

Dear Senators MARTIN, Riggs, Stennett, and
Representatives WOOD, Vander Woude, Chew:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of
the Department of Health and Welfare:

IDAPA 16.03.02 - Skilled Nursing Facilities - Temporary and Proposed Rule (Docket No.
16-0302-2201);

IDAPA 16.03.19 - Certified Family Homes (ZBR Chapter Rewrite, Fee Rule) - Proposed Rule
(Docket No. 16-0319-2201).

Pursuant to Section 67-454, Idaho Code, a meeting on the enclosed rules may be called by the
cochairmen or by two (2) or more members of the subcommittee giving oral or written notice to Research
and Legislation no later than fourteen (14) days after receipt of the rules' analysis from Legislative
Services. The final date to call a meeting on the enclosed rules is no later than 10/14/2022. If a meeting is
called, the subcommittee must hold the meeting within forty-two (42) days of receipt of the rules' analysis
from Legislative Services. The final date to hold a meeting on the enclosed rules is 11/11/2022.

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

To notify Research and Legislation, call 334-4854, or send a written request to the address on the
memorandum attached below.



Terri Kondeff
Director

Legislative Services Office

Idaho State Legislature

Serving Idaho's Citizen Legislature

MEMORANDUM

TO: Rules Review Subcommittee of the Senate Health & Welfare Committee and the House Health & Welfare Committee

FROM: Principal Legislative Drafting Attorney - Elizabeth Bowen

DATE: September 27, 2022

SUBJECT: Department of Health and Welfare

IDAPA 16.03.02 - Skilled Nursing Facilities - Temporary and Proposed Rule (Docket No. 16-0302-2201)

IDAPA 16.03.19 - Certified Family Homes (ZBR Chapter Rewrite, Fee Rule) - Proposed Rule (Docket No. 16-0319-2201)

Summary and Stated Reasons for the Rule

Docket No. 16-0302-2201: This temporary and proposed rule allows certified medication assistants to administer medications in skilled nursing facilities. Currently, only licensed nursing staff may administer medications, but the demand for licensed nurses has created staffing shortages at skilled nursing facilities. This rule would allow other qualified staff to administer medication without compromising the health of facility residents. The Governor finds that the temporary rule is appropriate because it confers a benefit.

Docket No. 16-0319-2201: This proposed rule is a chapter revision to streamline and simplify language in accordance with Executive Order 2020-01. The new chapter includes application and certification fees relating to certified family homes, but the fees are not being changed from previous incarnations of the rule.

Negotiated Rulemaking / Fiscal Impact

Docket No. 16-0302-2201: Negotiated rulemaking was not conducted, as this change is the result of informal negotiations with stakeholders. There is no anticipated negative fiscal impact on the state general fund.

Docket No. 16-0319-2201: Negotiated rulemaking was conducted. There is no anticipated negative fiscal impact on the state general fund.

Statutory Authority

Docket No. 16-0302-2201: This rulemaking appears to be authorized pursuant to Chapter 13, Title 39, Idaho Code.

Docket No. 16-0319-2201: This rulemaking appears to be authorized pursuant to Sections 39-3505 and 56-1005, Idaho Code.

Paul Headlee, Deputy Director Kristin Ford, Manager Keith Bybee, Manager April Renfro, Manager Glenn Harris, Manager
Legislative Services Office Research & Legislation Budget & Policy Analysis Legislative Audits Information Technology

Statehouse, P.O. Box 83720
Boise, Idaho 83720-0054

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cc: Department of Health and Welfare
Frank Powell and Trinette Middlebrook

***** PLEASE NOTE *****

Per the Idaho Constitution, all administrative rules may be reviewed by the Legislature during the next legislative session. The Legislature has 3 options with this rulemaking docket: **1)** Approve the docket in its entirety; **2)** Reject the docket in its entirety; or **3)** Reject the docket in part.

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

16.03.02 – SKILLED NURSING FACILITIES

DOCKET NO. 16-0302-2201

NOTICE OF RULEMAKING – TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is September 1, 2022.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 39-1306, 39-1307, 39-1307A, and 39-1307B, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 21, 2022.

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

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This change was requested by skilled nursing facilities and the Idaho Health Care Association. With the current demand for licensed nurses in all health care settings, skilled nursing facilities are challenged in their efforts to retain licensed/certified direct care workers. Through informal negotiations, the Department has determined that allowing Certified Medication Assistants (MA-C) to administer medications will help support facilities with their staffing challenges without compromising the health and safety of the residents in facilities.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule of the rule is appropriate for the following reasons:

This rulemaking confers a benefit to skilled nursing facilities.

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

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

This rule change is budget neutral. There is no cost associated with adding MA-Cs as staff allowed to administer medications.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2)(b), Idaho Code, formal negotiated rulemaking was not conducted as this rule change is simple in nature and is being done at the request of the primary stakeholders. The content of this rulemaking is a result of informal negotiations conducted with stakeholders.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Laura Thompson, (208) 364-1874.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 28, 2022.

DATED this 5th day of August, 2022.

Tamara Prisock
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**THE FOLLOWING IS THE TEMPORARY RULE AND THE PROPOSED TEXT
OF DOCKET NO. 16-0302-2201
(Only Those Sections With Amendments Are Shown.)**

200. NURSING SERVICES.

The following requirements must be met: (3-17-22)

01. Director of Nursing Services (DNS). A licensed registered nurse currently licensed by the state of Idaho and qualified by training and experience is designated DNS in each SNF and is responsible and accountable for the following: (3-17-22)

a. Participating in the development and implementation of resident care policies; (3-17-22)

b. Developing and/or maintaining goals and objectives of nursing service, standards of nursing practice, and nursing policy and procedures manuals; (3-17-22)

c. Assisting in the screening and selection of prospective residents in terms of their needs, and the services available in the facility; (3-17-22)

d. Observing and evaluating the condition of each resident and developing a written, individualized patient care plan that is based upon an assessment of the needs of each resident, and that is kept current through review and revision; (3-17-22)

e. Recommending to the administrator the numbers and categories of nursing and auxiliary personnel to be employed and participating in their recruitment, selection, training, supervision, evaluation, counseling, discipline, and termination when necessary. Developing written job descriptions for all nursing and auxiliary personnel; (3-17-22)

f. Planning and coordinating orientation programs for new nursing and auxiliary personnel, as well as a formal, coordinated in-service education program for all nursing personnel; (3-17-22)

g. Preparing daily work schedule for nursing and auxiliary personnel that includes names of employees, professional designation, hours worked, and daily patient census; and (3-17-22)

h. Coordinating the nursing service with related resident care services; (3-17-22)

02. Minimum Staffing Requirements. That minimum staffing requirements include the following: (3-17-22)

- a.** A Director of Nursing Services (DNS) works full time on the day shift but the shift may be varied for management purposes. If the DNS is temporarily responsible for administration of the facility, there is a licensed registered nurse (RN) assistant to direct patient care. The DNS is required for all facilities five (5) days per week. (3-17-22)
- i.** The DNS in facilities with an average occupancy rate of sixty (60) residents or more has strictly nursing administrative duties. (3-17-22)
- ii.** The DNS. in facilities with an average occupancy rate of fifty-nine (59) residents or less may, in addition to administrative responsibilities, serve as the supervising nurse. (3-17-22)
- b.** A supervising nurse, licensed registered nurse, or a licensed practical nurse, and who meets the requirements designated by the Idaho Board of Nursing to assume responsibilities as a charge nurse and meets the definition in Subsection 002.35. (3-17-22)
- c.** A charge nurse, a licensed registered, or a licensed practical nurse, and who meets the requirements designated by the Idaho Board of Nursing to assume responsibilities as a charge nurse in accordance with the definition in Subsection 002.07. A charge nurse is on duty as follows: (3-17-22)
- i.** In SNFs with an average occupancy rate of fifty-nine (59) residents or less a licensed registered nurse is on duty eight (8) hours of each day and no less than a licensed practical nurse is on duty for each of the other two (2) shifts. (3-17-22)
- ii.** In SNFs with an average occupancy rate of sixty (60) to eighty-nine (89) residents a licensed registered nurse is on duty for each a.m. shift (approximately 7:00 a.m. - 3:00 p.m.) and p.m. shift (approximately 3:00 p.m. to 11:00 p.m.) and no less than a licensed practical nurse on the night shift. (3-17-22)
- iii.** In SNFs with an average occupancy rate of ninety (90) or more residents a licensed registered nurse is on duty at all times. (3-17-22)
- iv.** In those facilities authorized to utilize a licensed practical nurse as charge nurse, the facility must make documented arrangements for a licensed registered nurse to be on call for these shifts to provide professional nursing support. (3-17-22)
- d.** Nursing hours per resident per day are provided to meet the total needs of the residents. The minimum staffing is as follows: (3-17-22)
- i.** Skilled Nursing Facilities with a census of fifty-nine (59) or less residents provide two and four-tenths (2.4) hours per resident per day. Hours do not include the DNS but the supervising nurse on each shift may be counted in the calculations of the two and four-tenths (2.4) hours per resident per day. (3-17-22)
- ii.** Skilled Nursing Facilities with a census of sixty (60) or more residents provide two and four-tenths (2.4) hours per resident per day. Hours do not include the DNS or supervising nurse. (3-17-22)
- iii.** Nursing hours per resident per day are required seven (7) days a week with provision for relief personnel. (3-17-22)
- iv.** Skilled Nursing Facilities are considered in compliance with the minimum staffing ratios if, on Monday of each week, the total hours worked by nursing personnel for the previous seven (7) days equal or exceed the minimum, staffing ratio for the same period when averaged on a daily basis and the facility has received prior approval from the Licensing Agency to calculate nursing hours in this manner. (3-17-22)
- e.** Combined Hospital and Skilled Nursing Facility. In a combined facility the DNS may serve both the hospital and long term care unit with supervising and charge nurses as required under Subsection 200.02.b. and 200.02.c. In a combined facility of less than forty-one (41) beds, the supervising or charge nurse may be an LPN. Combined beds (forty-one (41) or less) represent the total number of acute care (hospital) and long term care (nursing home) beds. (3-17-22)

f. Waiver of Licensed Registered Nurse as Supervising or Charge Nurse. In the event that a facility is unable to hire licensed registered nursing personnel to meet these regulation requirements, a licensed practical nurse will satisfy the requirements so long as: (3-17-22)

i. The facility continues to seek a licensed registered nurse at a compensation level at least equal to that prevailing in the community; (3-17-22)

ii. A documented record of efforts to secure employment of licensed registered nursing personnel is maintained in the facility; (3-17-22)

iii. The facility maintains at least forty (40) hours a week R.N. coverage. (3-17-22)

g. There is at least two (2) nursing personnel on duty on each shift to ensure resident safety in the event of accidents, fires, or other disasters. (3-17-22)

h. Nursing care is given only by licensed staff, nursing personnel, and auxiliary nursing personnel. (3-17-22)

03. Resident Care. That nursing staff must document on the resident medical record, any assessments of the resident, any interventions taken, effect of interventions, significant changes and observations, and the administration of medications, treatments, and any other services provided, and entries made at the time the action occurs with signature, date and time. At a minimum, a monthly summary of the resident's condition and reactions to care must be written by a licensed nursing staff person. (3-17-22)

04. Medication Administration. Medications must be provided to residents by licensed nursing staff ~~in accordance with~~ or certified medication assistants (MA-C) per established written procedures that includes at least the following: ~~(3-17-22)~~ (9-1-22)T

a. Administered ~~in accordance with~~ per physician's, dentist's, or nurse practitioner's written orders; ~~(3-17-22)~~ (9-1-22)T

b. The resident is identified prior to administering the medication; (3-17-22)

c. Medications are administered as soon as possible after preparation; (3-17-22)

d. Medications are administered only if properly identified; (3-17-22)

e. Medications are administered by the person preparing the medication for delivery to the resident (exception: Unit dose); (3-17-22)

f. Residents are observed for reactions to medications and if a reaction occurs, it is immediately reported to the charge nurse and attending physician; (3-17-22)

g. Each resident's medication is properly recorded on their individual medication record by the person administering the medication. The record includes: (3-17-22)

i. Method of administration; (3-17-22)

ii. Name and dosage of the medication; (3-17-22)

iii. Date and time of administration; (3-17-22)

iv. Site of injections; (3-17-22)

v. Name or initial (that has elsewhere been identified) of person administering the medication; (3-17-22)

- vi. Medications omitted; (3-17-22)
- vii. Medication errors (that are reported to the charge nurse and attending physician). (3-17-22)

05. Tuberculosis Control. ~~That in order to~~ To assure the control of tuberculosis in the facility, there is a planned, organized program of prevention through written and implemented procedures that are consistent with current accepted practices and includes: ~~(3-17-22)~~(9-1-22)T

- a. The results of a T.B. skin test is established for each resident upon admission. If the status is not known upon admission, a T.B. skin test is done as soon as possible, but no longer than thirty (30) days after admission. (3-17-22)
- b. If the T.B. skin test is negative, the test does not have to be repeated. (3-17-22)
- c. If the T.B. skin test is positive, if determined upon admission or following the test conducted after admission, the resident receives a chest x-ray. A chest x-ray conducted thirty (30) days prior to admission is acceptable. (3-17-22)
- d. When a chest x-ray is indicated and the resident's condition presents a transportation problem to the x-ray machine, a Sputum culture for m.tuberculosis is acceptable instead of a chest x-ray until the resident's next visit for any purpose to a place where x-ray is available. (3-17-22)
- e. Annual T.B. skin testing and/or chest x-rays are not required. (3-17-22)
- f. If a case of T.B. is found in the facility, all residents and employees are retested. (3-17-22)

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE
16.03.19 – CERTIFIED FAMILY HOMES
DOCKET NO. 16-0319-2201 (ZBR CHAPTER REWRITE, FEE RULE)
NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 39-3505 and 56-1005, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 21, 2022.

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

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

In accordance with [Executive Order 2020-01: Zero-Based Regulation](#), this chapter of rules is being rewritten. The intent is to prevent the accumulation of costly, ineffective, and outdated regulations and reduce regulatory burden to achieve a more efficient operation of government. These rule changes represent a comprehensive review and revision of this chapter, in collaboration with the public, to streamline and simplify this rule language.

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

There are two (2) types of fees in this chapter:

- A one-time non-refundable application fee required when applicants are applying to be certified as Certified Family Homes
- A monthly certification fee that Certified Family Homes providers are required to pay the Department; these are billed quarterly

None of the fees in this chapter of rules are being changed.

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

This rulemaking is not anticipated to have any fiscal impact on the State General Fund, or any other known funds.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the May 4, 2022, Idaho Administrative Bulletin, ([Vol. 22-5, pp. 70-72](#)).

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: The document incorporated by reference in these rules is not being changed.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Steven L. Millward at (208) 334-0706.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 28, 2022.

DATED this 5th day of August, 2022.

Tamara Prisock
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THE FOLLOWING IS THE PROPOSED TEXT OF FEE DOCKET NO. 16-0319-2201
(Zero Based Regulation (ZBR) Chapter Rewrite)

16.03.19 – CERTIFIED FAMILY HOMES

000. LEGAL AUTHORITY.

Sections 56-1005 and 39-3505, Idaho Code, authorize the Idaho Board of Health and Welfare to adopt and enforce rules and standards for Certified Family Homes. Sections 56-264 and 56-1007, Idaho Code, authorize the Department to adopt and develop application and certification criteria, and to charge and collect application and certification fees. Under Sections 56-1002, 56-1003, 56-1004, 56-1004A, 56-1005, and 56-1009, Idaho Code, the Department and the Board of Health and Welfare have prescribed powers and duties to provide for the administration and enforcement of Department programs and rules. ()

001. SCOPE AND EXCEPTIONS.

01. Scope. These rules set the administrative requirements for care providers who are paid to care for an adult living in the care provider’s home, when the adult is elderly or has a developmental disability, mental illness, or physical disability, and needs personal assistance. ()

02. Exceptions. These rules do not apply to the following: ()

a. Individuals who provide only housing, meals, transportation, housekeeping, or recreational and social activities. ()

b. Health facilities defined by Title 39, Chapter 13, Idaho Code. ()

c. Residential assisted living facilities defined by Title 39, Chapter 33, Idaho Code. ()

d. Any arrangement for care in a relative’s home that is not compensated through a publicly funded program. ()

e. Homes approved by the Department of Veterans Affairs as a “medical foster home” described in 38 CFR Part 17 and Sections 39-3502 and 39-3512, Idaho Code. Care providers who provide care to both veterans and non-veterans living in a “medical foster home” are not exempt from these rules. ()

03. State Certification to Supersede Local Regulation. These rules supersede any program of any political subdivision of the state that certifies or sets standards for certified family homes. These rules do not supersede any other local regulations. ()

002. INCORPORATION BY REFERENCE.

The Americans with Disabilities Act Accessibility Guidelines, 28 CFR Part 36 - 2010 ADA Standards for Accessible Design, is incorporated by reference. The website is http://www.ada.gov/2010ADASTandards_index.htm. ()

003. -- 008. (RESERVED)

009. CRIMINAL HISTORY AND BACKGROUND CHECK REQUIREMENTS.

01. Background Check Clearance. The provider, staff, substitute caregivers, and all adults living in the home, except for residents, are required to complete a background check and receive a clearance affiliated with the certified family home program (i.e., Agency ID 1104) under IDAPA 16.05.06, "Criminal History and Background Checks." ()

02. When Certification Can Be Granted. Prior to certification, all adults living in the home, except for residents, must complete the background check and receive a clearance. ()

03. New Adults in the Home After Certification. An adult who plans to live in the home must, prior to moving, complete a self-declaration form, be fingerprinted, and not have any designated crimes under IDAPA 16.05.06, "Criminal History and Background Checks." ()

04. Visitors. No unsupervised contact with residents unless the visitor first clears a background check. ()

05. Minor Child Turning Eighteen. A minor child turning eighteen (18) and living in the home must complete a self-declaration form, be fingerprinted, and not have any designated crimes under IDAPA 16.05.06, "Criminal History and Background Checks," within thirty (30) days following the month of their eighteenth birthday. ()

06. Substitute Caregivers and Staff. The Department can require a new background check at any time. Any staff of substitute caregiver must complete a self-declaration form, be fingerprinted, and not have any designated crimes under IDAPA 16.05.06, "Criminal History and Background Checks," prior to any unsupervised contact with the resident. ()

07. Renewal of Clearance. Renewed clearance from the Department must also be obtained as follows: ()

a. Every five (5) years through the first fifteen (15) consecutive years, except as noted below, then every ten (10) years; ()

b. For adults continuously affiliated (i.e., holding the certificate, living in, or providing substitute care) for at least five (5) years with an existing CFH in operation on or before July 1, 2015, who renewed their clearance after July 1, 2020, a second renewal is needed during the fifth year after the previous clearance, then every ten (10) years; or ()

c. For adults continuously affiliated for at least fifteen (15) years with an existing CFH in operation on or before July 1, 2005, who received clearance after July 1, 2020, a renewed clearance is needed every ten (10) years. ()

010. DEFINITIONS AND ABBREVIATIONS.

The following definitions apply, in addition to the terms defined under Section 39-3502, Idaho Code: ()

01. Alternate Caregiver. A CFH provider approved by the Department to care for a resident from another CFH for up to thirty (30) consecutive days when the original provider is temporarily absent or unable to care for the resident. ()

02. Certificate. A permit issued by the Department to operate a CFH. ()

- 03. Certified Family Home (CFH).** Hereafter referred to as “CFH” or “the home.” ()
- 04. Certified Family Home (CFH) Requirements.** The requirements under which CFHs must operate are these rules and the provisions of Title 39, Chapter 35, Idaho Code. ()
- 05. Critical Incident.** Any actual or alleged event or situation that creates a significant risk of substantial or serious harm to the physical or mental health, safety, or well-being of a resident. ()
- 06. Healthcare Professional.** An individual licensed to provide healthcare within their respective discipline and scope of practice. ()
- 07. Immediate Jeopardy.** An immediate or substantial danger to a resident. ()
- 08. Incident.** An actual or alleged event or situation that impacts or has the potential to impact the resident's health or safety, but does not rise to the level of a critical incident. ()
- 09. Incidental Supervision.** Supervision of the resident by a provider-approved, responsible adult not including care services such as medication management, personal assistance, managing resident funds, etc. ()
- 10. Instrumental Activities of Daily Living.** The performance of secondary level activities that enable a person to live independently in the community, including preparing meals, accessing transportation, shopping, laundry, money management, housework, medication management, using tools and technology, and other associated tasks. ()
- 11. Level of Care.** A categorical assessment of the resident's functional ability in any given activity of daily living, instrumental activity of daily living or self-preservation, and the degree of care required in that area to sustain the resident in a daily living environment. ()
- 12. Plan of Service.** The generic term used in these rules to refer to the Negotiated Service Agreement, Personal Care Plan, Plan of Care, Individual Support Plan, Support and Spending Plan, or any other comprehensive service plan. ()
- 13. Primary Residence.** A person’s place of permanent domicile or residence, to which the person intends to return after any temporary absence. The residence in which a person stays for at least thirty (30) days in any consecutive sixty (60) day period. ()
- 14. PRN (Pro Re Nata).** An abbreviation meaning “when necessary,” allowing prescribed medication or treatment to be given as needed. ()
- 15. Relative.** 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. ()
- 16. Staff.** The provider, or a person retained by the provider to assist with maintaining the home and caring for residents. A full-time staff works at least forty (40) hours per week for the CFH. ()
- 17. Variance.** A temporary exception not exceeding twelve (12) months issued by the Department to a CFH allowing noncompliance with a specific requirement of these rules when the provider shows good cause for the exception and the variance does not endanger any resident’s health or safety. ()
- 18. Visitor.** A guest of a household member who is temporarily visiting the home for thirty (30) consecutive days or less. ()
- 19. Vulnerable Adult.** A person eighteen (18) years of age or older who seems unable to protect themselves from abuse, neglect, or exploitation due to the effects of advancing age, mental illness, developmental or physical disability, or other chronic health condition. ()

20. Waiver. A permanent exception issued by the Department to a CFH allowing noncompliance with a specific requirement of these rules when the provider shows good cause for the exception and the waiver does not endanger any resident's health or safety. ()

012. -- 099. (RESERVED)

100. CERTIFICATION REQUIREMENTS.

An individual is required to obtain certification to operate a CFH under Section 39-3512, Idaho Code. ()

01. Certification Limitations. The Department cannot certify or maintain the certification of any individual who: ()

a. Charges room or board to any person who is not a resident, full-time staff, or a relative under these rules. A variance may be granted by the Department under Section 39-3505(3), Idaho Code. ()

b. Holds a current license for a children's foster home, unless a variance is granted by the Department under Section 39-3505(4), Idaho Code. ()

c. Is appointed, is a relative of, or resides in the home with the legal guardian of the resident, except if any of the aforementioned is a relative of the resident. A variance may be granted by the Department when it is determined the guardianship is in the best interest of the resident. ()

d. Is absent from the CFH for more than thirty (30) consecutive days when the home has an admitted resident. ()

e. Has a primary residence somewhere other than the CFH. ()

02. Certification Study. Following receipt of an acceptable application and other required documents, the Department will begin a certification study within thirty (30) days. The certification study will serve as the basis for issuing a certificate. The study will include the following: ()

a. A review of all material submitted; ()

b. A home inspection; ()

c. An interview with the applicant; ()

d. An interview with the applicant's relatives or other household members, when deemed necessary; ()

e. A review of the care needs of other household members to evaluate the ability of the applicant to meet the needs of the resident; ()

f. A medical or psychological examination of the applicant or staff, when the Department determines it is necessary, including a statement from a healthcare professional that the individual has the ability to adequately care for the resident and ensure a safe living environment; ()

g. Proof that the applicant or their spouse has a legal right to occupy the home and has control of the premises (e.g., a lease, deed, or mortgage for the property); and ()

h. Other information necessary to verify that the home complies with these rules. ()

03. Provider Training Requirements. As a condition of initial certification, the applicant must receive training in the following areas: ()

a. Resident rights; ()

- b. Certification in first aid and adult Cardio-Pulmonary Resuscitation (CPR) which must be kept current and include hands-on skills training; ()
- c. Emergency procedures; ()
- d. Fire safety, including use and maintenance of fire extinguishers, smoke detectors, and carbon monoxide detectors; ()
- e. Unless a licensed practical nurse, registered nurse, physician's assistant, or medical doctor, completion of a Department-approved medications course through an Idaho technical college; and ()
- f. Complaint investigation and inspection procedures. ()

101. APPLICATION FOR CERTIFICATION.

The applicant must apply for certification on Department forms and submit the following to the Department: ()

- 01. Completed Application Signed by Applicant.** ()
- 02. Statement to Comply.** A written statement that the applicant has thoroughly read and reviewed all CFH requirements, and is prepared to comply. ()
- 03. Statement Disclosing Revocation or Disciplinary Actions.** A written statement that the applicant has thoroughly read and reviewed all CFH requirements, and is prepared to comply. ()
- 04. Electrical Inspection.** A written statement from a licensed electrician or the local/state electrical inspector within the past twelve (12) months indicating that all electrical installations in the home comply with applicable local code and are in good working order. ()
- 05. Plumbing Inspection.** A written statement from a licensed plumber within the last twelve (12) months that the water supply and sewage disposal system in the home are in good working order. ()
- 06. Heating and Air Conditioning Inspection.** A written statement within the last twelve (12) months by a person licensed to service heating and cooling systems that these systems in the applicant's home are in good operating condition. ()
- 07. Proof of Insurance.** Proof of homeowner's or renter's insurance on the applicant's home. For continued certification, the provider must ensure that insurance is kept current. ()
- 08. List of Individuals Living in the Home.** A list of all individuals living in the home at the time of application and their relationship to the applicant. ()
- 09. Other Information as Requested.** Other information that may be requested by the Department for the proper administration and enforcement of the CFH requirements. ()

102. TERMINATION OF APPLICATION.

- 01. Failure to Cooperate.** Failure of the applicant to cooperate with the Department in the application process will result in the termination of the application. Failure to cooperate means the applicant does not submit in the form requested or within a reasonable timeframe as determined by the Department: ()
 - a. Information under Section 101 of these rules; or ()
 - b. Payment of the application fee under Section 109 of these rules. ()
- 02. Reapplication.** An applicant whose application has been terminated may reapply for certification. ()

103. -- 108. (RESERVED)

109. APPLICATION AND CERTIFICATION FEES.

01. Application Fee. An applicant is required to pay the Department a non-refundable application fee of one hundred fifty (\$150) dollars for each of the following: ()

- a.** As part of the initial application to become a CFH care provider; ()
- b.** As part of any reapplication after the initial application is terminated, withdrawn, or the CFH closed; or ()
- c.** When the home will be operated by a new care provider. ()

02. Certification Fees. The provider is required to pay to the Department a certification fee of twenty-five (\$25) dollars per month while certified. This amount is billed to the provider every three (3) months, and is due and payable within thirty (30) days of the invoice date. ()

a. Failure of the provider to pay certification fees when due may cause the Department to take enforcement action under Section 913 of these rules. ()

b. Monthly certification fees paid in advance for the CFH will be refunded when the provider operates the home for less than fifteen (15) days during any given month for which payment was received by the Department. An advance payment refund may be issued when the provider voluntarily closes the home as provided in Section 114 of these rules, or involuntarily closes the home due to an enforcement remedy imposed by the Department. ()

110. ISSUANCE OF CERTIFICATE.

The Department will issue a certificate when certification requirements are met. Each certificate must be available at the home upon request. ()

01. Full Certificate. The Department will issue a full certificate upon a finding that the CFH is compliant with CFH requirements.. A full certificate is effective for no more than twelve (12) months from the issue date. ()

02. Temporary Certificate. The Department may issue a temporary certificate to allow time for the provider to meet all certification requirements without a lapse in certification when the provider plans to relocate to a residence within the state and continue operation of a CFH. A temporary certificate is effective for no more than sixty (60) days from the issue date. ()

a. At least thirty (30) days prior to moving into a new residence, the provider must notify the certifying agent for the region in which the new home will be located. Prior to moving into the new residence, the provider must submit to the certifying agent the following: ()

- i.** A completed application form under Section 101 of these rules; ()
- ii.** Copies of all inspection reports for the new residence under Section 101 of these rules; and ()
- iii.** Other information requested by the Department to ensure the new residence is appropriate for use as a CFH and safe for occupation. ()

b. The Department will issue a temporary certificate upon review and approval of the information required under Subsection 110.02 of this rule. ()

c. The provider must coordinate with the certifying agent an inspection of the new residence to occur prior to the expiration of the temporary certificate and be prepared to demonstrate compliance with CFH requirements during the home inspection. ()

d. The Department will issue a full certificate as described in Subsection 110.01 of this rule when it determines that the home complies with CFH requirements. ()

111. RENEWAL OF CERTIFICATE.

01. Home Inspection. A home inspection by a certifying agent is required the year after the initial certification study and at least every twenty-four (24) months thereafter. The home inspection will consist of the elements of the certification study under Section 100 of these rules. ()

02. Desk Review. When the Department determines a home inspection is not required to renew the certificate, the Department may conduct a desk review by written notification to the provider. The provider must submit copies of the following documentation to the certifying agent at least thirty (30) days prior to the expiration of the certificate: ()

- a. Current first aid and adult CPR certifications; ()
- b. Private well water testing report, as applicable; ()
- c. Updated septic system inspection or pumping report, as applicable, when the previous inspection is older than five (5) years; ()
- d. Annual fire extinguisher inspection reports, or sales receipts for fire extinguishers that comply with Section 600 of these rules that are less than twelve (12) months old; ()
- e. Logs of smoke and carbon monoxide detector tests and battery replacement, fire extinguisher examinations, and emergency plan reviews; ()
- f. Emergency drill summaries or recordings; ()
- g. Training logs; ()
- h. Proof of current homeowner's or renter's insurance; ()
- i. Requests for renewed exceptions that meet the requirements in Sections 120 through 140 of these rules as applicable; and ()
- j. Other information as requested by the Department. ()

112. DENIAL OF APPLICATION FOR CERTIFICATE.

01. Causes For Denial. Causes for denial of an application for issuance of a certificate, besides those under Section 39-3523, Idaho Code, include the following: ()

- a. The applicant or provider has willfully misrepresented or omitted information on the application or other submitted documents; ()
- b. A required background check results in an Unconditional Denial; ()
- c. The applicant or provider has been denied or has had revoked any child care (including foster home) or health facility license, residential assisted living facility license, or CFH certificate; ()
- d. The applicant or provider has been found to have operated a health facility, residential assisted living facility, or CFH without a license or certificate; ()
- e. A court has ordered that the applicant or provider must not operate a health facility, residential assisted living facility, or CFH; ()

f. The applicant or provider is directly under the control or influence of any person who is described in Subsection 112.01 of this rule. ()

02. Notice of Denial. Immediately upon denial of an application, the Department will provide notice by certified mail or by personal service, including the reason(s) for the denial and instructions regarding appealing the decision. ()

113. OPERATING WITHOUT A CERTIFICATE.

01. Operating Without Certificate. A person found to be operating as a CFH as described under Section 39-3512, Idaho Code, without first obtaining a certificate may be referred for criminal prosecution under Section 39-3528, Idaho Code. ()

02. Placement or Transfer of Resident. Upon discovery of such a person described in Subsection 113.01 of this rule, the Department may transfer residents to the appropriate placements when: ()

a. There is an immediate threat to any resident's health and safety; or ()

b. The individual operating the home does not cooperate with the Department to apply for certification, meet certification standards, and obtain a valid certificate. ()

114. VOLUNTARY CLOSURE.

When choosing to voluntarily close a CFH, the provider must give written notice at least thirty (30) days in advance to the residents, or the residents' representatives when applicable, and the certifying agent in the region where the home is located. The notification must include the following: ()

01. Date of Notification. ()

02. Provider's Certificate. A copy of the certificate, or information from the certificate that includes: ()

a. The provider's name; and ()

b. Address of the home; or ()

c. Certificate number. ()

03. Closure Date. The written notice must include the planned closure date. The Department will not refund or prorate prepaid certification fees on retroactive closures. ()

04. Discharge Plans. If applicable, discharge plans for current residents must accompany the written notice to the certifying agent. ()

115. REQUIRED ONGOING TRAINING.

The provider must document a minimum of eight (8) hours per year of ongoing, relevant training in the provision of supervision, services, and care. ()

01. Initial Provider Training. The initial provider training required in Section 100 of these rules satisfies the eight (8) hour training requirement for the first year of certification. ()

02. Content of Training. Relevant training includes any topic that maintains or expands caregiving skills or safety practices in the home, such as topics of supervision, services, and care to vulnerable adults. ()

a. At least half of the required ongoing training hours each year must be devoted to the specific conditions, diagnoses and needs of admitted residents, when residents are admitted. ()

b. The remaining hours may be devoted to general topics related to caregiving, health, or safety. ()

03. Documentation of Training. The provider must document ongoing training to include the following: ()

a. Topic or title of the training with a brief description; ()

b. Source of training, including the name of the instructor or author; ()

c. Number of hours the provider received instruction; ()

d. Whether the training was resident-specific or a general topic.; and ()

e. Date of the training. ()

116. -- 119. (RESERVED)

120. EXCEPTIONS.

The Department may grant an individual provider an exception to a specific standard in these rules under Section 39-3554, Idaho Code. Such an exception may be in the form of a permanent waiver or a temporary variance effective for up to twelve (12) months. ()

01. Written Request. The provider must submit a written request for an exception to the regional certifying agent where the home is located prior to any planned noncompliance with any rule under these rules. The appropriateness of granting an exception is determined by the Department. The request must include the following: ()

a. Reference to the Section of these rules for which the exception is requested; ()

b. Reasons that show good cause for granting the exception, including any extenuating circumstances and any compensating factors or conditions that may have bearing on the exception, such as additional floor space or additional staffing; and ()

c. A signed statement from the provider that assures resident health and safety will not be jeopardized if the exception is granted, including an agreement to implement any special conditions the Department may require. ()

02. Special Conditions. When granting an exception, the Department may require the provider to meet special conditions while the exception is in effect to ensure the health and safety of residents. ()

03. Variance Renewal. To renew a variance, the provider must submit a written request to the regional certifying agent where the home is located at least thirty (30) days prior to expiration of the variance. The request for renewal must include the information required in Subsection 120.01 of this rule. The appropriateness of renewing a variance is determined by the Department. ()

04. Exception Not Transferable. An exception granted under Sections 120 through 140 of these rules is not transferable to any other provider, home, or resident. ()

121. REVOKING AN EXCEPTION.

01. Causes for Revocation. The Department may revoke any exception granted under Sections 120 through 140 of these rules when: ()

a. The provider has not met the special conditions associated with granting the exception; ()

b. Conditions within the home have changed such that an exception is no longer prudent; or ()

c. The health and safety of residents have otherwise been compromised. ()

02. Written Notice. The Department will provide written notice to the provider when an exception is revoked, including the reason for the revocation. ()

03. Time Frame to Comply. When there is a threat to the health or safety of any person, the provider must immediately upon notification comply with the rule for which the exception is revoked. When no such threat exists, compliance must occur within thirty (30) days of notification. ()

122. -- 129. (RESERVED)

130. NURSING FACILITY LEVEL OF CARE VARIANCE.

A certified family home may care for one (1) resident who requires nursing facility level of care as defined in Section 39-1301(b), Idaho Code, without obtaining a variance. A home seeking to provide care to two (2) residents who require nursing facility level of care must request a variance in writing from the Department as required in Section 121 of these rules. ()

01. Request for Variance. A CFH may care for one (1) resident who requires nursing facility level of care as defined in Section 39-1301(b), Idaho Code, without obtaining a variance. A provider seeking to care for two (2) or more residents who require nursing facility level of care must request a variance in writing from the Department as required in Section 120 of these rules. ()

02. Conditions for Variance. The Department may issue a written variance permitting the arrangement when: ()

a. Each of the residents or their representative provides a written statement to the Department requesting the arrangement; ()

b. Each of the residents or their representative making the request is competent, informed, and has not been coerced; and ()

c. The Department finds the arrangement safe and effective. ()

131. -- 139. (RESERVED)

140. VARIANCE TO THE TWO RESIDENT LIMIT.

A CFH may admit or retain a maximum of two (2) residents without first obtaining a variance from the Department. Exceeding that limit requires a variance from the Department. ()

01. Application for Variance. The provider must apply on forms provided by the Department for a variance to the two (2) resident limit to care for three (3) or four (4) residents on a per resident basis prior to any new admissions. The application must be submitted to the certifying agent where the home is located. The Department determines the appropriateness of granting the variance. ()

02. Criteria for Determination. The Department will determine if safe and appropriate care can be provided based on residents' needs. The Department will consider the following factors in making its determination: ()

a. Each current or prospective resident's physical, mental, and behavioral status and history; ()

b. The household composition including the number of adults, children, and other family members requiring care and their care needs from the provider; ()

c. The training, education, and experience of the provider to meet each resident's needs; ()

d. Potential barriers that might limit egress from and ingress to the home; ()

e. The number and qualifications of staff to meet the needs of residents and others requiring care in the home; ()

f. The desires of the prospective and current residents or their representatives, including approval of roommate, if applicable; ()

g. The individual and collective hours of care needed by the residents; and ()

h. The physical layout of the home and the square footage available to meet the space requirements of all persons living in the home. ()

03. Other Employment. A provider who is granted a variance to admit three (3) or four (4) residents must not have other gainful employment outside the home unless staff are immediately able to consult with the provider about resident needs as they arise. ()

04. Additional Training. A provider who is granted a variance to admit three (3) or four (4) residents must obtain additional training to meet the needs of the residents as follows: ()

a. A provider who cares for three (3) residents must obtain a total of twelve (12) hours per year of ongoing relevant training under Section 115 of these rules. ()

b. A provider who cares for four (4) residents must obtain a total of sixteen (16) hours per year of ongoing relevant training under Section 115 of these rules. ()

c. When caring for three (3) or four (4) residents for only part of the year, additional training hours above those hours required in Section 115 of these rules are prorated by month. A resident is counted towards the home's resident census when the admission agreement is in effect for fifteen (15) days or more during the month. The following table shows the additional prorated training requirements to be added to the base training hours:

TABLE 140.04 - PRORATED ADDITIONAL TRAINING HOURS FOR PROVIDERS WHO EXCEED THE TWO-RESIDENT LIMIT

Months	3 Residents	4 Residents
1	20 minutes	40 minutes
2	40 minutes	1 hour and 20 minutes
3	1 hour	2 hours
4	1 hour and 20 minutes	2 hours and 40 minutes
5	1 hour and 40 minutes	3 hours and 20 minutes
6	2 hours	4 hours
7	2 hours and 20 minutes	4 hours and 40 minutes
8	2 hours and 40 minutes	5 hours and 20 minutes

TABLE 140.04 - PRORATED ADDITIONAL TRAINING HOURS FOR PROVIDERS WHO EXCEED THE TWO-RESIDENT LIMIT

Months	3 Residents	4 Residents
9	3 hours	6 hours
10	3 hours and 20 minutes	6 hours and 40 minutes
11	3 hours and 40 minutes	7 hours and 20 minutes

()

05. Reassessment of Variance. A variance to care for more than two (2) residents must be reassessed at least annually and when either of the following occurs: ()

a. Each time the provider applies to the Department for approval of a prospective third or fourth resident admission; or ()

b. When there is a significant change in any of the factors specified in Subsection 140.02 of this rule. ()

06. Annual Home Inspection. A CFH with a variance to care for more than two (2) residents must have a home inspection by a certifying agent at least annually. ()

07. Shared Sleeping Rooms. In addition to the requirements in Section 700 of these rules, the provider must not house more than two (2) residents in any one (1) sleeping room. ()

08. Fire Drill Frequency. A provider who is granted a variance to admit three (3) or four (4) residents must conduct fire drills as described in Section 600 of these rules, except the frequency of the fire drills must be at least monthly. ()

141. -- 149. (RESERVED)

150. INSPECTIONS OF HOMES.

The Department will inspect each CFH at least every twenty-four (24) months, calculated from the first month of the most recent certification. Inspections may occur more frequently as the Department deems necessary. That determination may consider the results of previous inspections, history of compliance with rules, and complaints. ()

01. Notice of Inspection. All inspections, except for the initial certification study, may be made unannounced and without prior notice. ()

02. Inspection by Certifying Agent. The Department may use the services of any qualified person or organization, either public or private, to examine and inspect any home requesting certification. The inspector has the authority to have full access to the home and the authority to: ()

a. Examine quality of care and service delivery; ()

b. Examine home records, resident records, and any records or documents pertaining to any financial transactions between residents and the home, including resident accounts; ()

c. Examine the physical premises, including the condition of the home, grounds and equipment, food service, water supply, sanitation, maintenance, and housekeeping practices; ()

d. Examine any other areas necessary to determine compliance with the CFH requirements; ()

e. Interview the provider, any adults living in the home, the resident and the resident's relatives, substitute caregivers, persons who provide incidental supervision, and any other person who is familiar with the home or its operation. Interviews are conducted privately unless otherwise specified by the person being interviewed or that person's legal guardian, except when the legal guardian is an alleged perpetrator in an allegation being investigated in connection with the interview; and ()

f. Inspect the entire home, including the personal living quarters of household members, to check for inappropriate storage of combustibles, faulty wiring, or other conditions that may have a direct impact on the operation of the home. The provider, staff, substitute caregiver, or any other adult living in the home may accompany the certifying agent. ()

151. VIOLATIONS.

When an investigation or inspection finds violations of the CFH requirements, the Department will notify the provider in writing within thirty (30) days of the completed inspection or investigation. ()

01. Technical Assistance. When the Department determines a violation does not pose a health or safety risk to residents or is not otherwise a core issue, and the non-compliant practice was due to the provider's misunderstanding of a standard, the Department may give technical assistance to the provider under Section 39-3527, Idaho Code. When given written notice of technical assistance, the provider must correct the violation within thirty (30) days of the notice. ()

02. Statement of Deficiencies. When the Department determines a formal citation is necessary to enforce compliance with a standard, the Department may issue the provider a statement of deficiencies. The statement of deficiencies will include the findings of the investigation or inspection and any rules or statutes the home was found to have violated. ()

03. Plan of Correction. When a statement of deficiencies is issued, the provider must develop a plan of correction and submit it to the Department for review and approval. ()

a. Depending on the severity of the deficiency, the provider may be given up to fourteen (14) calendar days to submit a written plan of correction to the regional certifying agent where the home is located. ()

b. An acceptable plan of correction includes: ()

i. How each deficiency was corrected or how it will be corrected; ()

ii. What steps have been taken to assure that the deficiency does not reoccur; ()

iii. Acceptable time frames for correction of the deficiency not to exceed thirty (30) days from the date of the Department's written notice; and ()

iv. Signature of the provider or written acknowledgment that the provider agrees to implement the plan of correction. ()

c. Follow-up inspections may be conducted to determine whether corrections to deficiencies have been made according to the Department-approved plan of correction. ()

04. Disclosure of Deficiencies. A statement of deficiencies, if issued, for each inspection or investigation of a current provider, including the approved plan of correction, will be made available to the public upon written request to the Department under Title 74, Chapter 1, Idaho Code. ()

152. -- 159. (RESERVED)

160. INVESTIGATIONS.

01. Complaints. ()

a. Any person who believes that staff have committed a violation of the CFH requirements may report a complaint to the Department. ()

b. In addition to its own investigation, the Department will also refer any complaint alleging abuse, neglect, or exploitation of a vulnerable adult to adult protective services according to Section 39-5303, Idaho Code, for potential criminal investigation. ()

02. Critical Incidents. The Department will investigate or cause to be investigated any reported critical incident that indicates a possible violation of CFH requirements. ()

03. Investigation Method. The nature of the alleged violation will determine the method used to investigate the report. Onsite investigations at the home can be unannounced and without prior notice. ()

04. Written Report. Within thirty (30) days following completion of an investigation, the Department will provide a written report, including findings of the investigation, to the provider and any named complainant, if applicable. ()

05. Public Disclosure. The Department will not publicly disclose information or findings from an investigation so as to identify the complainant except as permitted under Section 74-105(16), Idaho Code, or individual residents except in an administrative or judicial proceeding. ()

161. -- 169. (RESERVED)

170. MINIMUM STANDARDS OF CARE.
The provider must adequately care for each resident as follows: ()

01. Plan of Service. Ensure services are provided to meet the terms of the resident's plan of service as described in Section 250 of these rules. ()

02. Supervision. Ensure the resident receives appropriate and adequate supervision under the resident's plan of service while in the care of CFH staff. ()

03. Daily Living Activities. Ensure assistance is provided to the resident at the level of care indicated on the resident's plan of service in the areas of activities of daily living and instrumental activities of daily living. ()

04. Medication Management. Ensure assistance and monitoring of medications is provided as described in Sections 400 through 402 of these rules, as applicable. ()

05. Emergency Services. Ensure immediate and appropriate interventions on behalf of the resident are provided in response to an emergency, including the following: ()

a. Developing emergency plans as described in Section 600 of these rules and executing those plans when necessary; ()

b. Evacuating the resident from the home; ()

c. Providing first aid to the resident when seriously injured; ()

d. Administering CPR to the resident unless the resident has an order not to resuscitate; and ()

e. Contacting 9-1-1 for first responder services when necessary for the protection of the resident. ()

- 06. Supportive Services.** Coordinate paid services for the resident outside the home, including: ()
- a.** Medical appointments; ()
 - b.** Dental appointments; ()
 - c.** Other services in the community as identified in the plan of service or reasonably requested by the resident; and ()
 - d.** Arrange transportation to and from the service location. ()

07. Resident Rights. Protect the resident's rights as listed under Section 200 of these rules and Section 39-3516, Idaho Code. ()

08. Safe Living Environment. Provide a physical living environment that complies with Sections 500 through 710 of these rules. ()

171. -- 173. (RESERVED)

174. ACTIVITIES AND COMMUNITY INTEGRATION.

Section 39-3501, Idaho Code, requires that a CFH provide a homelike, family-styled living environment with a focus on integrated community living. The provider must offer the following: ()

01. Activities. As reasonably reflecting the interests of the resident, recreational activities, participation in social functions, and daily activities. ()

02. Transportation. Arrangement of transportation to and from community, recreational, and religious activities within twenty-five (25) miles of the home when requested by the resident at least twenty-four (24) hours in advance. ()

175. ROOM AND BOARD.

The home must provide room, utilities, and three (3) daily meals to the resident. The following are included in the charge for room and board: ()

01. Sleeping Room. A sleeping room meeting the requirements of Section 700 of these rules, and, when requested by the resident, equipped with a dresser and chair in good repair. ()

02. Bed. A bed that is at least thirty-six (36) inches wide. Roll-away type beds, cots, folding beds, or double bunks must not be used unless requested by the resident. A clean and comfortable mattress, bedspread, sheets and pillow cases, and pillow that are standard for the size of the bed must also be included. The bed, bedding, and mattress must be kept in good repair. ()

03. Monitoring or Communication System. A monitoring or communication system, when necessary due to the size or design of the home, or the needs of the resident. The provider must hold a written agreement with the resident or resident's representative prior to using a monitoring system that may violate the resident's right to privacy. ()

04. Secure Storage. On request, a lockable storage cabinet or drawer for personal items for each resident. ()

05. Bathroom. Access to bathing and toilet facilities meeting the requirements of Section 700 of these rules. ()

06. Common Areas. Access to common living areas, including: ()

- a.** A living room or family room that contains adequate lighting for activities, side or coffee tables, comfortable chairs or sofas, and basic television: ()

- b. A dining area containing a table and chairs; and ()
- c. A kitchen with a sink, oven, refrigerator, and counter space. ()
- 07. Supplies.** Bath and hand towels, wash cloths, a reasonable supply of soap, shampoo, toilet paper, and facial tissue, and first aid supplies. ()
- 08. Housekeeping Service.** Housekeeping and maintenance meeting the requirements in Section 500 of these rules, including laundry services. ()
- 09. Water.** Potable water meeting the requirements of Section 500 of these rules. ()
- 10. Sewer.** A sewage disposal system meeting the requirements of Section 500 of these rules. ()
- 11. Trash.** Disposal of garbage meeting the requirements of Section 500 of these rules. ()
- 12. Heating and Cooling.** Sufficient heating and cooling meeting the requirements of Section 700 of these rules. ()
- 13. Electricity.** Sufficient electricity to power common household and personal devices. ()
- 14. Telecommunication.** Access to a telephone or cell phone with unlimited local calls throughout the day, including night hours, meeting the requirements of Section 600 of these rules. ()
- 15. Meals.** Breakfast, lunch, and dinner offered each day. ()
 - a. Food must be prepared in a safe and sanitary method that conserves nutritional value, flavor, and appearance when prepared by the provider or other member of the household. ()
 - b. Meals offered by the home must meet the dietary requirements or restrictions of the resident when so ordered by a healthcare professional. ()
 - c. Food must be handled and stored safely. ()
- 176. -- 179. (RESERVED)**
- 180. HOURLY ADULT CARE.** Hourly adult care (adult day health) may be offered in a CFH when the provider implements a policy and procedure including: ()
 - 01. Medicaid Provider Agreement.** Each element under the Medicaid Provider Agreement Additional Terms - Adult Day Care (Adult Day Health). ()
 - 02. Records.** Maintenance of legible records identifying: ()
 - a. The rate charged by the provider for hourly adult care services if the participant is private pay; ()
 - b. On a per day basis, when hourly adult care services were provided in the home, the name of each participant and resident who received services, their times of arrival to and departure from the home and the names of staff who provided services and their arrival and departure times. ()
 - 03. Fire and Life Safety.** ()
 - a. Review of emergency preparedness plans under Section 600 of these rules with the individual who completed the enrollment contract and provision of a written copy of the plans to that individual; and ()

c. Conduct of emergency drills under Section 600 of these rules, except that the frequency of the drills must be at least monthly. ()

181. -- 199. (RESERVED)

200. RESIDENT RIGHTS POLICY.

The provider must possess and implement a written policy designed to protect and promote resident rights. In addition to the rights under Section 39-3516, Idaho Code, the resident rights policy must include the following: ()

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

02. Image. The right to control staff's use of pictures and videos containing the resident's image. ()

03. Crime-Free Living Environment. The right to a living environment free of illicit drug use or possession, and other criminal activities. ()

04. Freedom From Discrimination. The right to be free from discrimination on the basis of race, color, national origin, sex, religion, age, disability, or veteran status; ()

05. Freedom of Choice. The right to be free from intimidation, manipulation, and coercion. ()

06. Basic Needs Allowance. For each resident whose care is publicly funded, in whole or in part, the right to retain, for personal use, the CFH basic allowance established by IDAPA 16.03.05. "Eligibility for Aid to the Aged, Blind, and Disabled," Section 513. The provider's total monthly charges to a resident receiving public assistance must be limited to ensure the resident retains at least the basic needs allowance. ()

07. Resident Funds and Property. The right to manage personal funds and use personal property, including access to the home. ()

a. The resident has the right to retain and use personal property in their own living area. The provider must ensure, however, the storage and use of these items by the resident does not present a fire or life safety hazard. ()

08. Access to Records, Medications, and Treatments. The right for the resident's healthcare professionals to have reasonable access to the resident's records, medications, and treatments subject to the resident's permission. ()

09. Freedom From Exploitation. The right to be free from exploitation. ()

10. Written Response to Grievance. The right to a written response to any expressed grievance describing how the provider resolved or attempted to resolve the grievance. ()

11. Advance Notice. The right to receive written advance notice at least thirty (30) calendar days prior to non-emergency transfer or discharge unless the transfer or discharge is for a reason under Section 261 of these rules. ()

12. Personal Records. The right to access personal records, including those under Section 270 of these rules. ()

13. Activities. The right to participate in social, religious, and community activities. ()

14. Other CFHs. The right to review a list of other CFHs that may be available in case of transfer.

()
15. **File Complaints.** The right to file a complaint with the Department under Section 160 of these rules. ()

16. **Care of a Personal Nature.** The right to refuse routine care of a personal nature from any person whom the resident is uncomfortable receiving such care. ()

17. **Formulate Advance Directives.** The right to be informed, in writing, regarding the formulation of advance directives under Title 39, Chapter 45, Idaho Code. ()

18. **Other Rights.** The right to exercise any other rights established by law. ()

201. NOTICE OF RESIDENT RIGHTS.

01. **Resident Rights Notice.** At the time of admission to the home, the provider must inform the resident or their representative, verbally and in writing, of the home's resident rights policy and supply the resident or their representative a copy of the policy. ()

02. **Annual Review of Resident Rights.** The provider must review the resident rights policy with the resident or their representative at least annually. ()

03. **Documentation of Review.** The provider must keep a log of each review of the resident rights policy in the resident's record. The log must include dated signatures from the provider and the resident or the resident's representative acknowledging the review. ()

202. -- 209. (RESERVED)

210. REPORTING REQUIREMENTS.

The provider must report the following to the regional certifying agent where the home is located or appropriate agency or individual: ()

01. **Serious Physical Injury or Death.** The provider must report to the appropriate law enforcement agency within four (4) hours when there is reasonable cause to believe that abuse, neglect, or sexual assault has resulted in death or serious physical injury jeopardizing the life, health, or safety of a resident under Section 39-5303, Idaho Code. ()

02. **Abuse, Neglect, or Exploitation.** When the provider has reasonable cause to believe that a vulnerable adult is being or has been abused, neglected, or exploited, the provider must immediately report this information to the Idaho Commission on Aging or its Area Agencies on Aging, under Section 39-5303, Idaho Code. ()

03. **Critical Incidents.** The provider must notify the certifying agent when a critical incident affects the health or safety of the resident or leads to a change in the resident's condition, including serious illness, accident, elopement, death, or adult protective services or law enforcement contact and investigation. Reporting requirements are as follows: ()

a. Within twenty-four (24) hours of the resident's death or disappearance; and ()

b. Within three (3) business days following: ()

i. Contact from adult protective services or law enforcement in conjunction with an investigation; ()

ii. A visit to an urgent care clinic or emergency room; or ()

iii. Admission to a hospital. ()

04. Report of Fire. A written report of each fire incident occurring within the home, for which a fire extinguisher was discharged or 9-1-1 was contacted, must be submitted to the certifying agent within three (3) business days of the occurrence. The report must include: ()

- a. Date of the incident; ()
- b. Origin of the fire; ()
- c. Extent of damage; ()
- d. How and by whom the fire was extinguished; and ()
- e. Injuries or deaths, if any. ()

05. Additional Criminal Convictions. The provider must immediately report to the certifying agent any additional criminal convictions for themselves, staff, any other adult living in the home, or a substitute caregiver. ()

06. Notice of Investigations. The provider must immediately report to the certifying agent when the provider, staff, any other adult living in the home, or a substitute caregiver is charged with or under investigation by law enforcement, adult protection services, or child protection services for: ()

- a. Abuse, neglect, or exploitation of any vulnerable adult or child; ()
- b. Other criminal conduct; or ()
- c. When an adult protection or child protection complaint is substantiated. ()

07. Funds Managed by the Provider for a Deceased Resident. For resident funds managed under Section 275 of these rules, upon the death of the resident, the provider must convey the resident's remaining funds, with a final accounting of those funds, to the individual administering the resident's estate within thirty (30) days. ()

08. Discharge of a Resident. The provider must immediately notify the certifying agent upon the discharge of any resident from the home. ()

211. -- 224. (RESERVED)

225. UNIFORM ASSESSMENT REQUIREMENTS.

01. State Responsibility for Publicly Funded Residents. The Department will assess residents accessing services through a publicly funded program according to uniform criteria developed for that program. ()

02. Provider Responsibility for Private-Pay Residents. The provider will develop, identify, assess, or direct a uniform needs assessment of each private-pay resident. The uniform needs assessment must be: ()

- a. Completed no later than fourteen (14) calendar days after admission; and ()
- b. Reviewed when there is a change in condition, or every twelve (12) months, whichever occurs first. ()

03. Core Elements. The assessment of a private-pay resident must be based on the following: ()

- a. Identification and background information; ()

- b. Medical diagnosis; ()
- c. Medical and health needs; ()
- d. Prescription medications including routes of administration, and any treatments or special diets, if applicable; ()
- e. Historical and current behavior patterns; ()
- f. Cognitive function; ()
- g. Psychosocial and physical needs of the resident; ()
- h. Functional status; and ()
- i. Assessed level of care. ()

04. Results of Assessment. The results of the assessment for both publicly funded and private-pay residents are used to evaluate the provider's ability to meet the resident's needs, and to evaluate whether any special training, licenses, or certificates may be required to care for certain residents. ()

226. -- 249. (RESERVED)

250. PLAN OF SERVICE.

The provider must ensure each resident has a plan of service. The plan must identify the resident, describe the services to be offered, and describe how the services will be delivered. ()

- 01. Core Elements.** A resident's plan of service must be based on the resident's: ()
 - a. Assessment; ()
 - b. Service needs for activities of daily living; ()
 - c. Need for limited nursing services; ()
 - d. Need for medication assistance; ()
 - e. Frequency of needed services; ()
 - f. Level of care; ()
 - g. Habilitation and training needs; ()
 - h. Behavioral management needs, including identification of situations that trigger dangerous, unlawful, or otherwise problematic behavior, plans to prevent such situations, and coping procedures if triggered; ()
 - i. Healthcare professional's orders; ()
 - j. Admission records; ()
 - k. Supportive services; ()
 - l. Desires and choices, to the greatest extent possible; ()
 - m. Need for supervision, including the degree; ()

- n. Transfer and discharge needs; and ()
- o. Other identified needs. ()
- 02. Signature and Approval.** The provider and the resident or the resident’s representative must sign and date the plan of service upon its completion, within fourteen (14) days of the resident's admission. ()
- 03. Developing the Plan.** The provider will consult the resident and other individuals identified by the resident in developing the plan of service. Professional staff must be involved in developing the plan if required by another program. ()
- 04. Copy of the Plan.** Signed copies of the plan of service must be placed in the resident's file and given to the resident or the resident’s representative, if applicable, no later than fourteen (14) days after admission. ()
- 05. Changes to the Plan.** A record must be made of any changes to the plan. When changes to the plan are made, the resident or resident's representative and the provider must sign and date the updated plan. ()
- 06. Frequency of Review.** The plan of service must be reviewed when the resident experiences a significant change in condition, or at least every twelve (12) months, whichever occurs first. ()
- 07. Date of Regular Review.** The date of the next regularly scheduled review must be documented in the plan of service. ()
- 251. – 259. (RESERVED)**
- 260. ADMISSIONS.**
The provider must only admit or retain residents in the home under Section 39-3507, Idaho Code. ()
- 01. Department Review.** The provider must obtain approval from the Department for each admission prior to the prospective resident moving into the home. The following must be provided to the regional certifying agent where the home is located: ()
 - a. Name, gender, and date of birth of the prospective resident; ()
 - b. The contemplated date of admittance of the prospective resident into the home; ()
 - c. The prospective resident's history and physical from the resident’s healthcare professional, conducted within the previous twelve (12) month period and reflecting the resident’s current health status. If the resident is private-pay, the documentation must include a statement from the resident's healthcare professional indicating that the resident is appropriate for CFH care; ()
 - d. A list of the prospective resident's current medications and treatments from their healthcare professional; ()
 - e. Contact information for the prospective resident's healthcare professionals; ()
 - f. Contact information for the prospective resident's representative, if applicable; ()
 - g. The prospective resident's plan of service from another healthcare setting, or any such plan of service conducted for the resident within the previous six (6) months, if one exists, when the resident transfers to the home from another healthcare setting; and ()
 - h. Other information requested by the Department relevant to the appropriateness of the admission and the provider's ability to provide adequate care. ()
- 02. Notification.** Within five (5) business days of receipt of the documents under Subsection 260.01 of

this rule, the Department will notify the provider whether the proposed admission is approved or denied. When verbal notification is given, the Department will provide follow-up written communication to the provider stating the approval or denial within ten (10) business days. ()

03. Emergency Admission. The provider may not accept an emergency admission without prior approval from the Department except under the following conditions: ()

a. The provider may make a conditional admission when the provider reasonably believes the CFH has the ability to provide adequate care to the resident and the request for an emergency placement occurs after normal business hours and the provider is unable to contact the Department for prior approval. The provider must notify the resident or the resident's representative that the admission is conditional upon Department approval. ()

b. The provider must notify the regional certifying agent where the home is located by the next business day when a conditional emergency admission is made. ()

c. The provider must follow the regular admission process under Subsection 260.01 of this rule within two (2) business days of making a conditional emergency admission. The Department may deny the placement and require the provider to immediately transfer the resident when the Department has reasonable cause to believe the provider lacks the ability to provide adequate care to the resident. ()

04. Admission Agreement. At the time of admission to the CFH, the provider and the resident or resident's representative, if applicable, must enter into an admission agreement. The agreement must be in writing and be signed and dated by both parties. The agreement must, in itself or by reference to the resident's plan of service, include provisions addressing at least the following: ()

a. Whether or not the resident intends to assume responsibility for self-administering medication; ()

b. Steps the provider will take in the event the resident is not able to carry out self-preservation (e.g., performance of life-saving measures, contacting 9-1-1, honoring an order not to resuscitate, etc.); ()

c. Whether or not the provider will accept responsibility for managing the resident's funds; ()

d. How a partial month's refund will be managed; ()

e. Arrangements for the return of the resident's belongings should the resident leave the home; ()

f. Amount of liability coverage provided by the homeowner's or renter's insurance policy and whether the insurance policy covers the resident's personal belongings; ()

g. A requirement of written notice on the part of the provider, resident, or resident's representative of at least thirty (30) calendar days prior to termination of the admission agreement, when the termination is not for a situation under Subsection 261.01.b. of these rules; ()

h. Conditions under which an emergency temporary placement will be made consistent with Subsection 261.02 of these rules; ()

i. Consent or denial for the provider to supply pertinent information from the resident's record to the resident's healthcare professionals or, in case of transfer, current or prospective care setting; ()

j. Responsibility of the provider to obtain consent for medical procedures from the resident's legal guardian or power of attorney for healthcare if the resident is unable to make medical decisions; ()

k. Resident responsibilities as appropriate that do not conflict with the CFH requirements; ()

l. Amount the provider will charge the resident for room and board on a monthly basis, and a separately listed amount for any monthly care charges for which the resident is responsible; ()

m. A requirement of written notice to the resident or resident's representative of at least thirty (30) calendar days before the provider implements changes to charges under Subsection 260.04.l. of this rule; ()

n. Protections that address eviction processes and appeals comparable to those provided under Idaho landlord tenant law. The admission agreement must either: ()

i. Adopt the eviction and appeal processes under Title 6, Chapter 3, Idaho Code; or ()

ii. Adopt the eviction and appeal processes as described in the version of the admission agreement provided by the Department; and ()

o. Additional conditions as agreed upon by both parties but consistent with the CFH requirements. ()

261. DISCHARGE OR TRANSFER.

01. Termination of Admission Agreement. The admission agreement must only be terminated under the following conditions: ()

a. The provider or the resident, or the resident's representative, if applicable, provides the other party at least thirty (30) calendar days' prior written notice; or ()

b. A three (3) day written notice may be given by the provider to the resident or the resident's representative, if applicable, when any of the following occur, subject to the appeal process under Subsection 260.04.n. of these rules: ()

i. Nonpayment of the resident's bill identified in Subsection 260.04.l. of these rules; ()

ii. The resident violates any written conditions of the admission agreement (e.g., no smoking, no pets, etc.); or ()

iii. The resident engages in the unlawful delivery, production, or use of a controlled substance on the premises of the home. ()

02. Emergency Temporary Placement. The admission agreement will remain in force and effect, excluding the provider's responsibility for care and the charge to the resident for such care under Subsection 260.04.l. of these rules, while the resident is temporarily transferred from the home to another care setting on an emergency basis unless either party terminates the agreement under Subsection 261.01 of this rule. An emergency temporary placement must only occur when: ()

a. The resident's mental or physical condition deteriorates to a level requiring evaluation or services that cannot be met by the provider or reasonably accommodated by the home; or ()

b. Emergency conditions require such transfer to protect the resident, other residents, the provider, or other individuals living in the home from harm. ()

03. Return of Resident's Possessions. The provider must document the return of the resident's personal possessions to the resident or resident's representative as arranged in the admission agreement according to Subsection 260.04.e. of these rules, and must: ()

a. Return immediately upon discharge: ()

i. All personal funds belonging to the resident; and ()

- ii. Any medication, supplement, or treatment belonging to the resident; ()
- b. Return within three (3) business days: ()
- i. If the provider was deemed to be managing the resident's funds under Subsection 275.02 of these rules, a copy of the final accounting of the resident's funds; ()
- ii. All belongings listed on the resident's belongings inventory; and ()
- iii. Any other items belonging solely to the resident, including personal documents. ()

262. -- 269. (RESERVED)

270. RESIDENT RECORDS.

The provider must maintain legible records for each resident admitted to the home as follows. ()

01. Updated Records. Records maintained by the CFH must be updated, as necessary, to reflect accurate information as changes occur. ()

02. Maintenance of Records. The provider must ensure records are maintained and available for inspection in the home as follows: ()

- a. Admission records for two (2) years from the date of the resident's discharge from the home; and ()
- b. Ongoing records for two (2) years from the date of the record. ()

03. Admission Records. The following records pertaining to the resident must be completed or collected as part of the initial admission process and continuing retention of the resident's records thereafter: ()

- a. A form containing general resident information including: ()
 - i. Full legal name; ()
 - ii. Primary residence, if other than the CFH; ()
 - iii. Marital status and sex; ()
 - iv. Date of birth; ()
 - v. The name, address, and telephone number of an individual identified by the resident or the resident's representative who should be contacted in an emergency or upon death of the resident; ()
 - vi. The resident's healthcare professionals and their contact information, and the contact information for any other supportive service used by the resident; ()
 - vii. Social information including social history, hobbies, and interests; ()
 - viii. Information about any specific health problems that may be useful in a medical emergency; and ()
 - ix. Any other health-related, emergency, or pertinent information that the resident requests the provider to keep on record. ()
- b. Results of the resident's history and physical examination performed by a healthcare professional conducted no earlier than twelve (12) months prior to admission; ()

- c. A list of all medications, treatments, and special diets prescribed by a healthcare professional; ()
 - d. The written admission agreement under Section 260 of these rules; ()
 - e. A log of the resident rights policy review under Section 201 of these rules; ()
 - f. The assessment under Section 225 of these rules; ()
 - g. The plan of service under Section 250 of these rules; ()
 - h. An inventory of the resident's belongings that may consist of photographs or a written descriptive list. The resident or the resident's representative may inventory any personal possession they so choose and expect returned upon the resident's transfer or discharge from the home. The belongings inventory may be updated at any time but must be reviewed at least annually; ()
 - i. If the resident has a representative, a copy of the document giving the representative legal authority to act on behalf of the resident, including guardianship or power of attorney for healthcare decisions; and ()
 - j. A copy of any care plan that is prepared for the resident by an outside service provider. ()
- 04. Ongoing Records.** The following records must be completed or collected by the provider for ongoing services to the resident: ()
- a. Any incident or accident occurring while the resident is living in the home and the staff's response, including refusal of any prescription medication. If the incident or accident occurs while the resident is receiving supportive services, the provider must obtain a written report of the event from the service provider; ()
 - b. The provider's written response to any grievance under Section 200 of these rules; ()
 - c. Notes or logs from the licensed nurse, home health agency, physical therapist, or any other service providers, documenting the services provided to the resident at each visit to the home; ()
 - d. Documentation of changes in the resident's physical, behavioral, or mental status, and the staff's response, including usage of any PRN medication; ()
 - e. When the provider is deemed to be managing the resident's funds, financial accounting records for such funds as described in Section 275 of these rules; and ()
 - f. Medication records as described in Sections 400 through 402 of these rules, as applicable. ()

271. -- 274. (RESERVED)

275. RESIDENT FUNDS AND FINANCIAL RECORDS.

- 01. Resident Funds Policy.** Each provider must possess and implement a policy and procedure describing how the resident's funds will be managed including the following: ()
- a. When the resident moves out from the home under any circumstances except those under Section 912 of these rules, the provider will: ()
 - i. Only retain prepaid room and board funds prorated to the last day of the notice period terminating the admissions agreement as specified in the agreement, or upon the resident moving from the home, whichever is later; ()
 - ii. Immediately return all remaining resident funds to the resident or to the resident's representative as specified in the admission agreement under Section 260 of these rules; and ()

- iii. Only use the resident's funds for that resident's expenses until a new payee is appointed. ()
- b.** Prohibit personal loans to the resident from the provider, provider's relatives, and other household members unless the loan is from a relative of the resident. When such a loan is made, the provider must: ()
 - i. Ensure the terms of the loan are described in a written contract signed and dated by the resident or resident's representative; ()
 - ii. Maintain a copy of the loan contract in the resident's record; and ()
 - iii. Immediately update documentation of repayments towards the loan. ()
- 02. Managing Resident Funds.** When the resident's funds are turned over to the provider or staff for any purpose other than payment for services allowed under CFH requirements, or if the provider, provider's relative, staff, or an individual living in the home acts as the resident's payee, the provider is deemed to be managing the resident's funds. The provider who manages a resident's funds must: ()
 - a.** Establish a separate account at a financial institution for each resident to which resident income and use of the resident's funds may be accounted and reconciled by means of a financial statement; ()
 - b.** Prohibit commingling of the resident's funds with the funds of any other person, including borrowing funds from the resident; ()
 - c.** Upon request, notify the resident or the resident's representative the current amount of the resident's funds available for their use; ()
 - d.** Charge the resident the amount agreed upon in the admission agreement under Section 260 of these rules for CFH services on a monthly basis; ()
 - e.** Maintain separate accounting records, including bank statements, cash ledgers with a running balance of cash on-hand, and receipts for any purchases in excess of ten dollars (\$10) for each resident for whom the provider manages funds; ()
 - f.** Restore funds to the resident if the provider cannot produce proper accounting records of resident's funds or property under Subsection 275.02.e. of this rule. Restitution of these funds to the resident is a condition for continued operation of the CFH; ()
 - g.** Not require the resident to purchase goods or services from or for the home other than those under Section 260 of these rules; and ()
 - h.** Provide the resident, the resident's legal guardian, representative with financial power of attorney, or conservator access to the resident's funds. ()

276. -- 299. (RESERVED)

300. SHORT-TERM CARE AND SUPERVISION.

When the provider is temporarily unavailable to provide care or supervision to the resident, the provider may designate another adult to provide care and supervision, or only supervision to the resident. The provider must assure that this short-term arrangement meets the needs of the resident and protects the resident from harm. ()

01. Alternate Care. Means services to the resident at another CFH. An alternate caregiver operating the other CFH ensures care and supervision are provided to the resident under the resident's original plan of service and admission agreement. The following applies to an alternate care placement: ()

- a.** The Department must approve an alternate care placement using the process under Section 260 of these rules. The alternate caregiver must: ()

- i. Not exceed the number of residents for which the home is certified to provide care; ()
 - ii. Comply with Section 140 of these rules when the resident receiving alternate care will be the third or fourth resident in the alternate caregiver's home; and ()
 - iii. Comply with Section 130 of these rules when the resident receiving alternate care requires nursing facility level of care and any other resident in the alternate caregiver's home requires nursing facility level of care. ()
- b. Upon approval from the Department, alternate care may be provided for up to thirty (30) consecutive days. ()
- c. The provider must give or arrange for resident-specific training to the alternate caregiver prior to alternate care, including supplying copies of the resident's current assessment, plan of service, and admission agreement. ()

02. Substitute Care. Means services to the resident in the same CFH where the resident holds an admission agreement during the regular provider's absence. A substitute caregiver must be an adult designated by the provider to provide care and supervision to the resident in the provider's CFH. The following apply to the designation of a substitute caregiver: ()

- a. The provider is responsible to give or arrange for resident-specific training to the substitute caregiver prior to substitute care, including reviewing copies of each resident's current assessment, plan of service, and admission agreement. ()
- b. Staffing levels in the home must be maintained at the same level as when the provider is available to provide care and supervision. ()
- c. Substitute care can be provided for up to thirty (30) consecutive days. ()
- d. The substitute caregiver must have the following qualifications: ()
 - i. Current certification in first aid and adult Cardio-Pulmonary Resuscitation (CPR) that meets the standards under Section 100 of these rules; ()
 - ii. A cleared background check under Section 009 of these rules; and ()
 - iii. Completion of a medications training under Section 100 of these rules. ()

03. Incidental Supervision. Means a brief reprieve for the provider from direct care responsibilities. An individual providing incidental supervision is approved by the provider to supervise the resident only. ()

- a. Incidental supervision must not include resident care. ()
- b. Incidental supervision may be provided for up to ten (10) hours per week for no more than six (6) consecutive hours, so long as the resident does not require care. ()

301. -- 399. (RESERVED)

400. MEDICATION POLICY.

The provider must possess and implement written medication policies and procedures that describe in detail how staff will ensure appropriate assistance with and handling of and safeguarding of medications. These policies and procedures must be maintained in the home and include the following: ()

- 01. Following Orders.** Assistance given by staff will only be as directed by the resident's healthcare professionals. ()

02. Evidence of Orders. Evidence of each resident's orders will be maintained in the home, regardless of whether the resident is able to self-administer, and may consist of the following: ()

- a. Written prescriptions from the healthcare professional for the medication, including the dosage; ()
- b. Medisets or sealed blister medication cards filled and appropriately labeled by a pharmacist or licensed nurse with the names of the medications, dosages, times to be taken, routes of administration, and any special instructions; ()
- c. An original prescription bottle labeled by a pharmacist describing the order and instructions for use; or ()
- d. If the medication, supplement, or treatment is without a prescription, it will be listed among over-the-counter medications approved by the resident's healthcare professional as indicated by a signed statement. Over-the-counter medications will be given as directed on the packaging. ()

03. Alteration of Orders. Staff will not alter dosage, discontinue or add medications, including over-the-counter medications and supplements, or discontinue, alter, or add treatments or special diets without first consulting the resident's prescribing healthcare professional and obtaining an order for the change as required under Subsection 400.02 of this rule. ()

04. Allergies. The provider will list any known food or drug allergies for each resident and take precautions to guard against the resident ingesting such allergens. ()

05. Training. Each staff assisting with resident medications will have successfully completed a medication training under Section 100 of these rules. Additionally: ()

- a. Each resident's orders will be reviewed by each staff assisting residents with medications prior to offering assistance; and ()
- b. Written instructions will be in place that outline who to notify if any of the following occur: ()
 - i. Doses are not taken; ()
 - ii. Overdoses occur; or ()
 - iii. Side effects are observed. ()
- c. The provider will ensure any staff assisting with medications has reviewed each resident's known allergies and takes precautions against the resident ingesting such allergens. ()

06. Consumer Medication Information. The provider will keep on file in the resident's record the consumer medication information handout for each current prescription medication. ()

07. Self-Administration. When the provider cares for a resident who self-administers medications, staff will follow Section 401 of these rules. ()

08. Assistance with Medication. When the provider cares for a resident who needs assistance with medications, the provider must follow Section 402 of these rules. ()

401. SELF-ADMINISTRATION OF MEDICATION.

Prior to giving the resident responsibility for administering medications without assistance, the provider must ensure the following: ()

- 01. Approval.** The provider has obtained written approval from the resident's healthcare professional

stating that the resident is capable of safe self-administration; otherwise, staff will comply with Section 402 of these rules. ()

02. Evaluation. The resident's record includes documentation that the resident's healthcare professional has evaluated the resident's ability to safely self-administer medication. The evaluation must include verification of the following: ()

- a.** The resident understands the purpose of each medication; ()
- b.** The resident is oriented to time and place and knows the appropriate dosage and times to take the medication; ()
- c.** The resident understands the expected effects, adverse reactions, or side effects, and knows what actions to take in case of an emergency; and ()
- d.** The resident can take the medication without assistance or reminders from staff. ()

03. Change in Condition. Should the condition of the resident change such that it brings into question the resident's ability to safely continue self-administration of medications, the provider will arrange for a reevaluation of the resident to self-administer under Subsection 401.02 of this rule. Until the resident's healthcare professional provides written approval for the resident to resume self-administration, staff will comply with Section 402 of these rules. ()

04. Safeguarding Medication. The provider must ensure that the medications of a resident who self-administers are safeguarded, including providing a lockable storage cabinet or drawer to the resident under Section 175 of these rules. The resident is allowed to maintain personal medications under the resident's own control and possession. ()

402. ASSISTANCE WITH MEDICATION.

The provider must offer assistance with medications to residents who need assistance. Prior to staff assisting residents with medication, the provider must ensure the following conditions are in place: ()

- 01. Condition of the Resident.** The resident's health condition is stable. ()
- 02. Nursing Assessment.** The resident's health status does not require nursing assessment before receiving the medication nor nursing assessment of the therapeutic or side effects after the medication is taken, unless the staff assisting with medications is a healthcare professional operating within the scope of their license. ()
- 03. Containers.** The medication is in the original pharmacy-dispensed container with its proper label and directions or in an original over-the-counter container or in a Mediset, blister pack, or similar organizational system. When a Mediset, blister pack, or similar system is used, staff will comply with the following. ()
 - a.** The system contains easily identifiable dates and times for medication dispensing; ()
 - b.** The system is filled according to the schedule ordered by the resident's healthcare professional for each medication; ()
 - c.** Unless filled by a pharmacy or a licensed nurse, the system is filled not more than seven (7) days prior to the scheduled medication dispensing date; ()
 - d.** Staff only assist with the specific medication indicated for administration on the system on that particular date and within twenty (20) minutes before or after the specified time; ()
 - e.** The original medication container with its proper label is maintained in the home until the medication it contained is completely used or refused by the resident; and ()
 - f.** Any medication scheduled for dispensing that the resident refuses or that is otherwise missed is

immediately removed from the system and disposed of at the earliest opportunity under Subsection 402.07 of this rule. ()

04. Safeguarding Medications. Staff take adequate precautions to safeguard the medications of each resident for whom they provide assistance. Safeguarding consists of the following: ()

a. Storing each resident’s medications in an area or container designated only for that particular resident including a label with the resident’s name, except for medications that must be refrigerated or over-the-counter medications; ()

b. Keeping the designated area or container for the resident’s medications under lock and key when either of the following apply: ()

i. The resident’s medications include a controlled substance; or ()

ii. Any member of the household has drug-seeking behaviors. ()

c. Ensuring each resident’s designated medication area or container is clean and kept free of contamination, including disposal of loose pills at the earliest opportunity under Subsection 402.07 of this rule; ()

d. Dispensing only one (1) resident’s set of medications from its designated area or container at one (1) time to mitigate medication errors; and ()

e. On at least a monthly basis, the provider conducts and documents an inventory of narcotic medications and reconciles the actual amount on-hand with the expected amount on-hand. When a discrepancy occurs between the expected and actual amounts, the provider will. ()

i. Investigate the cause of the discrepancy; and ()

ii. Write a summary report of the investigation and keep the report in the resident’s record. ()

05. Scope of Practice. Only a healthcare professional working within the scope of their license may administer medications or practice other nursing functions. Practice of such functions must comply with IDAPA 24.34.01, “Rules of the Idaho Board of Nursing.” ()

06. Documentation of Assistance. Documentation of assistance with medications is maintained in the home. Such documentation: ()

a. Is logged concurrent with the time of assistance; and ()

b. Contains at least the following information: ()

i. The name of the resident receiving the medication; ()

ii. The name of the medication given; ()

iii. The dosage of the medication given; and ()

iv. The time and date the medication was given. ()

07. Disposal of Medication. Medication that has been discontinued as ordered by the resident's healthcare professional, has expired, or should otherwise be disposed of under this rule is disposed of by the provider within thirty (30) days of the order, expiration date, or as otherwise described in this rule. A written record of all disposal of drugs will be maintained in the home and include: ()

a. The name of the medication; ()

- b. The amount of the medication, including the number of pills at each dosage, if applicable; ()
- c. The name of the resident for whom the medication was prescribed; ()
- d. The reason for disposal; ()
- e. The date on which the medication was disposed; ()
- f. The method of disposal; and ()
- g. A signed statement from the provider and a credible witness confirming the disposal of the medication. ()

403. -- 499. (RESERVED)

500. ENVIRONMENTAL SANITATION STANDARDS.

The provider is responsible for disease prevention and maintenance of sanitary conditions in the home and must ensure: ()

01. Water Supply. The water supply for the home is adequate, safe, and sanitary by obtaining and keeping in the home evidence of the following: ()

- a. The home uses a public or municipal water supply or a Department-approved private water supply; ()
- b. If water is from a private supply, water samples are submitted to an accredited laboratory and show an absence of bacterial contamination at least annually, or more frequently if deemed necessary by the Department; and ()
- c. The home always has adequate water pressure to meet sanitary requirements. ()

02. Sewage Disposal. The sewage disposal system is approved and maintained by obtaining and keeping in the home evidence of the following: ()

- a. All sewage and liquid wastes are discharged, collected, treated, and disposed of in a manner approved by the local municipality or the Department. The Department may require the provider to obtain a statement from the area health district indicating that the sewage disposal system meets local requirements. The statement, if required, must be kept on file at the home. ()
- b. For homes with nonmunicipal sewage disposal, the septic tank has been pumped within the last five (5) years or the system is otherwise in good working condition. ()

03. Garbage and Refuse Disposal. Garbage and refuse disposal is provided by or at the home at least biweekly and the garbage containers are: ()

- a. Constructed of durable materials and provided with tight-fitting lids; ()
- b. Maintained in good repair and do not leak or absorb liquids; and. ()
- c. Sufficient in number to hold under lid all garbage and refuse that accumulates between periods of removal from the premises such that storage areas are free of excess refuse and debris. ()

04. Insect and Rodent Control. The home is maintained free from infestations of insects, rodents, and other pests by using a control program based on the pest involved when an infestation appears. ()

05. Yard. The yard surrounding the home is safe and maintained. ()

06. Laundry. A washing machine and dryer are readily available for the proper and sanitary washing of linen and other washable goods and laundry services are offered: ()

- a. On at least a weekly basis; or ()
- b. When soiled linens or clothing create a noticeable odor. ()

07. Housekeeping and Maintenance. Sufficient housekeeping and maintenance are provided to maintain the interior and exterior of the home in a clean, safe, and orderly manner including compliance with the following: ()

- a. Resident sleeping rooms are cleaned on at least a weekly basis as described in the resident's plan of service and thoroughly cleaned immediately after the discharge of the previous resident using the room; and ()
- b. Deodorizers are not used to cover odors caused by poor housekeeping or unsanitary conditions. ()

501. -- 599. (RESERVED)

600. FIRE AND LIFE SAFETY STANDARDS.

Each home must meet the requirements of this rule and all other applicable requirements of local and state codes concerning fire and life safety. ()

01. General Requirements. The provider must ensure that: ()

- a. The home is structurally sound and equipped and maintained to assure the safety of residents; and ()
- b. When natural or man-made hazards are present, suitable fences, guards, or railings are in place to protect the resident according to the resident's needs as documented in the plan of service. ()
- c. The exterior and interior of the home are kept free from the accumulation of weeds, trash, debris, rubbish, and clutter. ()

02. Fire and Life Safety Requirements. The provider must ensure that: ()

- a. Smoke detectors are installed in sleeping rooms, hallways, on each level of the home, and as recommended by the local fire district. ()
- b. Carbon monoxide (CO) detectors are installed as recommended by the Department when: ()
 - i. The home is equipped with gas or other fuel-burning appliances or devices; or ()
 - ii. An enclosed garage is attached to the home. ()
- c. Unvented combustion devices of any kind are prohibited from use inside the home. ()
- d. Any locks installed on exit doors can always be easily opened from the inside without the use of keys or any special knowledge. ()
- e. Electric portable heating devices are only used under the following conditions: ()
 - i. The unit is maintained in good working order and without obvious damage or fraying of the cord; ()
 - ii. Remain unplugged until in operation, and then plugged directly into a wall outlet and not a surge

- protector, power strip, or extension cord; ()
- iii. The user complies with safety labels, which remain on the unit; ()
 - iv. The unit is equipped with automatic shut-off protection when tipped over; and ()
 - v. The unit is operated under direct supervision and at least thirty-six (36) inches away from combustibles (e.g., furnishings, bedding, and blankets.), pets, and people. ()
- f.** Each resident’s sleeping room has at least one (1) door or window that can be easily opened from the inside and leads directly to the outside. If a window is used as a means of egress/ingress, the following conditions are met: ()
- i. The window sill height is not more than forty-four (44) inches above the finished floor; ()
 - ii. The window opening is at least twenty (20) inches in width and twenty-four (24) inches in height; and ()
 - iii. If the sleeping room is in a below-ground basement, the window opens into a window well through which the resident can easily exit. ()
- g.** Flammable or highly combustible materials are stored safely. Necessary precautions are taken to protect the resident from obtaining flammable materials as appropriate for the resident’s functional and cognitive ability. ()
- h.** Boilers, hot water heaters, and unfired pressure vessels are equipped with automatic pressure relief valves. ()
- i.** A two and a half (2.5) pound or larger dry chemical multipurpose A:B:C type portable fire extinguisher is immediately accessible without obstructions in a designated location, subject to Department approval, on each level of the home. ()
- j.** Electrical installations and equipment comply with IDAPA 24.39.10, “Rules of the Idaho Electrical Board,” or authorized local jurisdiction. ()
- k.** Fuel-fired heating devices are approved by the local heating/venting/air conditioning (HVAC) board. ()
- l.** Exits are free from obstruction. ()
- m.** Paths of travel to exits and all exit doorways are at least twenty-eight (28) inches wide. ()
- n.** The door into each bathroom and sleeping room, if equipped with a lock, can be unlocked from either side to allow access to the room in case of an emergency. ()
- o.** Cleaners, pesticides, and other toxic chemicals or materials are: ()
- i. Only used according to the manufacturer's instructions; and ()
 - ii. Stored with necessary precautions to protect the resident as appropriate for the resident’s functional and cognitive ability. ()
- 03. Smoking.** Smoking is a fire hazard. The provider may choose to allow or not allow smoking in the home or on the property. If the provider chooses to allow smoking, the provider must reduce the risk of fire by prohibiting smoking: ()
- a.** In any area where flammable liquids, gases, or oxidizers are in use or stored; ()

- b. In bed; and ()
- c. By the resident without supervision unless unsupervised smoking is specifically allowed in the resident's plan of service. ()

04. Emergency Preparedness Plan. The provider must develop and implement a written emergency preparedness plan. The provider must review the plan with the resident, or the resident's representative, at admission and at least every twelve (12) months thereafter. The plan must address the following: ()

- a. Evacuation of the home in the event of a house fire, including: ()
 - i. A floor plan depicting at least two (2) escape routes from each room, excluding bathrooms and the laundry room; ()
 - ii. A designated meeting area indicated on the floor plan where all household members will congregate upon evacuation of the home; and ()
 - iii. Identification of the person responsible to take a head-count at the designated meeting area and relay information to firefighters regarding the probable whereabouts in the home of missing individuals. ()

b. Emergency situations in which people are confined to the home for a period of at least seventy-two (72) hours and considering adequate food, water, and medications during that time; ()

c. Complying with mandatory evacuation orders from the area, including prearranged plans to shelter within the local community and in a town outside the local community, and considering the necessary supplies that will be kept in a state of readiness for quick evacuation; and ()

d. Procedures for any situation in which the provider is incapacitated and unable to provide services. ()

05. Emergency Drills. The provider must ensure staff conduct emergency drills, at least half of which over a year are fire drills, at least every three (3) months as follows: ()

a. Those persons capable of participating in a fire drill reach a point of safety outside the home within three (3) minutes from the start of the drill. ()

b. Residents who are medically unable to exit unassisted are exempt from physical participation in a fire drill if the provider has an effective evacuation plan for such residents and staff discuss the plan with the resident immediately prior to the drill; ()

c. Documentation of the drill is kept in the home, which may consist of a video recording or a written summary, to include the following: ()

- i. The date and time of the drill; ()
- ii. The purpose of the drill; ()
- iii. If a fire drill, the length of time for all persons who participated in the drill to reach a point of safety outside the home; ()
- iv. The name or likeness of each person who participated in the drill; and ()
- v. Any problems encountered during the drill or deviations from the home's emergency plans, and how the provider will overcome the problem or improve performance in future drills. ()

06. Maintenance of Equipment. The provider must ensure that all equipment in the home is properly

maintained by: ()

a. Testing smoke and carbon monoxide detectors at least monthly and keeping a written record of the test results on file in the home. ()

b. If the smoke or carbon monoxide detector has replaceable batteries, replacing the batteries at least every twelve (12) months or as indicated by a low battery, whichever occurs first. ()

c. Replacing each smoke or carbon monoxide detector at the end of its useful life as indicated by the manufacturer, which date is to be labeled on the unit. ()

d. Replacing or servicing the portable fire extinguishers through a professional servicing company every twelve (12) months or when the quarterly examination reveals issues with the extinguisher under Subsection 600.06.e. of this rule, whichever occurs first. ()

e. Examining all portable fire extinguishers at least every three (3) months as indicated by initials and date on a log, to determine that: ()

i. The extinguisher is in its designated location; ()

ii. Seals or tamper indicators are not broken, and the safety pin is in place; ()

iii. The extinguisher has not been physically damaged; ()

iv. The extinguisher does not have any obvious defects, such as leaks; ()

v. The nozzle is unobstructed and intact; and ()

vi. Chemicals are prevented from settling and clumping by repeatedly tipping the extinguisher upside down and right-side up. ()

f. When the home has wood-burning or pellet stoves, arranging for professional cleaning of the chimneys at least annually by a person in the business of chimney sweeping, and keeping the records on file in the home. ()

g. Maintaining functional and dependable telephone or cell phone service and hardware. Additionally, ensuring that the following numbers are either programmed into the telephone or cell phone, or alternatively, such numbers are posted in the home: ()

i. General emergency numbers including 9-1-1, poison control, adult protective services, and the suicide hotline; and ()

ii. Emergency contacts for each resident. ()

601. -- 699. (RESERVED)

700. HOME CONSTRUCTION AND PHYSICAL HOME STANDARDS.

01. General Requirements. Any residence used as a CFH must be suitable for that use. CFHs must only be located in buildings intended for residential use. ()

a. Remodeling or additions to the home must be consistent with residential use of the property and must comply with local building standards and IDAPA 24.39.30, "Rules of Building Safety (Building Code Rules)," including obtaining building permits as required by the local jurisdiction. ()

b. All homes are subject to Department approval. ()

- 02. Toilet Facilities and Bathrooms.** The home must contain: ()
- a. A bathroom equipped with at least one (1) flush toilet, one (1) tub or shower, and one (1) sink with a mirror; ()
 - b. Toilet and shower or bathing facilities separated from all rooms by solid walls or partitions; ()
 - c. A window that is easily opened to the outside, or forced ventilation to the outside, in each room containing a toilet, shower, or bath; ()
 - d. All tubs, showers, and sinks connected to hot and cold running water; and ()
 - e. Without passing through another person’s sleeping room, access to toilet and bathing facilities designated for the resident’s use. ()
- 03. Accessibility for Residents with Physical and Sensory Impairments.** A provider choosing to provide services to a resident who has difficulty with mobility or who has sensory impairments must ensure the physical environment maximizes the resident’s independent mobility and use of appliances, bathroom facilities, and living areas. The home must be equipped with necessary accommodations that meet the “American With Disabilities Act Accessibility Guidelines--Standards for Accessible Design (SFAD),” under Section 002 of these rules and as described below according to the individual resident’s needs: ()
- a. A ramp that complies with Section 405 of the SFAD. Elevators or lifts that comply with Sections 409 and 410, respectively, may be utilized in place of a ramp; ()
 - b. Doorways large enough to allow easy passage of a wheelchair and that comply with Subsection 404.2.3 of the SFAD; ()
 - c. Toilet and bathing facilities that comply with Sections 603 and 604 of the SFAD; ()
 - d. Sinks that comply with Section 606 of the SFAD; ()
 - e. Grab bars in resident toilet facilities and bathrooms that comply with Section 609 of the SFAD; ()
 - f. Bathtubs or shower stalls that comply with Sections 607 and 608 of the SFAD, respectively; ()
 - g. Non-retractable faucet handles that comply with Subsection 309.4 of the SFAD. Self-closing valves are not allowed; ()
 - h. Suitable handrails on both sides of all stairways leading into and out of the home that comply with Section 505 of the SFAD; and ()
 - i. Smoke and carbon monoxide detectors that comply with Section 702 of the SFAD. ()
- 04. Storage Areas.** Adequate storage space must be provided in the home. ()
- 05. Lighting.** Adequate lighting must be provided in all resident sleeping rooms and any other rooms accessed by the resident. ()
- 06. Ventilation.** The home must be well-ventilated and the provider must take precautions to prevent offensive odors. ()
- 07. Heating and Cooling.** The temperature in the home must be maintained between sixty-five degrees Fahrenheit (65°F) and eighty degrees Fahrenheit (80°F) when residents or adult hourly care participants are at home. Thermostats must be located away from stoves, fireplaces, and furnaces. ()

08. Plumbing. All plumbing in the home must be in good working order and comply with local and state codes. All plumbing fixtures must be maintained in good repair. ()

09. Resident Sleeping Rooms. The provider must ensure each sleeping room occupied by a resident is: ()

a. Not an attic, stairway, hall, or any other space commonly used for other than bedroom purposes. ()

b. Not in a below-ground basement or a room located on the second story or higher unless the following conditions are met: ()

i. The resident is able to independently recognize an emergency and self-evacuate from the sleeping room without physical assistance or verbal cueing as assessed and indicated in the resident's plan of service; or ()

ii. The sleeping room of a responsible and able-bodied individual living in the home is located on the same level with the resident's sleeping room; and ()

iii. The level of the home on which the resident's sleeping room is located has floors, ceilings, and walls that are finished to the same degree as the rest of the home. ()

c. Separated by walls running from floor to ceiling and has a solid door. ()

d. Not also the provider's sleeping room unless there is medical necessity to share the room. A relative of the provider must not share the resident's sleeping room unless the individual is also a relative of the resident. ()

e. Covered by a ceiling with a height of at least seven feet, six inches (7'6") at its lowest point. ()

f. Equipped with a closet that is: ()

i. If shared, fairly and substantially divided such that each resident's space is clearly distinct. ()

ii. Equipped with a door if the resident so chooses. ()

g. At least one hundred (100) square feet for a one (1) person sleeping room and at least one hundred and sixty (160) square feet for a two (2) person sleeping room. Free-standing closet space must be deducted from the square footage in the sleeping room. ()

701. MANUFACTURED AND MODULAR HOMES.

01. Approved Homes. A residential modular or manufactured building approved by the Idaho Division of Building Safety (DBS) or U.S. Department of Housing and Urban Development (HUD) may be approved for use as a CFH when the home meets the following: ()

a. The manufactured or modular home meets the HUD or DBS requirements under state and federal regulations as of the date of manufacture; and ()

b. The manufactured or modular home meets the adopted standards and requirements of the local jurisdiction in which the home is located. ()

02. Prohibited Homes. The following types of manufactured homes will not be approved by the Department for use as a CFH: ()

- a. Recreational vehicles, including fifth wheel trailers, truck campers, and commercial coaches; ()
- b. Manufactured or modular tiny houses with 400 square feet or less of floor space, excluding lofts; ()
- c. Tent-like structures, including yurts; and ()
- d. Manufactured or modular homes not approved by DBS or HUD or with unregulated or unapproved modifications or additions. ()

702. -- 709. (RESERVED)

710. SITE REQUIREMENTS.

The provider must ensure home and real property comply with the following: ()

- 01. Fire District.** The home is located in a lawfully constituted fire district or the provider holds an agreement with the nearest fire district that the fire department will respond when not responding to other calls within their district. ()
- 02. Accessible Road.** The home is always served by an all-weather road kept open to motor vehicles all year. ()
- 03. Emergency Medical Services.** The home is accessible to emergency medical services. ()
- 04. Accessible to Services.** The home is accessible to necessary social, medical, and rehabilitation services. ()
- 05. House Number.** The house number is prominently displayed and plainly visible from the street. ()

711. -- 899. (RESERVED)

900. EMERGENCY POWERS OF THE DIRECTOR.

When an emergency endangers the life or safety of a resident, the Director may summarily suspend or revoke any CFH certificate. As soon thereafter as practical, the Director will provide an opportunity for a hearing under IDAPA 16.05.03, "Contested Case Proceedings and Declaratory Rulings." ()

901. ENFORCEMENT PROCESS.

If the Department finds that the provider does not meet, or did not meet, a rule or statute governing CFHs, it may impose a remedy, independently or in conjunction with others, subject to these rules for notice and appeal. ()

01. Determination of Remedy. In determining which enforcement remedy(s) to impose, if any, the Department will consider the provider's compliance history, complaints, and the number, scope, and severity of the deficiencies. Subject to these considerations, the Department may impose any of the remedies listed under Sections 909 through 915 of these rules. ()

02. Notice of Enforcement Remedy. The Department will give the provider written notice of any enforcement remedy it imposes. The notice will be mailed immediately by certified mail or delivered by personal service upon the Department's decision. The notice will include the decision, the reason for the Department's decision, and how the provider may appeal the decision under IDAPA 16.05.03, "Contested Case Proceedings and Declaratory Rulings." ()

902. FAILURE TO COMPLY.

The Department may impose any of the enforcement remedies under Sections 909 through 913 of these rules when it determines any of the following conditions exist: ()

01. Out of Compliance. The provider has not complied with any part of the CFH requirements within thirty (30) days of being notified by the Department in writing that the CFH is out of compliance with that requirement. ()

02. Lack of Progress. The provider has made little or no progress in correcting deficiencies within thirty (30) days from the date the Department accepted the provider's plan of correction. ()

903. REPEATED NONCOMPLIANCE.

When the Department determines that a provider has repeated noncompliance with any of the CFH requirements, it may impose any of the enforcement remedies under Sections 909 through 913 of these rules. ()

904. -- 908. (RESERVED)

909. ENFORCEMENT REMEDY OF PROVISIONAL CERTIFICATION.

When the Department finds that the provider is unable or unwilling to meet a CFH requirement because of conditions that are not anticipated to continue beyond six (6) months and do not jeopardize the health or safety of the residents, the Department may impose provisional certification upon the provider. ()

01. Conditions of Provisional Certification. The Department, at its discretion, may impose conditions upon the provider in conjunction with provisional certification, which conditions will be included with the notice of provisional certification, if so imposed. Conditions are imposed to ensure the provider achieves compliance with the CFH requirements and to aid the Department in monitoring the provider's performance during the provisional certification period. ()

02. Certification or Revocation. The Department, upon review of the provider's performance during the provisional certification period, may issue a full certificate to the provider when the Department finds that the provider has achieved compliance with the CFH requirements, or revoke the provider's certificate if the provider failed to comply. ()

910. ENFORCEMENT REMEDY OF BAN ON ALL ADMISSIONS.

All admissions to the home are banned pending satisfactory correction of all deficiencies. The ban remains in effect until the Department determines that the provider has achieved full compliance with all CFH requirements or until a substitute remedy is imposed. ()

911. ENFORCEMENT REMEDY OF BAN ON ADMISSIONS OF RESIDENT WITH SPECIFIC DIAGNOSIS.

Any admission to the home of a prospective resident with a specific diagnosis may be banned when the Department has determined the provider lacks the skill or ability to provide adequate care to such a resident under Section 170 of these rules. ()

912. ENFORCEMENT REMEDY OF SUMMARY SUSPENSION AND TRANSFER OF RESIDENT.

The Department may summarily suspend the provider's certificate and transfer the resident when convinced by a preponderance of the evidence that the resident's health and safety are in immediate jeopardy. In such a transfer, the provider must: ()

01. Return Resident's Possessions. Comply with Subsection 261.03 of these rules; and ()

02. Refund Prepaid Charges. Refund to the resident a prorated amount restoring prepaid charges for room, board, and care for the month within fourteen (14) calendar days of the Department's notice of summary suspension. ()

913. ENFORCEMENT REMEDY OF REVOCATION OF CERTIFICATE.

01. Revocation of the Certificate. The Department may institute a revocation action when persuaded by a preponderance of the evidence that the provider is not in compliance with the CFH requirements. ()

02. Additional Causes for Revocation. The Department may also revoke any certificate for any of the

- following causes: ()
- a. The provider willfully misrepresented or omitted any of the following: ()
 - i. Information pertaining to the continuing certification of the CFH; or ()
 - ii. Information pertaining to an investigation that obstructs the certifying agent's collection of evidence. ()
 - b. When persuaded by a preponderance of the evidence that conditions exist endangering the health or safety of any resident; ()
 - c. An act adversely affecting the welfare of any resident is being or has been permitted, aided, performed, or abetted by the provider or staff. Such acts may include neglect, physical, mental, or sexual abuse, and exploitation; ()
 - d. The provider has demonstrated or exhibited a lack of sound judgment essential to the operation and management of a CFH; ()
 - e. The provider has violated any condition of a provisional certificate in effect upon the CFH; ()
 - f. The provider has been cited with one (1) or more core issue deficiencies; ()
 - g. An accumulation of minor violations that, when taken as a whole, constitute inadequate care; ()
 - h. Repeat violations of any of the CFH requirements; ()
 - i. The provider lacks the ability to properly care for the resident, as required by the CFH requirements, or as directed by the Department; ()
 - j. The provider refuses to allow any certifying agent or other representative of the Department or protection and advocacy agency representative full access to the home, records, or the residents according to their respective authority to access such; ()
 - k. The provider fails to pay the certification fee under Section 109 of these rules. ()

914. (RESERVED)

915. TRANSFER OF RESIDENT.

The Department may require transfer of a resident from a CFH to an alternative placement on the following grounds: ()

01. Violation of Laws or Rules. As a result of a violation of a provision of the CFH requirements, the provider is unable or unwilling to provide an adequate level of meals, lodging, personal assistance, or supervision to the resident; or ()

02. Violation of Resident's Rights. As a result of a violation of the resident's rights under Section 39-3516, Idaho Code, or Section 200 of these rules. ()

916. -- 949. (RESERVED)

950. RIGHT TO SELL.

Nothing contained in these rules limits the right of any homeowner to sell, lease, mortgage, or close any CFH under applicable laws. ()

951. -- 999. (RESERVED)

PROPOSED RULE COST/BENEFIT ANALYSIS

Section 67-5223(3), Idaho Code, requires the preparation of an economic impact statement for all proposed rules imposing or increasing fees or charges. This cost/benefit analysis, which must be filed with the proposed rule, must include the reasonably estimated costs to the agency to implement the rule and the reasonably estimated costs to be borne by citizens, or the private sector, or both.

Department or Agency: Department of Health and Welfare, Division of Licensing and Certification, Certified Family Home Management Team

Agency Contact: Steve Millward

Phone: (208) 334-0706

Date: April 5, 2022

IDAPA, Chapter and Title Number and Chapter Name:

[IDAPA 16.03.19, "Certified Family Homes"](#)

Fee Rule Status: **Proposed** **Temporary**

Rulemaking Docket Number: 16-0319-2201

STATEMENT OF ECONOMIC IMPACT:

This will have a slight negative fiscal impact on the State General Fund, as the Certified Family Home (CFH) Management Team operates mostly* on dedicated funds paid by CFH providers and applicants.

*Dedicated funds do not completely cover the CFH Management Team's total personnel and operating costs. When the \$25 monthly certification fee was established by the Idaho Legislature in 2011 to cover the costs of recertifying certified family homes (i.e., the program's personnel and operating costs), the department had just imposed a Reduction in Force due to the Great Recession resulting in the CFH Management Team being down two certifying agents (the agents in Regions 2 and 5 were laid off), so the baseline funding for the program was set on a short-staffed team. At that time, certifying agents from across the state coordinated their workloads and schedules to travel and conduct recertification surveys in Regions 2 and 5 in addition to their own regions. However, the program grew quickly and it became impossible for the team to cover the workload in these other regions while understaffed, so the program filled the two vacant positions in 2012 even though these positions were not funded. Without a corresponding increase in the monthly certification fee, being full-staffed has caused the program to continually be over-budget (i.e., the total amount of dedicated funds brought in by the collection of certification fees each year does not cover the total costs of administering the CFH program). Thus, the CFH Management Team is currently dependent upon surpluses within the division or elsewhere in the department to cover its deficit.

The department's effort to raise the monthly certification fees in 2015 was defeated, as CFH providers vocally opposed such an increase in legislative committee hearings. Given the economic impacts of the pandemic and recent record inflation, the department does not feel that it would be prudent to propose increasing certification fees at this time of so much uncertainty. The shortfall in dedicated funds is approximately \$100,000 annually.