for:

19 (a) Ensuring that policies and procedures are developed and imple-
 20 mented to comply with this chapter;

21 (b) Ensuring that adult protective services and law enforcement are no-
 22 tified when required pursuant to sections 39-5303 and 39-5310, Idaho
 23 Code;

24 (c) Ensuring that facility procedures for investigation of complaints,
 25 incidents, accidents, and allegations of abuse, neglect, or exploita-
 26 tion are implemented to ensure resident safety;

27 (d) Identifying and monitoring patterns of accidents, incidents, or
 28 complaints and developing interventions to prevent recurrences;

29 (e) Completing an investigation and written report of the findings
 30 within thirty (30) calendar days for each accident, incident, com-
 31 plaint, or allegation of abuse, neglect, or exploitation;

32 (f) Being reachable and available at all times; and

33 (g) Ensuring that no personnel providing hands-on care or supervision
 34 services is under seventeen (17) years of age, unless such personnel
 35 have completed a certified nursing assistant certification course.

36 (3) The administrator or the administrator's designee must be notified
 37 of all serious incidents, accidents, or allegations of abuse, neglect, or
 38 exploitation immediately and notified of complaints regarding health and
 39 safety issues within one (1) business day.

40 (4) When abuse, neglect, exploitation, incidents, or accidents occur,
 41 corrective action shall be immediately taken and monitored to ensure the
 42 problem does not recur.

43 (5) When a reportable incident occurs, the administrator or adminis-
 44 trator's designee shall notify the licensing agency within one (1) business
 45 day of the incident.

46 (6) The facility shall notify the licensing agency, in writing, within
 47 three (3) business days of a change of administrator.

1 SECTION 12. That Section 39-3322, Idaho Code, be, and the same is hereby
2 amended to read as follows:

3 39-3322. QUALIFICATIONS AND REQUIREMENTS FOR FACILITY STAFF. (1) Each
4 facility must employ or arrange for sufficient trained staff to fully meet
5 the needs of its residents and the requirements of this chapter. The facil-
6 ity shall have sufficient staff to provide care during all hours required in
7 each resident's negotiated service plan. ~~Additional staff may be required~~
8 ~~if physical plant and disability of residents indicate that staff assistance~~
9 ~~in emergencies is required. Benchmarks shall be established in the assess-~~
10 ~~ment criteria where the need for certified nursing assistants or licensed~~
11 ~~nurses is indicated.~~ Residential care or assisted living facilities shall
12 not retain residents who require the care provided by nursing facilities un-
13 der section 39-1301(b), Idaho Code, other than for short exceptional stays
14 pursuant to negotiated rulemaking as defined in chapter 52, title 67, Idaho
15 Code.

16 (2) Should a residential care or assisted living facility choose not
17 to carry professional liability insurance, that information shall be dis-
18 closed, in writing, to employees at the time of hiring.

19 SECTION 13. That Section 39-3326, Idaho Code, be, and the same is hereby
20 amended to read as follows:

21 39-3326. MEDICATIONS. The medication policy governed by the policy
22 and procedure of the facility shall include a policy permitting, under the
23 conditions specified, a licensed nurse to fill individual dose systems such
24 as blister pack, mediset, or other system approved by the department and
25 label with the name, dosage, amount, time to be taken, and special instruc-
26 tions if appropriate. The policy shall provide for appropriate records to
27 maintain security of medications received from a pharmacist in accordance
28 with pharmacy standards. ~~The licensed nurse shall appropriately label the~~
29 ~~medication with name, dosage, amount and time to be taken, and special in-~~
30 ~~structions if appropriate.~~ Facilities may choose to use bulk containers for
31 over-the-counter medications.

32 SECTION 14. That Section 39-3340, Idaho Code, be, and the same is hereby
33 amended to read as follows:

34 39-3340. LICENSING. (1) Any person, firm, partnership, association,
35 governmental unit, or corporation within the state proposing to operate, es-
36 tablish, manage, conduct, or maintain a residential care or assisted living
37 facility in the state shall have a license issued by the licensing agency of
38 the department. A license is not transferable. The owner of the license has
39 ultimate responsibility for the operation of the facility.

40 (2) Each residential care or assisted living facility in the state re-
41 quires an administrator, properly licensed by the division of occupational
42 and professional licenses, ~~who is responsible for the day-to-day operation~~
43 ~~of the facility.~~ The licensed administrator may perform the day-to-day
44 responsibilities at the facility or may delegate all day-to-day responsi-
45 bilities to a facility manager. A licensed administrator may serve up to

1 three (3) multiple facilities and delegate all day-to-day responsibilities
 2 to on-site managers.

3 ~~(3) A license is not transferable from one (1) individual to another,~~
 4 ~~from one (1) business entity to another, or from one (1) location to another.~~
 5 ~~When a change of operator, ownership or location occurs, the facility shall~~
 6 ~~be relicensed, and the operator shall follow the application procedures and~~
 7 ~~obtain a license before commencing operation as a facility. When there is~~
 8 ~~a significant change in an owner's share of the facility that does not al-~~
 9 ~~ter the overall ownership or operation of the business, that change shall be~~
 10 ~~communicated to the licensing agency within sixty (60) days of the effective~~
 11 ~~date of the change. When the owner contracts the operation to a facility man-~~
 12 ~~agement company, other than for temporary management, it shall be treated as~~
 13 ~~a change of operator.~~

14 (3) All facilities must be licensed by the department.

15 (a) Change of building ownership, new construction, or buildings being
 16 converted to a facility shall be licensed, and the operator shall follow
 17 the application procedures and obtain a license before commencing oper-
 18 ation as a facility.

19 (b) When there is a change of operator or lessee in currently licensed
 20 buildings, the operator or lessee shall follow the licensing process
 21 for currently licensed buildings. Facilities shall submit requested
 22 licensing documents to the department. Any company or individual es-
 23 tablished in the state of Idaho with at least one (1) operating facility
 24 shall not be required to submit an updated copy of policies and pro-
 25 cedures. The licensing process shall not require a fire life safety
 26 inspection prior to license issuance. Within one hundred eighty (180)
 27 days of license issuance fire life safety shall inspect and provide rec-
 28 ommendations, if any, to the new operator or lessee.

29 (c) Any minor change of ownership of existing buildings shall be commu-
 30 nicated to the department within sixty (60) days of the change.

31 (d) Exceptions to the provisions of this section may be made by the de-
 32 partment for temporary management.

33 SECTION 15. That Section 39-3351, Idaho Code, be, and the same is hereby
 34 amended to read as follows:

35 39-3351. EXEMPTIONS. The provisions of this chapter do not apply to
 36 any of the following:

- 37 (1) Any health facility as defined by chapter 13, title 39, Idaho Code-;
 38 (2) Any house, institution, hotel, congregate housing project, retire-
 39 ment home or other similar place that is limited to providing one (1) or more
 40 of the following: housing, meals, transportation, housekeeping, or recre-
 41 ational and social activities; or that has residents accessing supportive
 42 services from an entity approved to provide such services in Idaho and hold-
 43 ing no legal ownership interest in the entity operating the facility-; or
 44 (3) Any arrangement for the receiving and care of persons by a relative.
 45 ~~(4) Any similar facility determined by the director.~~

46 SECTION 16. That Section 39-3352, Idaho Code, be, and the same is hereby
 47 amended to read as follows:

1 39-3352. UNLICENSED RESIDENTIAL CARE OR ASSISTED LIVING FACILI-
2 TIES. (1) No unlicensed residential care or assisted living facility shall
3 operate in this state.

4 (2) A facility shall be deemed to be an "unlicensed residential care or
5 assisted living facility" and "maintained and operated to provide services"
6 if it is unlicensed and not exempt from licensure, and any one (1) of the fol-
7 lowing conditions is satisfied:

8 (a) The facility is, or is held out as or represented as, providing
9 care, supervision and services.

10 (b) The facility accepts or retains residents who demonstrate the need
11 for care, supervision, and services, as defined in this chapter or the
12 rules adopted pursuant to this chapter.

13 (3) Upon discovery of an unlicensed residential care or assisted living
14 facility, the department shall refer residents to the appropriate placement
15 or adult protective services agency if either of the following conditions
16 exist:

17 (a) There is an immediate threat to the resident's health and safety.

18 (b) The facility will not cooperate with the licensing agency to apply
19 for a license, meet licensing standards, and obtain a valid license.

20 (4) A person found to be operating a residential care or assisted living
21 facility without a license ~~shall~~ may be guilty of a misdemeanor punishable by
22 imprisonment in a county jail not to exceed six (6) months, or by a fine not to
23 exceed five thousand dollars (\$5,000).

24 (5) In the event the county attorney in the county where the alleged vi-
25 olation occurred fails or refuses to act within thirty (30) days of notifica-
26 tion of the violation, the attorney general is authorized to prosecute vio-
27 lations under the provisions of this section.

28 SECTION 17. That Section [39-3354A](#), Idaho Code, be, and the same is
29 hereby repealed.

30 SECTION 18. That Chapter 33, Title 39, Idaho Code, be, and the same is
31 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
32 ignated as Section 39-3355A, Idaho Code, and to read as follows:

33 39-3355A. INSPECTIONS. (1) The licensing agency shall cause to be made
34 such inspections and investigations to determine compliance with this chap-
35 ter and applicable rules.

36 (2) Initial inspections, licensure or re-licensure inspections, fol-
37 low-up inspections, and fire life safety inspections shall be scheduled in
38 advance, with facilities receiving notice at least thirty (30) days prior to
39 the inspection date.

40 (3) Initial surveys shall be conducted within ninety (90) days of li-
41 censure, followed by a licensure survey within fifteen (15) months.

42 (4) Complaint investigation surveys shall occur based on the potential
43 severity of the complaint and shall be made unannounced and without prior no-
44 tice.

45 (5) The department may accept the services of any qualified person or
46 organization, either public or private, to examine, survey, or inspect any
47 entity requesting or holding a facility license, including as described in
48 subsection (13) of this section.

1 (6) An inspector shall have full access and authority to examine, among
2 other things, quality of care and service delivery, a facility's records,
3 resident accounts, and physical premises, including buildings, grounds and
4 equipment, and any other areas necessary to determine compliance with this
5 chapter and applicable rules.

6 (7) An inspector shall have authority to interview the licensee, admin-
7 istrator, staff, and residents. Interviews with residents shall be confi-
8 dential and conducted privately unless otherwise specified by the resident.

9 (8) The licensing agency shall notify the facility, in writing, of all
10 deficiencies, provide a proposed plan of correction for all deficiencies,
11 and approve a reasonable length of time for compliance by the facility. At
12 the time of the exit conference, the licensing agency shall provide the fa-
13 cility a written report specifying the non-core issue deficiencies. Facil-
14 ities are not required to submit plans of correction for non-core deficien-
15 cies.

16 (9) When core issues are identified during a survey, the licensing
17 agency shall provide a written report within ten (10) business days of the
18 exit conference or the last day of receipt of additional material. Fa-
19 cilities may either adopt the proposed plan of correction or submit an
20 alternative plan of correction for approval by the department for core issue
21 deficiencies.

22 (10) If any deficiencies constitute an immediate jeopardy, the depart-
23 ment shall require immediate correction of deficient practice.

24 (11) Current lists of deficiencies, including plans of correction,
25 shall be available to the public upon request in the individual facilities or
26 by written request to the department.

27 (12) The licensing agency shall conduct follow-up surveys to ascertain
28 corrections to issues are made according to the time frames established in
29 the plan of correction for core issues. If the department identifies re-
30 peat deficient facility practices during any follow-up survey, the depart-
31 ment may initiate or extend enforcement actions.

32 (13) The department shall accept an accreditation survey from an ac-
33 creditation commission for a residential care or assisted living facility
34 instead of regular compliance inspections conducted under the authority of
35 this section if all of the following conditions are met:

36 (a) The accreditation commission's standards meet or exceed the state
37 requirements for licensure for residential care or assisted living fa-
38 cilities;

39 (b) The facility submits to the department a copy of its required ac-
40 creditation reports to the accreditation commission in addition to the
41 application and any other information required for renewal of a li-
42 cense;

43 (c) The inspection results are available for public inspection to the
44 same extent that the results of an investigation or inspection con-
45 ducted under this section are available for public inspection;

46 (d) The accreditation commission complies with the health insurance
47 portability and accountability act and takes reasonable precautions
48 to protect the confidentiality of personally identifiable information
49 concerning the residents of the facility; and

1 (e) If the facility's accreditation report is not valid for the entire
2 licensure period, the department may conduct a compliance inspection of
3 the facility during the time period for which the department does not
4 have a valid accreditation report.

5 (14) The department shall establish a self-inspection program for fa-
6 cilities that receive a gold or silver rating, defined as high ratings with
7 no significant deficiencies on the most recent inspection. Qualifying
8 facilities shall conduct self-inspections for complaints received by the
9 department that do not involve health or safety concerns. Facilities shall
10 submit findings and corrective actions to the department. The department
11 retains the authority to conduct verification inspections for complaints
12 involving health or safety concerns or incomplete reports.

13 (15) The department shall not conduct an on-site compliance inspec-
14 tion of the residential care or assisted living facility during the time
15 the accreditation report is valid except for complaint surveys or in cases
16 of emergencies. Accreditation does not limit the department in performing
17 any power or duty under this chapter or inspection authorized under this
18 section, including taking appropriate action relating to a residential
19 care or assisted living facility, such as suspending or revoking a license,
20 investigating an allegation of abuse, exploitation, or neglect or another
21 complaint, or assessing an administrative penalty.

22 SECTION 19. That Chapter 33, Title 39, Idaho Code, be, and the same is
23 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
24 ignated as Section 39-3355B, Idaho Code, and to read as follows:

25 39-3355B. PLAN OF CORRECTION FOR CORE ISSUES. (1) The facility shall
26 either accept the proposed plan of correction for core issues or develop
27 and submit an acceptable plan of correction to the licensing agency within
28 ten (10) business days of receipt of the written report of identified core
29 issues. If an acceptable plan of correction is not submitted within the
30 required time frame, the department may initiate or extend enforcement ac-
31 tions.

32 (2) An acceptable plan of correction shall include:

33 (a) A plan to ensure correction of each deficient practice and ongoing
34 compliance;

35 (b) A description of how, and at what frequency, corrective actions
36 will be monitored to ensure that each deficient practice is corrected
37 and will not recur, such as what program will be put into place to moni-
38 tor the continued effectiveness of the systemic change; and

39 (c) The completion date for correcting each deficiency. No correction
40 date may be more than forty-five (45) days from the exit date printed
41 on the written report except in unusual circumstances and only with the
42 written approval of the licensing agency.

43 SECTION 20. That Section 39-3356, Idaho Code, be, and the same is hereby
44 amended to read as follows:

45 39-3356. COMPLAINTS. (1) A person who believes that any provision
46 of this chapter has been violated may file a complaint with the licensing
47 agency.

1 (2) The licensing agency shall investigate, or cause to be investi-
2 gated, any complaint alleging a violation of this chapter or applicable
3 rules, regulations and standards. If the licensing agency reasonably be-
4 lieves a requirement of this chapter has been violated, it shall conduct an
5 inspection of the facility unannounced, unscheduled, and without written
6 notice.

7 (3) A complaint filed with the licensing agency which is subsequently
8 released to the facility that is the subject of the complaint or to any member
9 of the public shall not disclose the name or identifying characteristics of
10 the complainant unless:

11 (a) The complainant consents in writing to the disclosure.

12 (b) The investigation results in a judicial proceeding and disclosure
13 is ordered by the court.

14 (c) If the disclosure is essential to the investigation, the com-
15 plainant shall be given an opportunity to withdraw the complaint before
16 disclosure.

17 (4) The licensing agency shall inform the complainant or, if requested
18 by the complainant, the complainant's designated representative, of the re-
19 sults of the investigation and any action taken by the agency.

20 (5) Complaints shall not be listed on the department's public website.
21 Substantiated complaints that result in a citation may be included in the in-
22 spection results on the department's public website.

23 SECTION 21. That Section 39-3357, Idaho Code, be, and the same is hereby
24 amended to read as follows:

25 39-3357. ENFORCEMENT PROCESS. (1) If the licensing agency finds, on
26 the basis of inspections as defined in this chapter or otherwise, that a res-
27 idential or assisted living facility no longer meets a requirement of this
28 chapter, and further finds that the facility's deficiencies:

29 (a) Immediately jeopardize the health or safety of its residents,
30 the department shall take immediate action to remove the jeopardy
31 and correct the deficiencies through the remedy specified in section
32 39-3358(1)(c), Idaho Code, or prohibit the facility from keeping or
33 admitting residents and may provide, in addition, for one (1) or more of
34 the other remedies described in section 39-3358, Idaho Code.

35 (b) Do not immediately jeopardize the health or safety of its resi-
36 dents, the department shall provide for one (1) or more of the remedies
37 described in section 39-3358, Idaho Code.

38 (2) Nothing in this section shall be construed as restricting the reme-
39 dies available to the department to remedy a facility's deficiencies. If
40 the department finds that a facility meets the requirements of this chap-
41 ter, but, as of a previous period, intentionally did not meet such require-
42 ments, the department may provide for a civil money penalty under section
43 39-3358(1)(b), Idaho Code, for the days in which it finds that the facility
44 was not in compliance with such requirements.

45 (3) Residential care or assisted living facilities may be cited only
46 for a violation of a requirement that is specified in an applicable law or
47 in a rule promulgated in compliance with an applicable law. Facilities may
48 not be cited for an act that is not expressly proscribed by an applicable law
49 or rule or for an omission when an applicable law or rule does not expressly

1 require the conduct omitted. If the department requires a specific correc-
2 tive action in relation to a citation, that requirement must be in writing
3 and reference the corresponding rule.

4 (4) If a civil money penalty is assessed against a facility for defi-
5 ciencies that do not require relocation of residents or facility closure,
6 the facility may use funds equal to the penalty amount to correct the defi-
7 ciencies instead of paying the penalty. Documentation of expenditures ad-
8 dresssing the deficiencies must be submitted to the department.

9 (5) Funds collected from such penalties, including those held by the
10 department on July 1, 2025, or collected after such date, may be used by fa-
11 ilities through a department-administered grant program to improve resi-
12 dent care and quality of life. The department shall establish guidelines and
13 a process for grant applications and fund distribution.

14 SECTION 22. That Section 63-701, Idaho Code, be, and the same is hereby
15 amended to read as follows:

16 63-701. DEFINITIONS. As used in this chapter:

17 (1) "Claimant" means a person who has filed an application under sec-
18 tion 63-602G, Idaho Code, and has filed a claim under the provisions of
19 sections 63-701 through 63-710, Idaho Code. Except as provided in section
20 63-702(2), Idaho Code, on January 1 or before April 15 of the year in which
21 the claimant first filed a claim on the homestead in question, a claimant
22 must be an owner of the homestead, a claimant must have lawful presence in the
23 United States pursuant to section 67-7903, Idaho Code, and on January 1 of
24 said year a claimant must be:

25 (a) Not less than sixty-five (65) years old; or

26 (b) A child under the age of eighteen (18) years who is fatherless or
27 motherless or who has been abandoned by any surviving parent or parents;
28 or

29 (c) A widow or widower; or

30 (d) A disabled person who is recognized as disabled by the social se-
31 curity administration pursuant to title 42 of the United States Code,
32 or by the railroad retirement board pursuant to title 45 of the United
33 States Code, or by the office of management and budget pursuant to title
34 5 of the United States Code, or, if a person is not within the purview of,
35 and is therefore not recognized as disabled by, any other entity listed
36 in this paragraph, then by the public employee retirement system or pub-
37 lic employee disability plan in which the person participates that may
38 be of any state, local unit of government or other jurisdiction in the
39 United States of America; or

40 (e) A disabled veteran of any war engaged in by the United States, whose
41 disability is recognized as a service-connected disability of a degree
42 of ten percent (10%) or more, or who has a pension for nonservice-con-
43 nected disabilities, in accordance with laws and regulations adminis-
44 tered by the United States department of veterans affairs; or

45 (f) A person, as specified in 42 U.S.C. 1701, who was or is entitled
46 to receive benefits because he is known to have been taken by a hostile
47 force as a prisoner, hostage or otherwise; or

48 (g) Blind.

1 (2) "Homestead" means the dwelling, owner-occupied by the claimant
2 as described in this chapter and used as the primary dwelling place of the
3 claimant and may be occupied by any members of the household as their home,
4 and so much of the land surrounding it, not exceeding one (1) acre, as is
5 reasonably necessary for the use of the dwelling as a home. It may consist
6 of a part of a multidwelling or multipurpose building and part of the land
7 upon which it is built. "Homestead" does not include personal property such
8 as furniture, furnishings or appliances, but a manufactured home may be a
9 homestead.

10 (3) "Household" means the claimant and the claimant's spouse. The term
11 does not include bona fide lessees, tenants, or roomers and boarders on con-
12 tract. "Household" includes persons described in subsection (8) (b) of this
13 section.

14 (4) "Household income" means all income received by the claimant and,
15 if married, all income received by the claimant's spouse, in a calendar year.

16 (5) "Income" means the sum of federal adjusted gross income as defined
17 in the Internal Revenue Code, as defined in section 63-3004, Idaho Code, and
18 to the extent not already included in federal adjusted gross income:

19 (a) Alimony;

20 (b) Support money;

21 (c) Nontaxable strike benefits;

22 (d) The nontaxable amount of any individual retirement account, pen-
23 sion or annuity, including railroad retirement benefits, all payments
24 received under the federal social security act except the social secu-
25 rity death benefit as specified in this subsection, state unemployment
26 insurance laws, and veterans disability pensions and compensation, ex-
27 cluding any return of principal paid by the recipient of an annuity and
28 excluding rollovers as provided in 26 U.S.C. 402 or 403, and excluding
29 the nontaxable portion of a Roth individual retirement account distri-
30 bution, as provided in 26 U.S.C. 408A;

31 (e) Nontaxable interest received from the federal government or any of
32 its instrumentalities or a state government or any of its instrumentali-
33 ties;

34 (f) Worker's compensation; and

35 (g) The gross amount of loss of earnings insurance.

36 It does not include gifts from nongovernmental sources or inheritances. To
37 the extent not reimbursed, the cost of medical care as defined in section
38 213(d) of the Internal Revenue Code, incurred and paid by the claimant and,
39 if married, the claimant's spouse, may be deducted from income. To the ex-
40 tent not reimbursed, personal funeral expenses, including prepaid funeral
41 expenses and premiums on funeral insurance, of the claimant and claimant's
42 spouse only, may be deducted from income up to an annual maximum of five
43 thousand dollars (\$5,000) per claim. "Income" does not include veterans
44 disability pensions received by a person described in subsection (1)(e)
45 of this section who is a claimant or a claimant's spouse if the disability
46 pension is received pursuant to a service-connected disability of a de-
47 gree of forty percent (40%) or more. "Income" does not include dependency
48 and indemnity compensation or death benefits paid to a person described in
49 subsection (1) of this section by the United States department of veterans
50 affairs and arising from a service-connected death or disability. "Income"

1 does not include lump sum death benefits made by the social security admin-
2 istration pursuant to 42 U.S.C. 402(i). Documentation of medical expenses
3 may be required by the county assessor and state tax commission in such form
4 as the county assessor or state tax commission shall determine. For pur-
5 poses of this chapter only and in the case of a claimant who owns and whose
6 homestead is a certified family home as defined in section 39-3502, Idaho
7 Code, "income" does not include payments that the claimant received as an
8 enrolled medicaid provider from the medical assistance program. "Income"
9 shall be that received in the calendar year immediately preceding the year
10 in which a claim is filed. Where a claimant and/or the claimant's spouse
11 does not file a federal tax return, the claimant's and/or the claimant's
12 spouse's federal adjusted gross income, for purposes of this section, shall
13 be an income equivalent to federal adjusted gross income had the claimant
14 and/or the claimant's spouse filed a federal tax return, as determined by the
15 county assessor. The county assessor or state tax commission may require
16 documentation of income in such form as each shall determine, including, but
17 not limited to: copies of federal or state tax returns and any attachments
18 thereto; and income reporting forms such as the W-2 and 1099.

19 For determining income for certain married individuals living apart,
20 the provisions of sections 2(c) and 7703(b) of the Internal Revenue Code
21 shall apply.

22 (6) "Occupied" means actual use and possession.

23 (7) "Owner" means a person holding title in fee simple or holding a cer-
24 tificate of motor vehicle title (either of which may be subject to mortgage,
25 deed of trust or other lien) or who has retained or been granted a life estate
26 or who is a person entitled to file a claim under section 63-702, Idaho Code.
27 "Owner" shall also include any person who:

28 (a) Is the beneficiary of a revocable or irrevocable trust which is the
29 owner of such homestead and under which the claimant or the claimant's
30 spouse has the primary right of occupancy of the homestead; or

31 (b) Is a partner of a limited partnership, member of a limited liabil-
32 ity company or shareholder of a corporation if such entity holds title
33 in fee simple or holds a certificate of motor vehicle title and if the
34 person holds at least a five percent (5%) ownership in such entity, as
35 determined by the county assessor; or

36 (c) Has retained or been granted a life estate.

37 "Owner" includes a vendee in possession under a land sale contract. Any
38 partial ownership shall be considered as ownership for determining initial
39 qualification for property tax reduction benefits; however, the amount of
40 property tax reduction under section 63-704, Idaho Code, and rules promul-
41 gated pursuant to section 63-705, Idaho Code, shall be computed on the value
42 of the claimant's partial ownership. "Partial ownership," for the purposes
43 of this section, means any one (1) person's ownership when property is owned
44 by more than one (1) person or where the homestead is held by an entity, as
45 set forth in this subsection, but more than one (1) person has the right of
46 occupancy of such homestead. A person holding either partial title in fee
47 simple or holding a certificate of motor vehicle title together with another
48 person, but who does not occupy the dwelling as his primary dwelling place,
49 shall not be considered an owner for purposes of this section, if such person
50 is a cosignatory of a note secured by the dwelling in question and at least

1 one (1) of the other cosignatories of the note occupies the dwelling as his
 2 primary dwelling place. The combined community property interests of both
 3 spouses shall not be considered partial ownership as long as the combined
 4 community property interests constitute the entire ownership of the home-
 5 stead, including where the spouses are occupying a homestead owned by an en-
 6 tity, as set forth in this subsection, and the spouses have the primary right
 7 of occupancy of the homestead. The proportional reduction required under
 8 this subsection shall not apply to community property interests. Where
 9 title to property was held by a person who has died without timely filing a
 10 claim for property tax reduction, the estate of the deceased person shall be
 11 the "owner," provided that the time periods during which the deceased person
 12 held such title shall be attributed to the estate for the computation of any
 13 time periods under subsection (8) (a) or (b) of this section.

14 (8) (a) "Primary dwelling place" means the claimant's dwelling place
 15 on January 1 or before April 15 of the year for which the claim is made.
 16 The primary dwelling place is the single place where a claimant has
 17 his true, fixed and permanent home and principal establishment, and to
 18 which whenever the individual is absent he has the intention of return-
 19 ing. A claimant must establish the dwelling to which the claim relates
 20 to be his primary dwelling place by clear and convincing evidence or by
 21 establishing that the dwelling is where the claimant resided on January
 22 1 or before April 15 and:

23 (i) At least six (6) months during the prior year; or

24 (ii) The majority of the time the claimant owned the dwelling if
 25 owned by the claimant less than one (1) year; or

26 (iii) The majority of the time after the claimant first occupied
 27 the dwelling if occupied by the claimant for less than one (1)
 28 year. The county assessor may require written or other proof of
 29 the foregoing in such form as the county assessor may determine.

30 (b) Notwithstanding the provisions of paragraph (a) of this subsec-
 31 tion, the property upon which the claimant makes application shall be
 32 deemed to be the claimant's primary dwelling place if the claimant is
 33 otherwise qualified and resides in a care facility and does not allow
 34 the property upon which the claimant has made application to be occu-
 35 pied by persons paying a consideration to occupy the dwelling. Payment
 36 of utilities shall not be payment of a consideration to occupy the
 37 dwelling. A claimant's spouse who resides in a care facility shall be
 38 deemed to reside at the claimant's primary dwelling place and to be a
 39 part of the claimant's household. A care facility is a hospital, nurs-
 40 ing facility or intermediate care facility for people with intellectual
 41 disabilities as defined in section 39-1301, Idaho Code, or a facility
 42 as defined in section 39-3302~~(16)~~, Idaho Code, or a dwelling other than
 43 the one upon which the applicant makes application where a claimant who
 44 is unable to reside in the dwelling upon which the application is made
 45 lives and receives help in daily living, protection and security.

46 SECTION 23. The rules contained in IDAPA 16.03.22, Idaho Department
 47 of Health and Welfare, relating to Residential Assisted Living Facilities,
 48 Section 001., Subsection 05.; Section 130.; Section 152., Subsection 03.b.;
 49 Section 215.; Section 300.; Section 550.; and Section 560. shall be null,
 50 void, and of no force and effect after July 1, 2025.

1 SECTION 24. An emergency existing therefor, which emergency is hereby
2 declared to exist, this act shall be in full force and effect on and after
3 July 1, 2025.