TITLE 39
HEALTH AND SAFETY

CHAPTER 35
IDAHO CERTIFIED FAMILY HOMES

39-3501. LEGISLATIVE INTENT AND DECLARATION. (1) The purpose of a certified family home in Idaho is to provide a homelike alternative to more expensive or more restrictive congregate care or institutional care, designed to allow vulnerable adults to reside in a family-style living environment focused on integrated community living. Certified family homes provide housing and care to vulnerable adults who are elderly, who have mental illnesses, developmental disabilities, or physical disabilities, or who are otherwise unable to live alone without personal assistance and whose mental, emotional, and physical condition can be met by the care provider. The legislature supports the capabilities of individuals receiving services in certified family homes to direct their own care. The care provider must obtain a waiver to house and care for two (2) persons requiring care at a nursing facility as defined in section 39-1301, Idaho Code.

(2) The certified family home shall be operated by a care provider who has demonstrated the knowledge and experience required to provide safe and appropriate services to each resident of the certified family home. The care provider shall ensure an objective, individualized assessment is conducted to determine resident needs and shall develop a comprehensive, negotiated plan of service describing how to meet those needs. The care provider shall ensure delivery of appropriate services to meet resident needs as described in the plan of service and shall ensure resident rights are honored and protected.

(3) The department is responsible for monitoring and enforcing the provisions of this chapter. This responsibility includes but is not limited to monitoring the condition of the certified family home, ensuring that each resident has an individualized written plan of service, and managing enforcement procedures when violations occur.

[39-3501, added 2024, ch. 63, sec. 2, p. 311; am. 2025, ch. 122, sec. 33, p. 639.]

39-3502. DEFINITIONS. As used in this chapter:

(1) "Abuse" means a nonaccidental act of sexual, physical, or mental mistreatment or injury of a resident through the action or inaction of another individual.

(2) "Activities of daily living" means the performance of basic self-care activities in meeting resident needs to sustain the resident in a daily living environment, including but not limited to bathing, washing, dressing, toileting, grooming, eating, communication, continence, mobility, and associated tasks.

(3) "Adult" means a person who has attained the age of eighteen (18) years.

(4) "Advocate" means 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 the certified family home.

(5) "Assessment" means the conclusions reached using uniform criteria that identifies resident strengths, weaknesses, risks, and functional, medical, and behavioral needs.

(6) "Board" means the board of health and welfare.

(7) "Care provider" means the adult member of the certified family home designated as the care provider on the certificate issued by the department. The care provider is responsible for ensuring the resident's needs are met, maintaining the home, and otherwise ensuring compliance with all laws and rules pertaining to the care provider's certification. The care provider and the legal owner of the home may not necessarily be the same person.

(8) "Certified family home" means a home and care provider certified by the department to provide housing in a family-style living environment and care to one (1) to four (4) residents.

(9) "Certifying agent" means any person who under the authority of the department participates in the certification, inspection, and regulation of a proposed or existing certified family home.

(10) "Chemical restraint" means any drug that is used for discipline or convenience and not required to treat medical symptoms.

(11) "Core issues" means any of the following: abuse; neglect; exploitation; inadequate care; inoperable fire detection or extinguishing systems with no fire watch in place pending the correction of the system; operation without required department criminal history and background check clearances or with an unconditional denial of such clearance; and situations in which advocates, representatives of the department, or certifying agents are denied access to records, residents, or the certified family home according to their respective authorities.

(12) "Critical incident" means any actual or alleged event or situation that creates a significant risk of serious harm to the safety or well-being of a resident.

(13) "Department" means the Idaho department of health and welfare.

(14) "Director" means the director of the Idaho department of health and welfare.

(15) "Exploitation" means the illegal or improper use of, control over, or withholding of the property, income, resources, or trust fund of a vulnerable adult by any person or entity for profit or advantage other than for the vulnerable adult's profit or advantage.

(16) "Governmental unit" means the state, any county, any city, any other political subdivision, or any department, division, board, or other agency thereof.

(17) "Health care professional" means a licensed worker in the field of medicine, nursing, anesthesiology, occupational or physical therapy, chiropractics, counseling, nutrition, dentistry, optometry, audiology, psychiatry, or any other profession focused on diagnosing or treating human health or wellness licensed by the state of Idaho.

(18) "Inadequate care" occurs when a certified family home: fails to provide the services required to meet the terms of any resident's negotiated plan of service or to provide for room, board, assistance as needed with activities of daily living or instrumental activities of daily living, appropriate supervision, proper assistance and monitoring of medications, first aid or other emergency intervention as needed, coordination of supportive services, or a safe living environment; engages in any violation of residents' rights; or admits or retains residents in violation of the provisions of section 39-3507, Idaho Code.

(19) "Incidental supervision" occurs when the care provider designates a responsible adult to provide only short-term supervision to the resident in the brief absence of the care provider.

(20) "Instrumental activities of daily living" means the performance of secondary level activities that enable a person to live independently in the community, including but not limited to preparing meals, accessing transportation, shopping, laundry, money management, housework, using tools and technology, and other associated tasks.

(21) "Medical foster home" means a private home approved by the department of veterans affairs in which a caregiver provides long-term primary health care to veteran residents with serious chronic disease and disability, as described in 38 CFR 17.

(22) "Neglect" means failure to ensure the provision of adequate food, clothing, shelter, or medical care reasonably necessary to sustain the life and health of a resident.

(23) "Personal assistance" means the provision by the certified family home of one (1) or more of the following services:

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

(b) Assisting the resident with medications;

(c) Coordinating supportive services for the resident;

(d) Supporting the resident with adequate and appropriate supervision; and

(e) Encouraging the resident toward independence and supporting the resident's self-advocacy.

(24) "Physical restraint" means any manual method or physical or mechanical device, equipment, or material that is attached or adjacent to the resident's body and that cannot be easily removed by the resident, that restricts the resident's movement or normal access to the resident's body, and that is imposed on the resident for reasons of discipline or convenience and not as a treatment for a condition as ordered by the resident's health care professional.

(25) "Plan of service" means the negotiated agreement reached between the care provider and the resident or the resident representative, if applicable, describing the obligations of the certified family home for the resident's care.

(26) "Political subdivision" means a city or county.

(27) "Primary residence" means a person's place of permanent domicile or residence and to which, when the person is temporarily absent, the person intends to return.

(28) "Relative" means a person related by birth, adoption, or marriage to the third degree, including spouses, parents, children, siblings, grandparents, grandchildren, aunts, uncles, nephews, nieces, great-grandparents, great-grandchildren, great-aunts, great-uncles, and first cousins.

(29) "Representative of the department" means an employee of the department.

(30) "Resident" means an adult who lives in a certified family home who has contracted with the care provider to receive care and housing and who is not able to reside in his own home without personal assistance or who requires help in daily living, protection and security, supervision, or encouragement toward independence.

(31)(a) "Resident representative" means any of the following:

(i) A court-appointed guardian or conservator of the resident;

(ii) A person authorized by state or federal law, including but not limited to agents under power of attorney or representative

payees and other fiduciaries, to act on behalf of the resident in order to: support the resident in decision-making; access medical, social, or other personal information of the resident; manage financial matters; or receive notifications;

(iii) A legal representative who stands in place of the resident under authority recognized by law with respect to the resident's property or interests; or

(iv) An individual chosen by the resident in writing to act on behalf of the resident in order to: support the resident in decision-making; access medical, social, or other personal information of the resident; manage financial matters; or receive notifications.

(b) Nothing in this subsection is intended to expand the scope of authority of any resident representative beyond that authority specifically authorized by the resident, state or federal law, or a court of competent jurisdiction or to limit the number of representatives a resident may have.

(32) "Room and board" means lodging and meals.

(33) "Substitute caregiver" means an adult designated by the care provider to provide care and services to residents in a certified family home in the temporary absence of the regular care provider.

(34) "Supervision" means activity that provides protection, guidance, knowledge of the resident's whereabouts, and monitoring of the activities of the resident while under the care of certified family home staff to ensure the resident's safety and well-being.

(35) "Supportive services" means any service pertaining to the resident's well-being that is not directly provided by the care provider and may include but is not limited to habilitation, rehabilitation, social, legal, medical, dental, educational, mental health, or community referral services.

[39-3502, added 2024, ch. 63, sec. 4, p. 312.]

39-3503. ADMISSION AGREEMENTS. (1) At or before the time of admission, the care provider shall negotiate a written, signed, and dated admission agreement between the care provider and the resident or the resident representative, if applicable, specifying the dollar amount of monthly compensation to be paid by the resident to the care provider and the monthly date by which payment is due.

(2) A dollar amount to be charged to the resident shall be negotiated in the admission agreement for monthly room and board, which includes breakfast, lunch, and dinner offered each day.

(3) If any portion of funding for the resident's care is from a private source, the admission agreement shall include a separately listed dollar amount for any monthly care charges for which the resident is responsible. The care provider shall prorate and, if applicable, refund care charges for any day the resident did not receive certified family home services during the month.

(4) The care provider shall give the resident or resident representative, as appropriate, written notice in accordance with section 55-304, Idaho Code, before changing the terms of the admission agreement.

(5) An admission agreement signed by both parties shall remain in effect until one (1) of the following conditions are met:

(a) The admission agreement is properly terminated in accordance with Idaho landlord-tenant law; or

(b) The care provider is no longer certified by the department.

(6) The admission agreement shall include protections that address eviction and appeals comparable to those provided under Idaho landlord-tenant law and chapter 3, title 6, Idaho Code.

(7) The admission agreement shall remain in force and effect, excluding the certified family home's responsibility to provide meals and care, while the resident is temporarily transferred from the certified family home to another care setting on an emergency basis. Provided, as long as the admission agreement remains in effect, the care provider shall allow the resident to resume receiving services in the certified family home after the emergency condition has improved enough for the certified family home to provide services in accordance with section 39-3507, Idaho Code.

[39-3503, added 2024, ch. 63, sec. 6, p. 314; am. 2025, ch. 65, sec. 2, p. 312.]

39-3504. PHYSICAL AND ENVIRONMENTAL STANDARDS. (1) Standards shall be developed through the regulatory process by the department to ensure a safe, sanitary and comfortable environment for residents of certified family homes.

(2) Any structure used for a certified family home shall be in a building suitable for residential use and is subject to department approval.

(a) The home shall be structurally sound and maintained to ensure safe occupancy.

(b) Single- or double-occupancy sleeping rooms shall be provided in the home for the residents' personal space.

(c) The home shall contain common living areas for the residents' enjoyment, including space and furnishings for socializing and dining.

(d) The home shall contain at least one (1) bathroom accessible to residents that is equipped with a flush toilet, a tub or shower, and a sink with a mirror. Toilet and shower or bathing facilities shall be separated from common living areas in the home by solid walls or partitions.

(e) The home shall contain at least one (1) kitchen accessible to residents that is equipped with a sink, oven, refrigerator, and counter-space.

(f) All plumbing in the home shall be maintained in good working order. Tubs, showers, and sinks shall be connected to hot and cold water and have adequate water pressure.

(g) The home shall have adequate storage space such that sundry items do not encroach on living areas or walkways and do not present a fire or life safety hazard.

(h) Temperatures in the home shall be maintained at levels promulgated in rule.

(i) Sufficient lighting shall be available in any room accessible to residents.

(3) The care provider shall take precautions to prevent disease by maintaining sanitary conditions in the home.

(a) The water supply used by the household shall be adequate, clean, and safe.

(b) Garbage and refuse shall be collected and regularly removed from the property.

(c) Sufficient housekeeping, including regular laundry service, shall be provided to maintain the home in a clean, safe, and orderly manner.

(d) The care provider shall ensure proper food handling, preparation, and storage standards are observed for meals offered to residents in the home.

(e) The home shall be well-ventilated.

(f) Pest control shall be implemented when necessary.

(4) The care provider shall take fire and life safety precautions, including equipping and maintaining the home to ensure the safety of residents.

(a) Egress from the home and ingress into the home shall not be obstructed. Clear pathways shall be maintained to and from points of egress and ingress.

(b) Potential hazards, including but not limited to tripping, burn, fire, explosion, poison, and drowning hazards or any other natural or man-made hazard, shall be removed or adequately mitigated as necessary for the safety of residents.

(c) The care provider shall develop and implement a written emergency preparedness plan, including the practice of regular emergency drills.

[(39-3504) 39-3578, added 1994, ch. 284, sec. 1, p. 890; am. 2000, ch. 274, sec. 116, p. 854; am. and redesig. 2005, ch. 280, sec. 55, p. 911; am. 2024, ch. 63, sec. 7, p. 315.]

39-3505. RULES. The board shall have the power and it shall be its duty to promulgate appropriate rules necessary to implement and enforce the standards for certified family homes pursuant to this chapter, including but not limited to the following:

(1) The care provider shall admit or retain no more than two (2) residents concurrently in the certified family home. However, the department may grant a variance for up to four (4) residents to receive care in the certified family home upon application by the care provider and upon a finding by the department that the certified family home is able to comply with the requirements of section 39-3507, Idaho Code. The department shall not grant a variance for requests to admit or retain more than two (2) residents who require care at a nursing facility as defined in section 39-1301, Idaho Code. A variance to exceed the two (2) resident limit in a certified family home shall not be transferable to another resident or care provider. Certified family homes issued a variance to exceed the two (2) resident limit shall be subject to all statutes and rules governing certified family homes but shall not be subject to the residential care facility administrator licensing requirements of chapter 16, title 54, Idaho Code, or the requirements of section 39-3340, Idaho Code. Nothing in this subsection shall be construed to authorize increased group size for providers of any form of care other than certified family homes.

(2) The care provider shall live in the certified family home as the care provider's primary residence.

(3) An individual cannot be approved as a care provider operating a certified family home if the individual charges room or board to any person staying in the home who is not a resident, a relative of the care provider, or full-time staff. A variance may be granted by the department for the spouse of a resident when the resident's spouse does not require personal assistance.

(4) A home cannot be approved as a certified family home and for child foster care at the same time unless a variance is granted by the department.

(5) The care provider, care provider's relative, or other adult living in the home shall not be the legal guardian of the resident unless the legal guardian is a relative of the resident. A variance may be granted by the department when it determines the guardianship is in the best interest of the nonrelative resident.

(6) The care provider must have sufficient resources to maintain the home and the services offered.

(7) Information obtained by the care provider about current or prospective residents shall be held confidential as described under section 39-3516(7), Idaho Code.

(8) The board may implement recordkeeping and reporting requirements as deemed necessary.

(a) The certified family home shall maintain and keep current a record of at least the following information for each resident:

(i) Admission records, including but not limited to the admission agreement, assessment, plan of service, history and physical examination, review of resident rights policy, emergency contacts, advance directives if so formulated by the resident, and a list of belongings the resident or resident representative chooses to inventory; and

(ii) Ongoing resident records as applicable, including but not limited to: medication management; incidents, accidents, or changes in the resident's condition and the care provider's response; and financial accounting records for use of the resident's funds when the care provider is deemed to be managing such funds on behalf of the resident.

(b) The care provider shall report at least the following:

(i) To the certifying agent: any incident of house fire in the certified family home; any criminal investigation or conviction, or child protection or adult protection investigation, when the alleged perpetrator is the care provider, a substitute caregiver, or any adult member of the household; any critical incident; and any resident discharge from the home;

(ii) To the Idaho commission on aging: in accordance with section 39-5303, Idaho Code, any abuse, neglect, or exploitation of a vulnerable adult when the care provider has reasonable cause to believe that such has occurred; and

(iii) To local law enforcement: any serious physical injury to or the death of a resident when there is reasonable cause to believe the harm was due to abuse or neglect.

(9) The board may implement requirements to ensure the safety and adequate care of residents. The care provider shall be responsible for ensuring appropriate and adequate supervision is provided to each resident based on the resident's plan of service.

(10) The board may implement requirements for management of medications, including:

(a) Development of acceptable policies and procedures regarding the following:

(i) Following the orders of the resident's health care professionals;

(ii) Maintaining evidence of such orders; and

(iii) Training guidance that must be completed prior to any individual assisting the resident with medications;

(b) For residents who wish to self-administer their own medications, the evaluation and approval criteria that shall be met prior to the care provider allowing the resident to self-administer medications; and

(c) For residents who need assistance with medications:

(i) Conditions under which certified family home staff may offer assistance, taking into consideration the resident's health status, level of assistance needed, and scope of any professional license held by the individual offering assistance;

(ii) Storage and safeguarding of medications, including taking regular inventory of narcotic medications;

(iii) Documentation of assistance; and

(iv) Proper and timely disposal of discontinued, unused, loose, or expired medications.

(11) The certified family home staff shall allow certifying agents to inspect and investigate the certified family home as necessary to determine compliance with this chapter and the department's rules.

(12) The board may establish rules for the revocation of certification or other enforcement actions.

[39-3505, added 2024, ch. 63, sec. 9, p. 316; am. 2025, ch. 98, sec. 7, p. 538; am. 2025, ch. 122, sec. 34, p. 640.]

39-3506. STATE CERTIFICATION TO SUPERSEDE LOCAL REGULATION. The provisions of this chapter, and the rules promulgated pursuant to this chapter, shall supersede any program of any political subdivision of the state which licenses or sets standards for individuals to whom the provisions of this chapter apply as described in section 39-3512, Idaho Code.

[39-3506, added 1993, ch. 374, sec. 1, p. 1357; am. 2000, ch. 274, sec. 68, p. 837; am. 2005, ch. 280, sec. 36, p. 902; am. 2024, ch. 63, sec. 10, p. 318.]

39-3507. ADMISSIONS. A certified family home shall not admit or retain any resident requiring a level of service or type of service that the certified family home, in concert with the resident's supportive services, does not have the time, ability, or appropriate skills or equipment to safely and effectively provide. All admissions are subject to department approval.

[39-3507, added 1993, ch. 374, sec. 1, p. 1358; am. 1996, ch. 207, sec. 28, p. 648; am. 2000, ch. 274, sec. 69, p. 837; am. 2005, ch. 280, sec. 37, p. 902; am. 2024, ch. 63, sec. 11, p. 318.]

39-3508. ASSESSMENT. (1) The department shall employ uniform assessment criteria to assess residents accessing services through a publicly funded program according to the criteria developed to assess all participants within that respective program.

(2) The care provider shall employ uniform assessment criteria to assess private pay residents.

(3) The department and the advisory council established in section 39-3511, Idaho Code, shall jointly develop assessment criteria for all assessment types, including those used in publicly funded programs and

those used for private pay residents. The conclusions shall be deemed the assessment and shall be used to ensure appropriate placement.

[39-3508, added 2024, ch. 63, sec. 13, p. 319.]

39-3509. PLAN OF SERVICE. (1) The care provider shall ensure the resident or resident representative participates in the development of a written negotiated plan of service that provides for coordination of services and for guidance to the care provider in delivering services to the resident. Upon completion, the plan of service shall clearly identify the resident and describe the services to be provided to the resident and how such services are to be delivered.

(a) The plan of service shall be based on at least the following:

(i) The resident's desires, to the greatest extent reasonably possible;

(ii) The resident's assessment;

(iii) Information from the resident's health care professionals, including current orders and the results of the resident's most recent history and physical examination;

(iv) The resident's supportive services; and

(v) The resident's needs in the following areas:

1. Supervision;

2. Assistance with activities of daily living and instrumental activities of daily living;

3. Assistance with medications; and

4. Behavior management.

(b) The plan of service shall include:

(i) Identification of each care need;

(ii) A care plan for each need, describing how the care provider is to deliver service; and

(iii) Frequency of delivery for each service.

(2) The plan of service shall be completed shortly after the resident's admission into the certified family home. The plan of service shall be reviewed and, if necessary, updated on an annual basis or upon any significant change in the resident's condition, whichever occurs first.

(3) Upon initial completion and any subsequent update, the care provider and the resident or resident representative shall sign and date the plan of service.

[39-3509, added 2024, ch. 63, sec. 15, p. 319.]

39-3510. SEPARABILITY. If any section, subsection, paragraph, sentence, or any other part of this chapter is adjudged unconstitutional or invalid, such judgment shall not affect, impair, or invalidate the remainder of this chapter, but shall be confined to this section, subsection, paragraph, sentence, or any other part of this chapter directly involved in the controversy in which the judgment has been rendered.

[(39-3510) 39-3579, added 1994, ch. 284, sec. 1, p. 890; am. and redesig. 2005, ch. 280, sec. 56, p. 911.]

39-3511. ADVISORY COUNCIL. The department shall establish a state-level advisory council. This council may be the same body as that identified in section 39-3330, Idaho Code; otherwise, this council shall be a separate

body formed pursuant to the provisions found in section 39-3330, Idaho Code. The advisory council shall have the following powers and duties:

(1) To make policy recommendations regarding certification and enforcement standards in certified family homes and the provision of services to residents;

(2) To provide advice to the department and to the board pertaining to development and revision of rules;

(3) To review and comment on any proposed rule or legislation pertaining to the certification of certified family homes; and

(4) To submit an annual report to the legislature stating opinions and recommendations that would further the state's capability to address issues faced by certified family homes.

[39-3511, added 2024, ch. 63, sec. 17, p. 320.]

39-3512. APPLICATION OF PROVISIONS. (1) Any individual who seeks payment for providing care to an elderly person or to an adult with a mental illness, developmental disability, or physical disability and who also houses the said vulnerable adult in his primary residence shall meet the requirements of this chapter or other provision of law governing care and housing for the elderly or for adults with mental illness, developmental disabilities, or physical disabilities if those provisions are more restrictive.

(2) The following are exempt from the requirements of this chapter:

(a) Arrangements for care to a vulnerable adult who does not live in his own home but lives in the primary residence of his relative, when payments for the vulnerable adult's care to that relative is wholly privately funded and no portion is from a publicly funded program.

(b) Medical foster homes if the home provides care only to veterans who are not medicaid recipients and who are approved by the department of veterans affairs to receive care in the home. Medical foster homes that provide care to nonveterans as well as veterans shall not be exempt from the certification requirements of this chapter.

[39-3512, added 2024, ch. 63, sec. 19, p. 320.]

39-3513. TRAINING. (1) The department shall ensure that during the initial application process to certify a certified family home the applicant receives training that includes but is not limited to recordkeeping requirements pursuant to section 39-3505, Idaho Code, and minimum standards of care consisting of at least assistance with medications, emergency intervention, emergency preparedness, and the rights of the residents.

(2) The department shall require annual continuing education for care providers relating to home safety or care, supervision, and services to the residents, as defined by rules promulgated pursuant to this chapter.

[39-3513, added 2024, ch. 63, sec. 21, p. 320.]

39-3516. RESIDENT RIGHTS. The care provider shall ensure staff protect and promote the rights of each resident, including each of the following rights:

(1) Privacy. Each resident shall be ensured the right to privacy with regard to accommodations, medical and other treatment, written and telephone communications, visits, and meetings of family and resident groups, including:

(a) The right to send and receive mail unopened, either by the postal service, electronically, or other means, unless the resident's plan of service specifically calls for the care provider to monitor correspondence to protect the resident from abuse or exploitation; and

(b) The right to control the use of pictures or videos containing the resident's image.

(2) Humane care and environment, dignity, and respect.

(a) Each resident shall have the right to humane care and a humane environment, including the following:

(i) The right to a diet that is consistent with any religious or health-related restrictions;

(ii) The right to refuse a restricted diet;

(iii) The right to refuse assistance with bathing, continence, toileting, or dressing from any person the resident is uncomfortable receiving such care from. The care provider is obligated to ensure that these services, if required in the resident's plan of service, are offered by staff acceptable to the resident or resident representative;

(iv) The right to a safe and sanitary living environment; and

(v) The right to a living environment free of illicit drug use or possession and other criminal activities.

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

(i) The right to be treated in a courteous manner;

(ii) The right to receive a response from the certified family home staff to any request of the resident within a reasonable time;

(iii) The right to make choices free from intimidation, manipulation, or coercion;

(iv) Freedom from discrimination on the basis of race, color, national origin, sex, religion, age, disability, or veteran status; and

(v) The right to determine personal dress and hairstyles.

(3) Personal possessions. Each resident shall have the right to:

(a) Wear personal clothing;

(b) Retain and use the resident's own personal property in the resident's own living area in order to maintain individuality and personal dignity as long as the storage or use of these items do not present a fire or safety hazard; and

(c) Be provided a separate storage area in the resident's own living area and at least one (1) lockable cabinet or drawer for keeping personal property if requested by the resident.

(4) Personal funds. Each resident shall have the right to:

(a) Retain for personal use the difference between the resident's total monthly income and the monthly charges by the certified family home, such that the resident is left with at least the amount established by department rules for a basic-needs allowance to the aged, blind, and disabled who live in certified family homes, when the resident's care is paid for, in part or in full, by public assistance;

(b) Deposit personal funds into the resident's own financial account and not into the account of any other person;

(c) Review financial accounting pertaining to the use of the resident's funds. If the resident or the resident representative and care provider agree in writing that the care provider or another individual under the

care provider's influence will manage the resident's personal funds on the resident's behalf, the care provider must hold, safeguard, and account for such personal funds; and

(d) Receive remaining funds into the resident's estate upon the resident's death. Upon the death of a resident whose funds were deemed to be managed by the care provider or an individual under the provider's influence, the care provider shall ensure the resident's remaining personal funds, along with a final accounting of such funds, are promptly conveyed to the individual administering the resident's estate.

(5) Access and visitation rights. Certified family home staff shall permit:

(a) Immediate access to any resident by the resident representative or the resident's health care professional;

(b) Unless otherwise restricted by a lawful order from a government unit, immediate access to any resident by the resident's relatives, subject to the resident's right to deny or withdraw consent at any time; and

(c) Unless otherwise restricted by a lawful order from a government unit, immediate access to any resident by others who wish to visit the resident, subject to reasonable restrictions and the resident's right to deny or withdraw consent at any time.

(6) Labor. Each resident shall have the right to refuse to perform services for the certified family home.

(7) Confidentiality. Each resident shall have the right to confidentiality of personal and clinical records. The care provider shall obtain written consent from the resident or resident representative prior to disclosing any such record, except to the following:

(a) Representatives of the department, including certifying agents;

(b) Representatives of the Idaho commission on aging;

(c) Advocates and representatives of the protection and advocacy system designated by the governor pursuant to 42 U.S.C. 15043 and 42 U.S.C. 10801, in accordance with applicable federal law and regulations;

(d) The resident's authorized personal health care professional when the record is relevant to the condition the health care professional is treating; and

(e) The resident or the resident's legally authorized representative.

(8) Freedom from harm. Each resident shall have the right to be free from:

(a) Physical abuse;

(b) Mental abuse;

(c) Sexual abuse;

(d) Neglect;

(e) Exploitation;

(f) Corporal punishment;

(g) Involuntary seclusion;

(h) Any physical restraint; and

(i) Any chemical restraint.

(9) Freedom of religion. Each resident shall have the right to practice the religion of the resident's choice or to abstain from religious practice. Residents shall also be free from the imposition of the religious practices of others.

(10) Control and receipt of health-related services. Each resident or resident representative shall have the right to control the resident's receipt of health-related services, including but not limited to:

(a) The right to retain the services of the resident's own health care professionals;

(b) The right to select the pharmacy or pharmacist of the resident's choice;

(c) The right to confidentiality and privacy concerning the resident's medical or dental condition and treatment; and

(d) The right to decline treatment for any medical condition.

(11) Grievances. Each resident or resident representative shall have the right to voice grievances without discrimination or reprisal for voicing the grievances and the right to prompt efforts by the certified family home to resolve grievances, including a written response from the care provider. Grievances may include but are not limited to:

(a) Quality of services or care provided;

(b) Failure to provide service or care; and

(c) The behavior of other residents.

(12) Participation in other activities. Unless otherwise restricted by a lawful order from a governmental unit, each resident shall have the right to participate in social, religious, and community activities that do not interfere with the rights of other residents in the certified family home.

(13) Examination of home inspection reports. Each resident or resident representative shall have the right to examine the results of any home inspection of the certified family home conducted by the department and any department-approved plan of correction the care provider was or is expected to implement.

(14) List of alternative care settings. Each resident or resident representative shall have the right to review lists of alternative care settings, including other certified family homes, that may be available to meet the resident's needs.

(15) Advance directives. Each resident shall have the right to be informed by the care provider in writing regarding the resident's option to formulate advance care directives as described in chapter 45, title 39, Idaho Code.

(16) Other rights established by law. The resident shall have any other right established by law.

[39-3516, added 2024, ch. 63, sec. 23, p. 321.]

39-3519. ACCESS BY ADVOCATES AND REPRESENTATIVES. (1) Staff of the certified family home shall permit certifying agents, other representatives of the department, or any representative of adult protective services immediate and unrestricted access, according to the agent's or representative's respective authority, to the physical premises of the home and property, to the records required under this chapter and the rules promulgated thereunder, and to the residents.

(2) Staff of the certified family home shall permit advocates and representatives of community legal services programs, including the state long-term care ombudsman or its designee or representatives of the protection and advocacy system pursuant to 42 U.S.C. 15043 and 42 U.S.C. 10801 et seq., whose purposes include rendering assistance without charge to residents, to have access to the physical premises of the home, to the residents,

and to records in accordance with federal and state law and regulations at reasonable times.

[39-3519, added 1993, ch. 374, sec. 1, p. 1363; am. 2000, ch. 274, sec. 76, p. 841; am. 2005, ch. 280, sec. 42, p. 907; am. 2024, ch. 63, sec. 24, p. 323.]

39-3520. APPLICATION FOR CERTIFICATION. (1) An application for certification shall be made to the department on forms provided by the department and shall contain such information as the department reasonably requires, including, at a minimum, fingerprinting and a background check clearance through the department, a list of individuals living in the home, and payment of an application fee if charged.

(2) Following receipt of a completed application, the department shall conduct an initial certification study to determine the capability of the care provider to operate a certified family home. In the event the department establishes, prior to conducting an initial certification study, that a cause of denial exists pursuant to rules promulgated pursuant to this chapter, the department may choose to deny the application for certification without conducting or completing an initial certification study.

(3) Failure of the applicant to cooperate with the department in the application process may result in the department terminating the application. Failure to cooperate means that the applicant does not make the application fee payment within six (6) months of the date of the invoice or does not submit to the department the completed application materials and information in the form requested by the department within twelve (12) months of paying the application fee. An applicant whose application has been terminated may reapply for certification.

[39-3520, added 2024, ch. 63, sec. 26, p. 324.]

39-3521. ISSUANCE AND RENEWAL OF CERTIFICATION. (1) Each certificate shall be issued only for the home and care provider named in the application and shall not be transferable or assignable.

(2) Upon certification, the department shall charge the care provider an ongoing monthly certification fee, to be invoiced by the department and paid as promulgated in rule. Timely payment of the certification fee shall keep the certification active unless it is suspended or revoked by the department.

(3) Each care provider intending to continue operation of a certified family home shall renew its certification annually. The department may shorten the certification time frame as part of an enforcement action or at its discretion to more efficiently or safely fulfill its obligations. The application for renewal shall be filed with the department at least thirty (30) days prior to the date of expiration specified on the certificate. The existing certificate, unless suspended or revoked, shall remain in force and effect until the department has acted on the renewal application when such application is timely filed.

[(39-3521) 39-3563, added 1994, ch. 284, sec. 1, p. 888; am. 2000, ch. 274, sec. 103, p. 852; am. and redesig. 2005, ch. 280, sec. 45, p. 909; am. 2024, ch. 63, sec. 27, p. 324.]

39-3522. PROVISIONAL CERTIFICATION. (1) Upon inspection or investigation, should an applicant for a certificate or a care provider be unable or unwilling to meet a standard because of one (1) or more conditions or acts that do not immediately jeopardize the health or safety of the resident, the department may grant a provisional certificate pending the satisfactory correction of all deficiencies and demonstration of continuing compliance for up to six (6) months.

(2) The department, at its discretion, may impose conditions on the certified family home, which if imposed shall be included with the notice of provisional certification. Such conditions may be imposed to ensure the care provider achieves compliance with the standard or to aid the department in monitoring the care provider's performance during the provisional certification period.

[(39-3522) 39-3564, added 1994, ch. 284, sec. 1, p. 888; am. 2000, ch. 274, sec. 104, p. 852; am. and redesig. 2005, ch. 280, sec. 46, p. 910; am. 2024, ch. 63, sec. 28, p. 325.]

39-3523. DENIAL OF APPLICATION OR REVOCATION OF A CERTIFICATE. (1) The department may deny any application for a certificate when persuaded by a preponderance of evidence that such conditions exist as to endanger the health or safety of any resident or when the applicant fails to demonstrate compliance with any provision of this chapter or rules promulgated pursuant to this chapter. The department may also deny any application for a certificate for any other cause for denial listed in rules promulgated by the department.

(2) The department may revoke any certificate when persuaded by a preponderance of evidence that such conditions exist as to endanger the health or safety of any resident or when the care provider violates any provision of this chapter or rule promulgated pursuant to this chapter after having been notified by the department of such violation and given an opportunity to make corrections as described in the rules promulgated pursuant to this chapter. The department may also revoke any certification for any other cause for revocation listed in rules promulgated by the department.

[39-3523, added 2024, ch. 63, sec. 30, p. 325.]

39-3524. PROCEDURE FOR DENIAL OF APPLICATION OR REVOCATION OF A CERTIFICATE. (1) Consistent with provisions regarding emergency proceedings in section 67-5247, Idaho Code, the department shall immediately notify the applicant or care provider in writing when it denies an application for a certificate or revokes or suspends certification in a situation involving an immediate danger to the health or safety of residents.

(2) Absent emergency proceedings, the department shall provide notice and the opportunity to be heard prior to denial of an application for a certificate or revocation of a certificate consistent with section 67-5254, Idaho Code. The proceedings shall be conducted in accordance with the Idaho administrative procedure act and the department's rules for contested care proceedings.

[39-3524, added 2024, ch. 63, sec. 32, p. 325.]

39-3525. EFFECT OF REVOCATION OF A CERTIFICATE OR DENIAL OF AN APPLICATION. The department is not required to review the application of an

applicant who has had a certificate revoked or previous application denied until five (5) years have elapsed from the date of revocation or denial or from the date of a final appeals decision affirming the department's action, whichever is later.

[39-3525, added 2024, ch. 63, sec. 34, p. 326.]

39-3526. STATUTES AND RULES PROVIDED. Prior to initial certification, the applicant shall be provided a printed copy of all applicable statutes and rules by the department without additional charge.

[39-3526, added 2024, ch. 63, sec. 36, p. 326.]

39-3527. RESPONSIBILITY FOR INSPECTIONS AND TECHNICAL ASSISTANCE. The certifying agent shall inspect and provide technical assistance to certified family homes. The department may provide consulting services upon request to any certified family home to assist in the identification and correction of deficiencies and in the upgrading of the quality of care provided by the certified family home.

[39-3527, added 2005, ch. 280, sec. 51, p. 911; am. 2024, ch. 63, sec. 37, p. 326.]

39-3528. OPERATING WITHOUT CERTIFICATION -- MISDEMEANOR. (1) Any individual to whom the provisions of this chapter apply as described in section 39-3512, Idaho Code, who is paid for providing care to a vulnerable adult living in his home within the state without first obtaining certification as provided in this chapter shall be guilty of a misdemeanor.

(2) Authority to prosecute violations of this section is granted to the attorney general and the county attorney in the county where the person who is alleged to be operating without certification lives.

[39-3528, added 2024, ch. 63, sec. 39, p. 326.]

39-3556. COMPLAINTS. (1) A person who believes that any provision of this chapter, or rule promulgated under this chapter, has been violated may file a complaint with the department. Records and information that identify a complainant are exempt from disclosure as set forth in section 74-105(16), Idaho Code.

(2) The certifying agent shall investigate any complaint alleging a violation of this chapter or the rules promulgated pursuant to this chapter. The certifying agent has the discretion to decide the activities of investigation while considering the nature of each allegation and arriving at a conclusion informed by a thorough and objective exploration of the known evidence.

[39-3556, added 2024, ch. 63, sec. 42, p. 327.]