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16.03.22 - RULES FOR LICENSED RESIDENTIAL AND ASSISTED LIVING FACILITIES IN IDAHO

000. LEGAL AUTHORITY.
Pursuant to Sections 39-3305, 39-3371, 39-3505, and 39-3561, Idaho Code, the Idaho Board of Health and Welfare is authorized to adopt and enforce rules and standards designed to protect the health, safety, and individual resident's rights and to ensure the provision of adequate nutrition, supervision, meaningful life activities, and therapeutic recreational activities for residents being served in residential care facilities. (7-1-99)T

001. TITLE AND SCOPE.
The purpose of a licensed residential and assisted living facility in Idaho is to provide a humane, safe, and home-like living arrangement for individuals with a mental illness, developmental disability, physical disability, or who are elderly. The facilities shall be operated and staffed by individuals who have the knowledge and experience required to provide safe and appropriate services to all residents of the facility. The administrators shall protect the rights and provide appropriate services to meet the needs of the individual residents as determined by the uniform assessment instrument and the negotiated service agreement for both state clients and private pay residents. The state will encourage the development of facilities tailored to the needs of individual populations which operate in integrated settings in communities where sufficient supportive services exist to provide the resident, if appropriate, an opportunity to work and be involved in recreation and education opportunities alongside people who do not have a mental illness, developmental disability, physical disability, or who are not elderly. The licensing agency shall be responsible for monitoring and enforcing the provisions of this chapter. This responsibility includes, but is not limited to, licensing facilities, monitoring the condition of the facility administering a uniform assessment instrument for state clients, and taking enforcement actions. Nothing in this chapter is intended to reduce or eliminate any duty of the Department or any other public or private entity for provision of services for any resident. (7-1-99)T

002. (RESERVED).

003. ADMINISTRATIVE APPEALS.
All contested cases shall be governed by the provision of IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings". (7-1-99)T

004. EXEMPTIONS.
The provisions of these rules do not apply to any of the following: (7-1-99)T

01. Health Facility. The provisions of these rules do not apply to hospitals, nursing facilities, intermediate care facilities for mentally retarded persons, or any other health facility as defined by Title 39, Chapter 13, Idaho Code. (7-1-99)T

02. Alternate Living Arrangements. The provisions of these rules do not apply to any house, institution, hotel, congregate housing project, retirement home, or other similar place that is limited to providing one (1) or more of the following: housing, meals, transportation, housekeeping, or recreational and social activities, or that have residents independently accessing supportive services from an entity approved to provide such services in Idaho and holding no legal ownership interest in the entity operating the facility. (7-1-99)T

03. Relatives. The provisions of these rules do not apply to any arrangement for the receiving and care of persons by a relative, except when the caretaker is paid for the care through a state or federal program, in which case the caretaker relative and the care setting must meet the requirements of the program that funds the care. (7-1-99)T

04. Similar. The provisions of these rules do not apply to any facility exempted by the Director. (7-1-99)T

005. WAIVERS.
Waivers may be granted by the Department provided the following criteria are met: (7-1-99)T

01. Written Request. A written request for waiver must be sent to the licensing agency. The request must include, but is not limited to, the following: (7-1-99)T

a. Reference to the section of the rules for which the waiver is requested; (7-1-99)T

b. Reasons that show good cause why the waiver should be granted, the extenuating circumstances which caused the need for the waiver, any compensating factors or conditions that may have bearing on the waiver such as additional floor space or additional staffing; and (7-1-99)T

c. Written documentation that assures residents' health and safety will not be jeopardized if the waiver is granted. (7-1-99)T

02. Temporary Waivers. A temporary waiver may be granted for up to one (1) year. (7-1-99)T

03. Continuing Temporary Waivers. The appropriateness of continuing a waiver shall be reviewed by the licensing agency during the annual survey. If the facility administrator wishes to continue the waiver, an annual request must be submitted to the Department in writing. (7-1-99)T

04. Permanent Waiver. A permanent waiver may be granted provided the provisions of Subsections 005.01.a. through 005.01.c. are met. (7-1-99)T

05. Decision To Grant A Variance. The decision to grant a waiver shall not be considered as precedent or be given any force or effect in any other proceeding. (7-1-99)T

006. SERVICES.
Supportive services shall be provided according to the resident's individual negotiated service agreement. (7-1-99)T

007. POLICY.
Many of the residents of facilities are unable to assess situations or respond quickly to emergencies. The residents' safety is dependent upon properly designed and constructed buildings with provisions for the prevention and detection of fires to include alarm and extinguishment systems. Individuals who understand operating and maintenance procedures are essential. The residents' welfare is dependent upon care, attention, motivation, and advice delivered at the proper time by skilled people. Every person or organization operating a facility must take responsibility for the safety and well-being of those in their care. (7-1-99)T

008. INCORPORATION BY REFERENCE.
All documents referenced herein shall constitute the full adoption by reference of those documents as provided by Section 67-5229 (a), Idaho Code. (7-1-99)T

01. Documents Incorporated. The following documents are incorporated in these rules: (7-1-99)T

a. National Fire Protection Association (NFPA), Life Safety Code, National Standards Council, 1981 and 1988 Editions; (7-1-99)T

b. National Fire Protection Association (NFPA), National Fire Code, Volumes 1 -- 11, 1990 Edition; (7-1-99)T

c. National Fire Protection Association, NFPA 101M, 1988 Edition, Manual on Alternative Approaches to Fire Safety; (7-1-99)T

d. Uniform Building Code, International Conference of Building Officials, 1988 Edition; (7-1-99)T

e. Idaho Diet Manual, Idaho Dietetic Association, Eighth Edition 1998; (7-1-99)T

f. IDAPA 16.02.19, "Rules Governing Food Safety and Sanitation Standards For Food Establishments (UNICODE)," July 1, 1998; (7-1-99)T

g. Administrative Rules of the Idaho State Board of Nursing, IDAPA 23.01.01, "Rules of the Board of Nursing"; and (7-1-99)T

h. Americans with Disabilities Act Accessibility Guidelines, 28 CFR Part 36, Appendix A. (7-1-99)T

02. Availability Of Documents. The incorporated documents are available for public review at the following locations: (7-1-99)T

a. Administrative Procedures Section, Department of Health and Welfare, 450 West State Street, 10th Floor, P.O. Box 83720, Boise Idaho, 83720-0036 or the licensing agency. (7-1-99)T

b. Idaho Supreme Court Law Library, 451 West State Street, Boise, Idaho, 83720. (7-1-99)T

009. (RESERVED).

010. DEFINITIONS.

01. Abuse. The non-accidental infliction of physical pain, injury, or mental injury. (7-1-99)T

02. Activities. All organized and directed social and rehabilitative services a facility provides, arranges, or cooperates with. (7-1-99)T

03. Activities Of Daily Living. The performance of basic self-care activities in meeting an individual's needs to sustain him in a daily living environment, including, but not limited to, bathing, washing, dressing, toileting, grooming, eating, communicating, continence, managing money, mobility, and associated tasks. (7-1-99)T

04. Adequate Care. Services provided to the resident as described in his negotiated service agreement and within accepted standards of practice. (7-1-99)T

05. Administrator. The person who has primary responsibility for the day-to-day administration of the facility with three (3) or more residents and is employed as a full-time administrator and licensed by the state of Idaho. The administrator and legal owner may not necessarily be the same individual. A full-time administrator shall devote no less than twenty (20) hours a week to the day-to-day administration of the facility. The Department will consider a waiver based on an approved plan of administration and operation by the facility. (7-1-99)T

06. Adult. A person who has attained the age of eighteen (18) years. (7-1-99)T

07. Advanced Directive. A written instruction, such as a living will or durable power of attorney for health care, recognized under State Law, whether statutory or as recognized by the courts of the State, and relates to the provision of medical care when the individual is unable to communicate. (7-1-99)T

08. Advocate. An authorized or designated representative of a program or organization operating under federal or state mandate to represent the interests of a population group served by a facility. (7-1-99)T

09. Alzheimer's Disease And Related Dementia. A progressive, degenerative, terminal disease that attacks the brain and results in impaired memory, thinking, and behavior. The person may experience memory loss, confusion, personality, and behavior changes, impaired judgment, difficulty finding words, finishing thoughts, following directions, and difficulty with other cognitive efforts. (7-1-99)T

10. Ambulatory Person. A person who, unaided by any other person, is physically and mentally capable of walking a normal path to safety, including the ascent and descent of stairs. (7-1-99)T

11. Assessment. The conclusions reached using uniform criteria developed by the Department and relevant councils for determining a person's need for care and services. (7-1-99)T

12. Basement. Any floor level below the first story in a building except that a floor level in a building

having only one (1) floor level shall be classified as a basement. (7-1-99)T

13. **Behavioral Management**. A written program which actively builds and develops new or alternative styles of independent functioning and promotes new behavior which results in the highest potential level of self- sufficiency. (7-1-99)T

14. **Care And Supervision**. The provision by the facility of one (1) or more of the following services: (7-1-99)T

a. Assisting the resident with activities of daily living; (7-1-99)T

b. Arranging for supportive services; (7-1-99)T

c. Being aware of the resident's general whereabouts; (7-1-99)T

d. Monitoring the activities of the resident while on the premises of the facility to ensure the resident's health, safety, and well-being; and (7-1-99)T

e. Assisting residents with self-administration of medication. (7-1-99)T

15. **Chemical Restraint**. The use of any medication that results or is intended to result in the modification of behavior. (7-1-99)T

16. **Client Of The Department**. Any person who receives financial aid, or services, or both from an organized program of the Department. (7-1-99)T

17. **Complaint Investigation**. A survey or visit to determine the validity of allegations of resident abuse, neglect, misappropriation of resident property, or of other noncompliance with applicable state requirements. (7-1-99)T

18. **Criminal Offense**. Any crime as defined in Section 18-111, Idaho Code, in 18 U.S.C. Section 4A1.2(o), and 18 U.S.C. Sections 1001 through 1027. (7-1-99)T

19. **Deficiency**. A determination of non-compliance with a specific rule or part of a rule. (7-1-99)T

20. **Department**. The Idaho Department of Health and Welfare. (7-1-99)T

21. **Developmental Disability**. A developmental disability, as defined in Section 66-402, Idaho Code, means chronic disability of a person which appears before the age of twenty-two (22) years of age and: (7-1-99)T

a. Is attributable to an impairment, such as mental retardation, cerebral palsy, epilepsy, autism, or other conditions found to be closely related to or similar to one (1) of these impairments that requires similar treatment or services, or is attributable to dyslexia resulting from such impairments; and (7-1-99)T

b. Results in substantial functional limitations in three (3) or more of the following areas of major life activity; self-care, receptive and expressive language, learning, mobility, self-direction, capacity of independent living, or economic self-sufficiency; and (7-1-99)T

c. Reflects the need for a combination and sequence of special, interdisciplinary or direct care, treatment or other services which are of life-long or extended duration and individually planned and coordinated. (7-1-99)T

22. **Director**. The Director of the Idaho Department of Health and Welfare or his designee. (7-1-99)T

23. **Elderly**. A person sixty-five (65) years or older who does not have a primary diagnosis of mental illness, or developmental disability, or both, and who does not require active treatment. (7-1-99)T

24. **Exploitation**. An action which may include, but is not limited to, the misuse of a vulnerable adult's funds, property, or resources by another person for profit or advantage. (7-1-99)T

25. **Finding**. A determination resulting from a survey or complaint investigation of the facility that a potential compliance issue is present, and could, or should have been prevented, or has not yet been identified by the facility, is not being corrected by proper action by the facility, or cannot be justified by special circumstances unique to the facility or the resident. A finding may or may not be cited as a deficiency based upon the scope and severity of the noncompliance. (7-1-99)T

26. **Follow-Up Survey**. A survey conducted to verify corrections of deficiencies cited during the previous survey. (7-1-99)T

27. **Full License**. A one (1) year license issued by the licensing agency of the Department to a facility complying with this chapter. (7-1-99)T

28. **Functional Abilities Assessment**. An assessment of the resident's physical, mental, emotional, and social abilities to cope with the affairs and activities of daily living. (7-1-99)T

29. **Governmental Unit**. The state, any county, municipality, or other political subdivision or any department, division, board, or other agency thereof. (7-1-99)T

30. **Hands On**. Physical assistance to the resident beyond verbal prompting. (7-1-99)T

31. **Hourly Adult Care**. Nonresident daily services and supervision provided by a facility to individuals who are in need of supervision outside of their personal residence for a portion of the day. (7-1-99)T

32. **Immediate Jeopardy**. The licensing agency has determined that residents are subject to an imminent or substantial danger. (7-1-99)T

33. **Independent Mobility**. A resident’s ability to move about freely of their own choice with or without the assistance of a mobility device such as a wheelchair, cane, crutches, or walker. (7-1-99)T

34. **Individual Support Plan**. The written individualized plan approved by the Department, which must be based on a person-centered planning and assessment process outlining the consumers’ needs, desires, goals, and objectives, and include the specific types, amounts, frequency, and duration of waiver services to be provided by the agency. (7-1-99)T

35. **Initial Deficiency**. The first time that a deficiency or deficiencies are recorded by a surveyor as the result of a survey or complaint investigation. Initial deficiency may be records of deficiencies that occurred prior to the date of the survey visit even if the deficiencies no longer exist at the time of the current survey. (7-1-99)T

36. **Legal Guardian/Conservator**. A court-appointed individual who manages the affairs or finances or both of another who has been found to be incapable of handling his own affairs. (7-1-99)T

37. **Level Of Care**. This is based on a categorical assessment of the resident's functional ability and the intensity (degree) of care required in the areas of activities of daily living, supervision, response to emergency situations, mobility, medications, and behavior management. (7-1-99)T

38. **Level I - Minimal Assistance**. The resident requires room, board, and supervision and may require one (1) or more of the following: (7-1-99)T

a. Minimal assistance with activities of daily living and nonmedical personal assistance. (7-1-99)T

b. Minimal assistance with mobility -- the resident is independently mobile. (7-1-99)T

c. Minimal assistance in an emergency -- the resident is capable of self-preservation in an emergency. (7-1-99)T

d. Minimal assistance with medications -- the resident does not require medication management or supervision. (7-1-99)T

e. Minimal behavior management substantiated by the resident's history. (7-1-99)T

39. Level II - Moderate Assistance. The resident requires room, board, and supervision and may require one (1) or more of the following: (7-1-99)T

a. Moderate assistance with activities of daily living and nonmedical personal assistance. (7-1-99)T

b. Moderate assistance with mobility but easily mobile with assistance. (7-1-99)T

c. Moderate assistance in an emergency but resident is capable of self-preservation with assistance. (7-1-99)T

d. Moderate assistance with medications. (7-1-99)T

e. Moderate assistance with behavior management. (7-1-99)T

40. Level III - Extensive Assistance. The resident requires room, board, supervision, and requires staff up and awake on a twenty-four (24) basis and may require one (1) or more of the following: (7-1-99)T

a. Extensive assistance with activities of daily living. (7-1-99)T

b. Extensive personal assistance. (7-1-99)T

c. Extensive assistance with mobility and may be non-mobile without extensive assistance. (7-1-99)T

d. Extensive assistance in an emergency and may be incapable of self-preservation without assistance. (7-1-99)T

e. Extensive assistance with and monitoring of medications. (7-1-99)T

f. Extensive assistance with training or behavior management or both. (7-1-99)T

41. License. A permit to operate a facility. (7-1-99)T

42. Licensee. The holder of a license to operate a facility under this chapter. (7-1-99)T

43. Licensed Environmental Health Specialist. A person trained and experienced in physical, biological, chemical, and social and sanitary sciences and who is licensed by the Idaho State Bureau of Occupational Licenses. (7-1-99)T

44. Licensing Agency. The unit of the Department of Health and Welfare that conducts inspections and surveys and issues licenses based on compliance with this chapter. (7-1-99)T

45. Medication. Any substance or drug used to treat a disease, condition, or symptom, which may be taken orally, injected, or used externally and is available through prescription or over-the-counter. (7-1-99)T

46. Medication Administration. The issuance of one or more doses of prescribed medication to an individual. (7-1-99)T

47. Medication Assistance. Assistance to a resident in taking his medication including reminding the resident to take medication, removing a medication container from storage, assisting with the removal of the cap, assisting with the removal of a medication from a container for residents with a disability which prevents independence in this act, and observing the resident taking the medication. (7-1-99)T

48. **Medication Dispensing**. Medication dispensing is the issuance of a medication in its original container with a pharmacy label bearing the instructions ordered by the prescriber. (7-1-99)T

49. **Mentally Ill**. A person with one (1) or more of the following: (7-1-99)T

a. A significant disorder of thought, mood perception, orientation, or memory which impairs judgment, behavior, and capacity to recognize and adapt to reality; (7-1-99)T

b. Over a period of time has demonstrated marginal social adjustment which prevents him from living independently in the community; (7-1-99)T

c. Manifested difficulties in social or personal adjustment associated with psychiatric disability, as demonstrated in reduced, lost, or underdeveloped capacities relative to: (7-1-99)T

i. Personal relationships; (7-1-99)T

ii. Living arrangements; (7-1-99)T

iii. Work; (7-1-99)T

iv. Recreation; (7-1-99)T

v. Personal care; (7-1-99)T

vi. Community living skills; or (7-1-99)T

vii. Other primary aspects of daily living. (7-1-99)T

50. **Monitoring Visit**. A visit by a representative of the Department for the purpose of verifying a facility's correction of deficiencies, or to observe the orderly transfer of residents, during a facility's closure. (7-1-99)T

51. **Neglect**. The negligent failure to provide those goods or services which are reasonably necessary to sustain the life and health of a person pursuant to Section 39-5302(8), Idaho Code. (7-1-99)T

52. **Negotiated Service Agreement**. The agreement reached by the resident and their representative and the facility based on the assessment, physician's orders, if any, admission records, if any, and desires of the resident, and which outlines services to be provided and the obligations of the facility and the resident. (7-1-99)T

53. **Owner**. Any entity, governmental unit, or person having legal ownership of the facility. (7-1-99)T

54. **Personal Assistance**. The provision by the staff of the facility of one (1) or more of the following services: (7-1-99)T

a. Assisting the resident with activities of daily living. (7-1-99)T

b. Arranging for supportive services. (7-1-99)T

c. Being aware of the resident's general whereabouts and supervision as required in the resident's negotiated service agreement. (7-1-99)T

d. Monitoring the activities of the resident while on the premises of the facility to ensure the resident's health, safety, and well-being. (7-1-99)T

e. Assisting residents with self-administration of medication. (7-1-99)T

55. **Personnel**. Paid or unpaid individuals assigned with the responsibility of oversight of the facility. (7-1-99)T

56. **Physical Restraint**. Any device or physical force that restricts the free movement of, normal functioning of, or normal access to a portion or portions of an individual's body. Excluded are physical guidance and prompting techniques of brief duration. (7-1-99)T

57. **PRN**. A medication or treatment prescribed by a medical professional to an individual allowing the medication to be given as needed. (7-1-99)T

58. **Pressure Ulcers**. Localized areas of cellular necrosis, pressure ulcers occur most often in the skin and subcutaneous tissue over bony prominence, particularly the sacrum, ischial tuberosities, great trochanter, heels, malleoli, and elbows. (7-1-99)T

59. **Provisional License**. A license which may be granted to a facility which is not in compliance with the rules but which has no deficiencies that would endanger the health or safety of the residents, pending the satisfactory correction of all deficiencies. (7-1-99)T

60. **Psychosocial History**. A combined summary of psychological and social histories of an individual designed to inform a care giver of a person's strengths, weaknesses, and potential problems. (7-1-99)T

61. **Publicly Funded Programs**. Any program funded in whole or in part by an appropriation of the U.S. Congress, the Idaho Legislature, or a county commission. (7-1-99)T

62. **Punishment**. Any procedure in which an adverse consequence is presented to a resident that is designed to produce a decrease in the rate, intensity, duration or probability of the occurrence of a behavior; or the administration of any noxious or unpleasant stimulus or deprivation of a resident's rights or freedom for the purpose of reducing the rate, intensity, duration, or probability of a particular behavior. (7-1-99)T

63. **Relative(s)**. Persons related by birth, adoption, or marriage to the first degree and grand parent and grand child. (7-1-99)T

64. **Repeat Deficiency**. A violation or deficiency found on a resurvey or revisit that was also found on the previous survey or visit. (7-1-99)T

65. **Repeated Noncompliance**. A finding of substandard quality of care on three (3) consecutive surveys, or visits, or both. (7-1-99)T

66. **Representative Of The Department**. An employee of the Department or a designee of the Department. (7-1-99)T

67. **Resident, Boarding Home**. An individual who lives and functions independently and is responsible for making his own decisions. (7-1-99)T

68. **Residential And Assisted Living Facility**. One (1) or more buildings constituting a facility or residence, however named, operated on either a profit or nonprofit basis, for the purpose of providing twenty-four (24) hour care for three (3) or more adults who need personal care or assistance and supervision essential for sustaining activities of daily living or for the protection of the individual. In this chapter Licensed Residential and Assisted Living Facilities shall be referred to as "facility". It is the same entity defined in Sections 39-3302(29) and 39-3502(29), Idaho Code. Distinct segments of a facility may be licensed separately, provided each segment meets all applicable rules. (7-1-99)T

69. **Resident, Residential And Assisted Living Facility**. All occupants of a facility other than the owner, administrator, their immediate families, or employees. (7-1-99)T

70. **Room And Board**. Lodging and meals. (7-1-99)T

71. **Scope**. The frequency, incidence, or extent of the occurrence of a deficiency in a facility. (7-1-99)T

72. **Self-Administration Of Medication**. The act of a resident taking a single dose of his own medication from a properly labeled container and placing it internally in, or externally on, his own body as a result of an order by a physician and dentist. (7-1-99)T

73. **Self Preservation**. An individual's ongoing ability to execute actions necessary to safeguard against personal harm, injury, or accident. (7-1-99)T

74. **Service Plan**. The Negotiated Service Agreement, Personal Care Plan, Plan of Care, or Individual Support Plan. (7-1-99)T

75. **Severity**. The seriousness of a deficiency, which means the degree of actual or potential negative impact on a resident (as measured by negative outcomes or rights violations) or the degree to which his highest practicable physical, mental, or psychosocial well-being has been compromised. (7-1-99)T

76. **Story**. That portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or floor above. If the finished floor level directly above a basement or unused under-floor space is more than six (6) feet above grade as defined herein for more than fifty percent (50%) of the total perimeter or is more than twelve (12) feet above grade as defined herein at any point, such basement or unused under-floor space shall be a story. (7-1-99)T

77. **Story, First**. The lowest story in the building which qualifies as a story, as defined herein, except that a floor level in a building having only one (1) floor level shall be classified as a first story, provided such floor level is not more than four (4) feet below grade, as defined herein, for more than fifty percent (50%) of the total perimeter, or more than eight (8) feet below grade, as defined herein, at any point. (7-1-99)T

78. **Substandard Quality Of Care**. A finding by the licensing agency of one (1) or more deficiencies, the existence of which limit(s) the facility's ability to deliver adequate care or services. (7-1-99)T

79. **Substantial Compliance**. A facility is in substantial compliance with these rules when there are no deficiencies which endanger the health, safety, or welfare of the residents. (7-1-99)T

80. **Supervision**. Administrative activity which provides protection, guidance, knowledge of the resident's whereabouts, and assistance with activities of daily living. The administrator is responsible for providing appropriate supervision based on each resident's negotiated service agreement. (7-1-99)T

81. **Supportive Services**. The specific services that are provided to the resident in the community and that are required by the negotiated service agreement or reasonably requested by the resident. (7-1-99)T

82. **Survey**. An on-site review conducted by a surveyor to determine compliance in the areas of quality of care, rehabilitative care, resident rights, administrative services, dietary and nutrition services, activities, social participation, sanitation, infection control, and physical environment. (7-1-99)T

83. **Surveyor**. A person authorized by the Department to conduct surveys or complaint investigations to determine compliance with program requirements. (7-1-99)T

84. **Temporary License**. A license, not to exceed six (6) months in duration, which shall be issued to a facility upon compliance with the initial application process. The purpose of the temporary license is to give the Department time to determine the facility's ongoing capability to provide services and to meet rules. (7-1-99)T

85. **Trust Account**. Accounts maintained by the facility separate from its own accounts, to deposit, hold, or disburse monies belonging to residents. The facility shall be the trustee of such accounts and the residents shall be the beneficiaries. (7-1-99)T

86. **Uniform Assessment Instrument**. A set of standardized criteria adopted by the Department of

Health and Welfare to assess functional and cognitive abilities pursuant to IDAPA 16.03.23, "Rules Governing Uniform Assessments for State-Funded Clients". (7-1-99)T

87. **Waiver Services**. Home and Community Based (HCBS) Services. (7-1-99)T

88. **1501 Home**. A home as authorized by Section 39-3561(9) of the Idaho Code, to provide care and supervision for up to four (4) adults. Certification as a 1501 home is not transferable to another person or location other than as originally certified. Homes certified under this provision shall not be subject to the licensed residential care facility administrator or facility licensing requirements of Title 54, Chapter 42, Idaho Code, or Title 39, Chapters 33 and 35, Idaho Code. With the exception of the limitation on numbers of residents, 1501 homes are subject to all rules regarding certified family homes in Idaho. (7-1-99)T

011. -- 100. (RESERVED).

101. GENERAL REQUIREMENTS FOR A LICENSE.

01. **Current Valid License**. After July 1, 1996, no person, firm, partnership, association or corporation within the state, and no governmental unit shall operate, establish, manage, conduct, or maintain a facility for individuals with a mental illness, developmental disability, physical disability, the elderly, or a combination of resident populations, in the State without a current valid license issued by the Department. (7-1-99)T

02. **Application**. Any person or governmental unit proposing to operate a facility for individuals with a mental illness, developmental disability, physical disability, the elderly, or a combination of resident populations shall apply for a license to the licensing agency specifying the types of residents to be served and the level of care to be provided. (7-1-99)T

03. **Distinctive Name**. Every facility shall use a distinctive name in applying for a license, and the name shall not be changed without first notifying the Department in writing at least thirty (30) calendar days prior to the date that the proposed name change is to be effective. (7-1-99)T

04. **General Condition Of Licensure**. As a general condition of licensure, the following goods or services shall be provided to the resident as part of the base charge: (7-1-99)T

a. Appropriate, adequate supervision as outlined in the resident's negotiated service agreement; and (7-1-99)T

b. Room and board; and (7-1-99)T

c. Furnishings and equipment as outlined in Section 550; and (7-1-99)T

d. Staffing; and (7-1-99)T

e. Negotiated service agreement development and implementation; and (7-1-99)T

f. Provision for arrangement of reasonable transportation to community activities, recreational, religious activities, or a combination of activities. (7-1-99)T

05. **Department Access**. Each facility, all buildings associated with its operation and all records required under these rules shall be accessible at all times to the Department for the purposes of inspection, with or without prior notification. (7-1-99)T

06. **Issuance To Person And Address**. A license to operate a facility shall be issued specifically in the name of the applicant applying for a license, and only to the address of the facility stated in the application. (7-1-99)T

102. APPLICATIONS.

01. Initial License. The owner/applicant shall apply for a license on forms provided by the Department giving such information as the Department shall require including, but not limited to: (7-1-99)T

a. A written statement that the applicant has thoroughly read and reviewed this chapter and is prepared to comply with all provisions of IDAPA 16.03.22, "Rules for Licensed Residential and Assisted Living Facilities in Idaho"; (7-1-99)T

b. Satisfactory evidence that the applicant is of reputable and responsible character to include a criminal history check as provided in IDAPA 16.05.06, "Rules Governing Mandatory Criminal History Checks". A criminal history check must be repeated every three (3) years. If the applicant is unable to obtain an acceptable criminal record clearance, the Department shall deny the application; (7-1-99)T

c. A signed resume including a chronological employment history covering the last five (5) years; (7-1-99)T

d. Four (4) character references, two (2) of which must be provided by professional licensed individuals, including addresses and telephone numbers. Character references may not include relatives; (7-1-99)T

e. The applicant must provide a written statement that discloses any license revocation or other disciplinary action taken or in the process of being taken, against a license held or previously held by the entities in Idaho as specified in Section 39-3345 or 39-3545 or both, Idaho Code, or any other jurisdiction, or that verifies that the applicant has never been involved in any such action; (7-1-99)T

f. A statement must be provided which indicates that the applicant has completed the Department approved orientation; (7-1-99)T

g. If the owner/applicant is not the administrator, then the administrator shall meet the requirements of Subsections 102.01 through 102.01.f., 102.01.p., and 102.01.q.; (7-1-99)T

h. If the owner/applicant is a firm, association, organization, partnership, business trust, corporation, or company, the administrator or other members of the organization who will provide direct resident care or who will directly influence the facility shall provide the information contained in Subsections 102.01.a. through 102.01.g. Each shareholder/investor holding ten percent (10%) or more interest in the firm shall be listed on the application; (7-1-99)T

i. Evidence of liability insurance sufficient to cover claims against the facility; (7-1-99)T

j. A statement from the local fire authority that the facility is located in a lawfully constituted fire district or affirmation that a lawfully constituted fire authority will respond to a fire at the facility; (7-1-99)T

k. The building shall be required to meet all applicable requirements of local, state, and national codes, including current electrical and plumbing requirements; (7-1-99)T

l. A statement from a licensed electrician or the local/state electrical inspector that all wiring in the facility complies with applicable local codes. A copy of the statement shall be kept on file at the facility; (7-1-99)T

m. If the facility is not utilizing an approved municipal water or sewage treatment system, a statement from a local environmental health specialist indicating that the water supply and sewage disposal system meet the requirements of the Department. The reports shall be kept on file at the facility, and shall be kept current; (7-1-99)T

n. Completed application form signed by the applicant; (7-1-99)T

o. A complete set of operational policies and procedures which meets the requirements of these rules. (7-1-99)T

p. Licensed Administrator Requirements. If the owner/applicant is not the administrator, only the administrator is required to be licensed as an Idaho Residential Care Administrator. (7-1-99)T

q. Administrator's License. A copy of the Idaho Residential Care Administrator's license, or evidence that the administrator is currently in the process of obtaining a license, must be provided with the application. (7-1-99)T

r. Facility Floor Plan. A rough sketch detailing the floor plan of the facility, including measurement of all rooms, or a copy of professionally prepared blueprints shall be submitted for evaluation by the Department (see Sections 526 and 527). (7-1-99)T

02. Building Evaluation Fee. The application must be accompanied by a five hundred dollar ($500) initial building evaluation fee. (7-1-99)T

03. Written Request For Building Evaluation. The applicant must provide a written request for a building evaluation for existing buildings, which includes the address of the building that is to be evaluated; the level of care of the residents for whom the building is being evaluated to serve; and the name, address, and telephone number of the person who is to receive the building evaluation report completed by the Department. (7-1-99)T

04. Failure Of The Applicant To Cooperate With The Licensing Agency In The Completion Of The Application Process Shall Result In The Denial Of The Application. Failure to cooperate means that the information described in this section of the rules has not been provided, or not provided in the form requested by the licensing agency, or both. This application process cannot exceed six (6) months. (7-1-99)T

103. CHANGE OF OWNERSHIP.

01. Nontransferability Of License. Licenses are not transferable from one (1) individual to another or from one (1) lessee to another or from one (1) location to another. When a change of ownership, lease, or location occurs, the facility must be relicensed, and the new operator must follow the application procedures described above. (7-1-99)T

02. Application For Change Of Ownership. The application for a change of ownership must be submitted to the licensing agency at least sixty (60) days prior to the proposed date of change. (7-1-99)T

03. Change Of Ownership For A Leased Facility In Litigation. An application for change of ownership of a facility that is being leased from a person who is in litigation for failure to meet licensure standards, or who has had his license revoked, shall include evidence that there is a bonafide arms length agreement and relationship between the two (2) parties. See Subsection 111.02.h. (7-1-99)T

104. -- 110. (RESERVED).

111. DENIAL OF LICENSE.

01. Endangerment Of Resident's Health And Safety. The Department may deny the issuance of a license when conditions exist that endanger the health or safety of any resident. (7-1-99)T

02. Substantial Compliance With These Rules. The licensing agency may deny the issuance of a license when the facility is not in substantial compliance with these rules. Additional causes for denial of a license may include the following: (7-1-99)T

a. The applicant has willfully misrepresented or omitted information on the application or other documents pertinent to obtaining a license; or (7-1-99)T

b. The applicant has been guilty of fraud, gross negligence, abuse, assault, battery, or exploitation with respect to the operation of a health facility or residential care facility or certified family home; or (7-1-99)T

c. The applicant is actively affected in his performance by alcohol or the use of drugs classified as controlled substances; or (7-1-99)T

d. The applicant has been convicted of a criminal offense other than a minor traffic violation within the past five (5) years; or (7-1-99)T

e. The applicant is of poor moral and responsible character or has been convicted of a felony or defrauding the government; or (7-1-99)T.

f. The applicant has been denied or the applicant's wrongdoing has caused the revocation of the license/certificate of any health facility, residential and assisted living facility, or certified family home; or (7-1-99)T

g. The applicant has been convicted of operating any health facility or residential care facility without a license or certified family home without a certificate; or (7-1-99)T

h. The applicant is directly under the control or influence of any person who has been subject to the proceedings described in Subsection 111.02.c.; or (7-1-99)T

i. The applicant is directly under the control or influence of any person who is of poor moral and responsible character or has been convicted of a felony or defrauding the government; or (7-1-99)T

j. The applicant is directly under the control or influence of any person who has been convicted of a criminal offense other than a minor traffic violation in the past five (5) years. (7-1-99)T

112. EFFECT OF PREVIOUS REVOCATION OR DENIAL OF A LICENSE.
The licensing agency is not required to review the application of an applicant who has had a license denied until five (5) years have elapsed from the date of license denial or appeal. (7-1-99)T

113. -- 124. (RESERVED).

125. LICENSE REQUIREMENTS.

01. Person And Premises. Each license issued shall be only for the premises and persons named in the application and shall not be transferable or assignable; (7-1-99)T

02. Number Of Beds And Residents. Each license shall specify the maximum allowable number of beds and residents to be housed. All occupants other than the owner, administrator, immediate family, or employees shall be included in the licensed bed capacity; and (7-1-99)T

03. Display Of License. The license shall be posted in the facility, clearly visible to the general public. (7-1-99)T

126. TYPE OF LICENSE.

01. Temporary License. Following completion of an acceptable application, the final inspection, approval of the building by the licensing agency, and after determining that the facility has the initial capability to provide services, the facility shall be issued a temporary license, not to exceed six (6) months. Within the six (6) month period, the licensing agency shall conduct a full survey to determine the facility's ongoing capability to provide services. (7-1-99)T

a. The temporary license may be replaced with a full license prior to the expiration of the temporary license, when the licensing agency has completed a revisit and has determined that the facility qualifies for a full license; or (7-1-99)T

b. During the period of the temporary license, if the licensing agency determines that the facility is not in compliance with the provisions of these rules, facility shall be denied a full license and the temporary license shall be revoked. (7-1-99)T

02. Full License. A full license shall be valid for a period of time not to exceed twelve (12) months from the date of issuance. The license shall expire at the end of its stated period unless it is extended by the licensing

agency or by operation of law. (7-1-99)T

03. Provisional License. Facilities found to be in substantial compliance with these rules but which fail to comply in every detail may be issued a provisional license, when failure to comply will not adversely affect the health and safety of the residents. A license issued on the basis of substantial compliance is contingent upon the correction of deficiencies in accordance with an agreed upon plan. (7-1-99)T

a. Provisional licenses may be issued for up to six (6) months, and only to facilities that are fully licensed at the time the provisional license is issued. (7-1-99)T

b. A provisional license will not be issued to a facility operating under a temporary license. (7-1-99)T

127. EXPIRATION AND RENEWAL OF LICENSE.

01. Application For License Renewal. The application for renewal of a license shall be submitted on a form prescribed by the Department. The completed application shall be returned to the Department at least sixty (60) days prior to the expiration of the existing license. (7-1-99)T

02. Existing License. The existing license, unless suspended or revoked, shall remain in force and effect until the licensing agency has acted upon the application renewal, when such application for renewal is timely filed. (7-1-99)T

128. -- 135. (RESERVED).

136. STATE LICENSING TO SUPERSEDE LOCAL REGULATION.
These rules and standards shall supersede any program of any political subdivision of the state which licenses or sets standards for facilities. (7-1-99)T

137. -- 149. (RESERVED).

150. ENFORCEMENT PROCESS.

01. Remedies. If the Department finds that a facility does not or did not meet a rule governing licensed residential and assisted living facilities, it may impose the following remedies, independently or in conjunction with others, subject to the provisions of these rules for notice and appeal: (7-1-99)T

a. Ban on all admissions, see Section 925; (7-1-99)T

b. Ban on admissions of residents with certain diagnosis, see Section 926; (7-1-99)T

c. Civil monetary penalties, see Section 927; (7-1-99)T

d. Appointment of temporary management, see Section 928; (7-1-99)T

e. Summary suspension of the license, or transfer residents, or both, see Section 929 and 971; (7-1-99)T

f. Issuance of a provisional license, see Section 930; or (7-1-99)T

g. Revocation of the facility's license, see Section 931. (7-1-99)T

151. -- 169. (RESERVED).

170. UNLICENSED FACILITIES.

01. Unlicensed Facility. An operation shall be considered an unlicensed facility if it meets the definition of a facility stated in these rules, or is represented to provide care and serve the population of a residential

and assisted living facility, is not licensed, and is not exempt from licensure. (7-1-99)T

02. Residents In Unlicensed Facilities. Upon discovery of an unlicensed facility, the Department shall refer residents to appropriate placement or adult protective services agency if either of the following conditions exist: (7-1-99)T

a. There is an immediate threat to the resident's health and safety; or (7-1-99)T

b. The unlicensed facility does not cooperate with the licensing agency to apply for a license, meet licensing standards and obtain a license. (7-1-99)T

03. Operator Of An Unlicensed Facility. A person found to be operating a facility without a license shall be guilty of a misdemeanor punishable by imprisonment in a county jail not to exceed six (6) months, or by a fine not to exceed five thousand dollars ($5,000), pursuant to Section 39-3352(4), Idaho Code. (7-1-99)T

04. Prosecution Of Violators. In the event the county attorney in the county where the alleged violation occurred fails or refuses to act within thirty (30) days of notification of the violation, the Attorney General is authorized to prosecute violations under the provisions of Section 39-3352(5), Idaho Code. (7-1-99)T

05. Placement Of Persons Into An Unlicensed Facility. No person shall place, refer, or recommend placement of a person into a facility which is operating without a license. To do so shall constitute a misdemeanor, pursuant to Section 39-3353, Idaho Code. (7-1-99)T

171. -- 180. (RESERVED).

181. INSPECTIONS.

01. Inspection Of Facilities. The licensing agency shall cause to be made such inspections and investigations, based on previous survey results, as it may deem necessary to determine compliance with this chapter and applicable rules and standards. (7-1-99)T

02. Unannounced Inspections. For licensed facilities, with the exception of initial surveys, all inspections and investigations will be made unannounced and without prior notice. (7-1-99)T

03. Inspection Services. The licensing agency may utilize the services of any legally qualified person or organization, either public or private, to examine and inspect any entity requesting a facility license. (7-1-99)T

04. Access And Authority. An inspector shall have full access and authority to examine among other things, quality of care, services delivery, resident records, facility's records including any records or documents pertaining to any financial transactions between residents and the facility or any of its employees, resident accounts, physical premises, including the condition of buildings, grounds and equipment, food service, water supply, sanitation, maintenance, housekeeping practices, and any other areas necessary to determine compliance with applicable rules and standards. (7-1-99)T

05. Interview Authority. An inspector shall have the authority to interview the license holder, administrator, staff, residents, residents' families, or other legally responsible person. Interviews with residents shall be confidential and conducted privately unless otherwise specified by the resident. (7-1-99)T

06. Access To The Entire Facility. The inspector shall have full authority to inspect the entire facility, including personal living quarters of operators, administrator, or staff living in the facility, to check for inappropriate storage of combustibles, faulty wiring, or other conditions that may have a direct impact on the compliance with these rules. (7-1-99)T

07. Written Report. Following any investigation or inspection, the licensing agency shall provide within a reasonable period of time, a written report to the administrator of the facility. The report shall include the finding of the investigation or inspection. (7-1-99)T

08. Statement Of Deficiencies. If deficiencies are identified during the investigation or inspection, the facility shall be sent a statement of deficiencies which requires a plan of correction. (7-1-99)T

09. Plan Of Correction. An acceptable plan of correction must include how the deficiency was corrected or how it shall be corrected, what steps have been taken to assure that the deficiency does not recur, and acceptable time frames for correction of the deficiency. (7-1-99)T

10. Submit Plan Of Correction. The facility shall be given a reasonable period of time to develop a plan of correction and to return the plan of correction to the licensing agency. (7-1-99)T

11. Follow-Up Surveys. Follow-up surveys may be conducted to ascertain if corrections to deficiencies are being made according to time frames established in the plan of correction. (7-1-99)T

182. -- 190. (RESERVED).

191. COMPLAINTS.

01. Filing A Complaint. A person who believes that any provision of these rules has been violated may file a complaint with the Department. (7-1-99)T

02. Investigations. The licensing agency shall investigate, or cause to be investigated, any complaint alleging a violation of these rules. (7-1-99)T

03. Disclosure Of Complaint Information. The Department will not disclose the name or identifying characteristics of a complainant unless: (7-1-99)T

a. The complainant consents in writing to the disclosure; (7-1-99)T

b. The investigation results in a judicial proceeding and disclosure is ordered by the court; or (7-1-99)T

c. The disclosure is essential to prosecution of a violation. The complainant shall be given the opportunity to withdraw the complaint before disclosure. (7-1-99)T

04. Method Of Investigation. The nature of the complaint shall determine the method used to investigate the complaint. On-site investigations of facilities shall be unannounced. (7-1-99)T

05. Exit Conference. The facility administrator or his designee shall be offered an exit conference, where the findings of the investigation shall be discussed. (7-1-99)T

06. Statement Of Deficiency. If violation of these rules is identified, depending on the severity, the facility shall be sent a statement of deficiencies, shall be required to prepare a plan of correction, and return it to the licensing agency within a time frame designated by the licensing agency. (7-1-99)T

07. Actions. The licensing agency shall inform the complainant or, if requested by the complainant, the complainant's representative, of the results of the investigation and any action to be taken by the facility to resolve the problem. (7-1-99)T

192. PUBLIC DISCLOSURE.

01. Disclosure Of Resident Identity. Information received by the licensing agency through filed reports, inspections, or as otherwise authorized under the law, shall not be disclosed publicly in such a manner as to identify individual residents except as necessary in a proceeding involving a question of licensure. (7-1-99)T

02. Public Availability Of Deficiencies. A current list of deficiencies relating to a facility, including plans of correction, shall be available to the public upon written request to any regional office of the Department or to the licensing agency. (7-1-99)T

193. -- 249. (RESERVED).

250. RESIDENTS' RIGHTS.
Each facility shall develop and implement a written residents' rights policy which shall protect and promote the rights of each resident including, but not limited to, the following: (7-1-99)T

01. Resident Records. Each facility must maintain and keep current a record of the specific information on each resident (refer to Section 426). Upon request a resident shall be provided access to information in his records. (7-1-99)T

02. Privacy. Each resident must be assured the right to privacy with regard to accommodations, medical, and other treatment, written and telephone communications, and visits and meetings of family and resident groups. (7-1-99)T

03. Humane Care And Environment. Each resident shall have the right to humane care and a humane environment including the following: (7-1-99)T

a. The right to a diet which is consistent with any religious or health-related restrictions; (7-1-99)T

b. The right to refuse a restricted diet; and (7-1-99)T

c. The right to a safe and sanitary living environment. (7-1-99)T

04. Dignity And Respect. Each resident shall have the right to be treated with dignity and respect, including: (7-1-99)T

a. The right to be treated in a courteous manner by staff; (7-1-99)T

b. The right to receive a response from the facility to any request of the resident within a reasonable time; and (7-1-99)T

c. The right to be free from intimidation, manipulation, coercion, and exploitation. (7-1-99)T

05. Behavior Management Programs. Each resident shall have the right to be free of unwarranted use of behavior management programs and chemical and physical restraints. (7-1-99)T

06. Habilitation/Training. The resident shall have the right to participate in a habilitation/training program if the resident qualifies for habilitation/training, as determined by an assessment, if he desires to participate, and if the program is available. (7-1-99)T

07. Participation In The Development Of The Negotiated Service Agreement. Each resident shall have the opportunity to participate in the development of, review of, and changes to his negotiated service agreement. Residents or their legal guardians must be advised of alternative courses of care and their consequences when such alternatives are available. The resident's preference about alternatives must be elicited and considered in the development of the negotiated service agreement. (7-1-99)T

08. Personal Possessions. Each resident shall have the right to: (7-1-99)T

a. Wear his own clothing; (7-1-99)T

b. Determine his own dress and hair style; (7-1-99)T

c. Retain and use his own personal property in his own living area so as to maintain individuality and personal dignity; and (7-1-99)T

d. Be provided a separate storage area in his own living area and at least one (1) locked cabinet or

drawer, if the resident is capable of managing lock and key, for keeping personal property. (7-1-99)T

09. Personal Funds. Residents who are clients of the Department shall retain the basic allowance for their personal use. In addition, each client of the Department (Aid to the Aged, Blind, and Disabled (AABD)) is to retain the standard unearned income disregard allowed by the Department. The resident may pay the facility for personal laundry service using the income disregarded by the standard income disregard described in IDAPA 16.03.05, "Rules Governing Eligibility for Aid to the Aged, Blind, and Disabled". The resident is not required to use the facility's laundry service and may retain the disregarded income for their personal use. (7-1-99)T

10. Management Of Personal Funds. A facility shall not require a resident to deposit his personal funds with the facility. If the facility manages resident funds, the facility must account for the personal funds of the resident deposited with the facility as follows: (7-1-99)T

a. The resident must give the facility written authorization to manage his funds; (7-1-99)T

b. The facility must assure a full and complete accounting of each resident's personal funds, maintain a written record of all financial transactions involving each resident's personal funds deposited with the facility, and afford the resident, or legal guardian/conservator of the resident, reasonable access to such record; (7-1-99)T

c. The facility must deposit any amount of a resident's personal funds in excess of one hundred dollars ($100) in an interest bearing account that is separate from any of the facility's operating accounts, and credit all interest earned on the separate account to the resident account; (7-1-99)T

d. The facility may maintain any other resident funds in a non-interest bearing account or petty cash fund; (7-1-99)T

e. The facility must assure that the resident has access to his personal funds during reasonable hours; (7-1-99)T

f. Upon the death of a resident with such an account who is not a client of the Department, the facility must promptly convey the resident's personal funds, with a final accounting of such funds, to the individual administering the resident's estate; and (7-1-99)T

g. Upon the death of a resident with such an account who is a client of the Department, the facility must promptly refund the remaining balance of the resident's personal funds, with a final accounting of such funds, to the Department. (7-1-99)T

11. Access And Visitation Rights. Each facility must permit: (7-1-99)T

a. Immediate access to any resident, by any representative of the Department, by the state Ombudsman for the elderly or his designees, by Co-AD or their designees for individuals with a developmental disability or mental illness, by the Idaho Alliance For Mental Illness or their designee for individuals with a mental illness, or by the resident's physician; (7-1-99)T

b. Immediate access to a resident, subject to the resident's right to deny or withdraw consent at any time, by immediate family or other relatives; (7-1-99)T

c. Immediate access to a resident, subject to reasonable restrictions and the resident's right to deny or withdraw consent at any time, by others who are visiting with the consent of the resident; and (7-1-99)T

d. Reasonable access to a resident by any entity or individual that provides health, social, legal, or other services to the resident, subject to the resident's right to deny or withdraw consent at any time. (7-1-99)T

12. Access By Advocates And Representatives. A facility shall permit advocates and representatives of community legal services program, whose purposes include rendering assistance without charge to residents, to have access to the facility at reasonable times in order to: (7-1-99)T

a. Visit, talk with and make personal, social services programs, and legal services available to all residents; (7-1-99)T

b. Inform residents of their rights and entitlements, their corresponding obligations under state, federal, and local laws by distribution of educational materials or discussion in groups, or with individuals, or both; (7-1-99)T

c. Assist residents in asserting their legal rights regarding claims for public assistance, medical assistance, and social security benefits, as well as in all other matters in which residents are interested. This assistance may be provided individually, or in a group basis, and may include organizational activity, counseling, and litigation; (7-1-99)T

d. Engage in all other methods of assisting, advising, and representing residents so as to extend to them the full enjoyment of their rights; (7-1-99)T

e. Communicate privately and without restrictions with any resident who consents to the communication; and (7-1-99)T

f. Observe all common areas of the facility. (7-1-99)T

13. Posting Of Pertinent Advocacy Groups. The names, addresses, and telephone numbers of all pertinent advocacy groups shall be readily available in the facility for resident access. These groups shall include, but not be limited to: (7-1-99)T

a. The state licensing agency; (7-1-99)T

b. The state Ombudsman for the elderly; (7-1-99)T

c. Co-Ad, Inc., Idaho's Protection and Advocacy System for individuals with a disability; (7-1-99)T

d. Idaho Alliance For Mental Illness for individuals with a mental illness; and (7-1-99)T

e. Adult Protection. (7-1-99)T

14. Employment. Each resident shall have the right to refuse to perform services for the facility except as contracted for by the resident and the administrator of the facility. If the resident is hired by the facility to perform services as an employee of the facility, the wage paid to the resident and withholding shall be consistent with state and federal law. (7-1-99)T

15. Confidentiality. Each resident shall have the right to confidentiality of personal and clinical records. (7-1-99)T

16. Freedom From Abuse. Each resident shall have the right to be free from physical, mental or sexual abuse, neglect, corporal punishment, involuntary seclusion, and any physical or chemical restraints imposed for purposes of discipline or convenience. (7-1-99)T

17. Freedom Of Religion. Each resident shall have the right to practice the religion of his choice or to abstain from religious practice. Residents shall also be free from the imposition of the religious practices of others. (7-1-99)T

18. Control And Receipt Of Health Related Services. Each resident shall have the right to control his receipt of health related services, including: (7-1-99)T

a. The right to retain any health related services including but not limited to the services of his own personal physician and dentist; (7-1-99)T

b. The right to select the pharmacy or pharmacist of his choice; and (7-1-99)T

c. The right to confidentiality and privacy concerning his medical condition, dental condition, and treatment. (7-1-99)T

19. Grievances. Each resident shall have the right to voice and file a grievance with respect to treatment or care that is furnished, without discrimination or reprisal for voicing the grievance and the right to prompt efforts by the facility to resolve grievances the resident may have, including those with respect to the behavior of other residents. (7-1-99)T

20. Participation In Resident And Family Groups. Each resident shall have the right to organize and participate in resident groups in the facility and the right of the resident's family to meet in the facility with the families of other residents in the facility. (7-1-99)T

21. Participation In Other Activities. Each resident shall have the right to participate in social, religious, and community activities that do not interfere with the rights of other residents in the facility. (7-1-99)T

22. Examination Of Survey Results. Each resident shall have the right to examine, upon reasonable request, the results of the most recent survey of the facility conducted by the Department with respect to the facility and any plan of correction in effect with respect to the facility. (7-1-99)T

23. Transfer Or Discharge. Each resident shall have the right to be transferred or discharged only for medical reasons, or for his welfare or that of other residents, or for nonpayment for his stay and in non-emergency conditions is given at least fifteen (15) calendar days advance written notice prior to the date of discharge or transfer or up to thirty (30) calendar days as agreed to in the admission agreement. (7-1-99)T

24. Other Facilities. Each resident has a right to review a list of other facilities that may be available to meet his needs. (7-1-99)T

25. Citizenship Rights. Each resident has a right to be encouraged and assisted to exercise his rights as a resident and as a citizen, including the right to be informed and to vote. (7-1-99)T

26. Advanced Directives. Elderly residents shall have the right to be informed, in writing, regarding the formulation of an advanced directive to include applicable State law. (7-1-99)T

27. Other Rights. Each resident shall have any other right established by law. (7-1-99)T

28. Resident Councils. Every facility over fifteen (15) beds shall assist the residents in establishing and maintaining a resident council. The council shall be composed of residents of the facility and may include their family members. The council may extend membership to advocates, friends and others. (7-1-99)T

29. Council Duties. The council shall have the following duties: (7-1-99)T

a. To assist the facility in developing a grievance procedure; (7-1-99)T

b. To communicate resident opinions and concerns; (7-1-99)T

c. To obtain information from the facility and disseminate the information to the residents; (7-1-99)T

d. To identify problems and participate in the resolution of those problems; and (7-1-99)T

e. To act as a liaison with the community. (7-1-99)T

30. Waiver For Resident Council. The requirement that every facility over fifteen (15) beds shall assist the residents in establishing and maintaining a resident council may be waived provided the following conditions are met: (7-1-99)T

a. The operator meets regularly with residents; (7-1-99)T

b. Residents decline to participate in a formal council; and (7-1-99)T

c. Appropriate documentation exists to indicate the residents' decision. (7-1-99)T

251. NOTICE OF RIGHTS.
Notice of Rights. Each facility shall: (7-1-99)T

01. Inform Residents Orally And In Writing. Inform each resident, orally and in writing, at the time of admission to the facility, of his resident rights during the stay at the facility; (7-1-99)T

02. Written Statements. Make available to each resident, upon request, a written statement of such rights; (7-1-99)T

03. Written Description Of Rights. The written description of resident rights in Section 250 shall include a description of the protection of personal funds and a statement that a resident may file a complaint with the licensing agency respecting resident abuse, neglect, and misappropriation of resident property in the facility; and (7-1-99)T

04. Copy Of Rights Posted In The Facility. A copy of the list of resident rights shall be conspicuously posted in the facility at all times. (7-1-99)T

252. -- 374. (RESERVED).

375. ADMINISTRATION AND ADMINISTRATOR.
Each facility shall be organized and administered under one (1) authority. (7-1-99)T

376. QUALIFICATIONS OF THE ADMINISTRATOR.

01. Qualifications Of The Administrator. Each facility shall have at least one (1) full-time administrator who: (7-1-99)T

a. Has not been convicted of any felony or defrauding of the federal government as verified by a criminal background check (refer to Section 39-5604, Idaho Code); (7-1-99)T

b. Has sufficient physical, emotional, and mental capacity to carry out the requirements of the rules as verified by a statement from a licensed physician or nurse practitioner upon assuming duties; (7-1-99)T

c. The Department may conduct such investigations as it may deem necessary to determine the capabilities of an administrator and may request an administrator to provide any additional information it deems necessary related to that person's character and qualifications; and (7-1-99)T

d. The administrator, his relatives, or employees shall not act as or seek to become the legal guardian of, or have power of attorney for any resident, unless a waiver is granted by the Department at the time of each survey on a case-by-case basis considering cases where guardianship is in the best interest of the resident including but not limited to medical necessity, protection from abuse/neglect, or safety and supervision issues of the resident. The administrator may not require the resident to name them as the payee as a condition of providing services. Specific limited powers of attorney to address emergency procedures where competent consent cannot otherwise be obtained are permitted. (7-1-99)T

02. Valid License For Administrator. The administrator shall have a valid residential care administrator's license. (7-1-99)T

377. RESPONSIBILITIES OF THE ADMINISTRATOR.

01. Supervision. The administrator shall provide supervision for all personnel. (7-1-99)T

02. Personnel Background Check. The administrator shall ensure that, prior to or upon hire, a background check is conducted on each employee. (7-1-99)T

03. Sufficient Personnel. The administrator shall have sufficient personnel: (7-1-99)T

a. To assure the safety and proper care of the residents in the facility based upon the physical and mental condition of the residents; (7-1-99)T

b. To assure the safety and proper care of the residents in the facility based on the size and layout of the building, or buildings, or both; (7-1-99)T

c. To assure the safety and proper care of the residents in the facility based on the capabilities and training of the personnel; (7-1-99)T

d. To assure the implementation of emergency procedures, including evacuation of the residents, if required, in accordance with the facility's disaster preparedness plan, in the event of fire, disaster, or other threats pertaining to the health, safety, and security of the residents; and (7-1-99)T

e. To assure the safety and proper care of the residents in the facility based on compliance with this chapter. (7-1-99)T

04. Personnel Job Descriptions For Personal Care To Residents. The administrator shall develop and provide written job descriptions to personnel who are responsible for providing personal care to residents. (7-1-99)T

05. Minimum Age Of Personnel. The administrator shall assure that no personnel providing hands-on care or supervision services shall be under eighteen (18) years of age. (7-1-99)T

06. Assignment Of Duties To Personnel. The administrator shall assign to each employee duties consistent with his level of education, preparation, and experience. (7-1-99)T

07. CPR And First Aid Certification For Personnel On Duty. The administrator shall assure that there is at least one (1) employee within the facility at all times who has a certification in CPR and an approved first aid course. (7-1-99)T

08. Delegation Of Authority. (7-1-99)T

a. When residents are on the premises and require care, the administrator shall not leave the premises without delegating necessary authority to a competent employee who is familiar with the residents and their needs, emergency procedures, the location and operation of emergency equipment, and how the administrator can be reached in the event of an emergency. (7-1-99)T

b. When all residents are off site, the administrator or his designee must be reachable in an emergency. (7-1-99)T

09. Personnel With Infections. The administrator shall assure that personnel who have a communicable disease, infectious wound, or other transmittable condition and who provide care or services to residents: (7-1-99)T

a. Shall be required to implement protective infection control techniques approved by the administrator; (7-1-99)T

b. Shall not be required to work until the infectious stage is corrected or shall be reassigned to a work area where contact with others is not expected and likelihood of transmission of infection is absent; and (7-1-99)T

c. Shall take other effective steps to avoid spreading the employee's infection. (7-1-99)T

10. Personnel Training In Infection Control For Universal Precautions. The administrator shall assure that each person employed by the facility, including housekeeping personnel, or contract personnel, or both, who may come into contact with potentially infectious material, are trained in infection control procedures for Universal Precautions. (7-1-99)T

11. Relief Personnel. The administrator shall provide for trained relief personnel to substitute for regular personnel during vacation, illness, or other absences from the facility. (7-1-99)T

12. Notification Of Change In Administrator. Facility owners shall immediately notify the licensing agency, in writing, of a change in a facility's administrator. (7-1-99)T

13. Responsibility For Reports And Records. The administrator shall be responsible for the completion, storage, and submission of such reports and records as may be required by the licensing agency. (7-1-99)T

14. Responsibility For Compliance With Rules. The administrator shall be responsible for compliance with these rules. (7-1-99)T

378. -- 396. (RESERVED).

397. TRAINING OF FACILITY PERSONNEL.

01. Orientation Program. Each facility shall develop and follow a structured written orientation training program designed to meet the training needs of new personnel in relation to responsibilities of the facility to ensure quality of care and compliance with the rules. (7-1-99)T

02. Time Requirements. A minimum of eight (8) hours of job-related orientation training shall be provided to all new personnel before they are allowed to provide unsupervised personal assistance to residents. (7-1-99)T

03. Orientation Training Documentation. Signed evidence of personnel orientation training, indicating hours and topic, shall be retained at the facility. (7-1-99)T

398. PERSONNEL CONTINUING TRAINING.
Personnel Continuing Training Time Requirements. Each employee who provides personal assistance to residents shall receive a minimum of eight (8) hours of job related continuing training per year. Signed evidence of personnel continuing training, indicating hours and topic, shall be retained at the facility. CPR and First Aid certification are not included as part of this eight (8) hour minimum per year. (7-1-99)T

399. PERSONNEL.

01. Policies. Written personnel policies shall be on file and provided to personnel which describe the employees' rights, responsibilities, and employer's expectations. (7-1-99)T

02. Job Descriptions. Each employee shall be provided with a job description outlining authority, responsibilities, and duties. (7-1-99)T

03. Personnel Records. A record for each employee shall be maintained and available. (7-1-99)T

400. STAFFING STANDARDS AND REQUIREMENTS.

01. Sufficient Personnel. The facility shall have sufficient personnel to provide care, during all hours, required in each resident's negotiated service plan. The facility retains the full responsibility of assuring that sufficient personnel is available in the facility at all times to assure residents' health, safety, comfort, and supervision. Residents shall not be left in charge of other residents. (7-1-99)T

02. Residents' Sleeping Hours. There must be as least one (1) staff person immediately available, at

the facility, during residents' sleeping hours. (7-1-99)T

03. Level III Residents. In facilities admitting or retaining any Level III residents or a combination of Level I, II, or III, there shall be a minimum of one (1) staff person, in the same building, up and awake during the residents' sleeping hours. (7-1-99)T

04. Level III Resident Waiver. In facilities admitting or retaining any Level III clients or a combination of Level I, II, or III, the supervision requirement that personnel be up and awake on a twenty-four (24) hour basis may be the subject of a request for a waiver or variance pursuant to Section 005. In facilities of fifteen (15) beds or less, if the supervision requirement in each resident's negotiated service agreement states that during residents' sleeping hours personnel up and awake is unnecessary, a request for variance of this requirement will be considered by the Department. (7-1-99)T

05. Two Or More Buildings. In facilities where residents are housed in two (2) or more detached buildings, personnel shall monitor each building on a regular basis. During the residents' sleeping hours, a staff person shall monitor each building at least once an hour. (7-1-99)T

06. Additional Personnel. Additional personnel as identified by the Negotiated Service Agreement and the Universal Assessment Instrument may be required based on the following: (7-1-99)T

a. The physical and mental condition of the residents; (7-1-99)T

b. The configuration and design of the building; and (7-1-99)T

c. The location of the facility, both in terms of time and distance, and its proximity to emergency and supportive services. (7-1-99)T

07. Staffing Patterns Shall Be Based On Resident Need Rather Than Resident Numbers. (7-1-99)T

08. Level III Resident Waiver. Personnel up and awake at night shall be required and a waiver or variance will not be granted when a facility has ten (10) or more Level III clients. (7-1-99)T

09. Work Records. Work records shall be maintained in writing which reflect: (7-1-99)T

a. Personnel on duty, at any given time, for the previous twelve (12) months; and (7-1-99)T

b. The first and last names, of each employee, and their position. (7-1-99)T

401. -- 419. (RESERVED).

420. OPERATIONAL STANDARDS AND PROCEDURES.

01. Operational Policies. Each facility shall develop and implement a written set of operational policies; which shall be available at all times and shall include, but not be limited to: (7-1-99)T

a. Appropriate transfer to other facilities for acute medical or other care to include timely transfer when needed; (7-1-99)T

b. Signed release by the resident or legal guardian/conservator for transfer of pertinent information to the receiving facility; (7-1-99)T

c. Arrangements made for emergency medical, dental, or other services; (7-1-99)T

d. Temporary detention of a resident against his will to protect him or others from harm, which shall include how this is to be accomplished, and persons to be notified including the resident's legal guardian/conservator or family, the Department and local law enforcement; (7-1-99)T

e. Maintenance of a log to include documentation indicating any significant change in a resident's physical or mental status and the facility's action or response. A twelve (12) month record of logs shall be maintained in the facility; (7-1-99)T

f. Notification of significant changes in physical or mental condition to the family, legal guardian/ conservator, or should there be none, the Department; (7-1-99)T

g. Conditions under which transfer of a resident can be made without prior notification to, or consent of, the family or legal guardian/conservator; (7-1-99)T

h. Assurance that physician's orders are adhered to; (7-1-99)T

i. Death of a resident while in the facility; (7-1-99)T

j. Provision and maintenance of a system of identifying each resident's personal property and methods for safekeeping of his valuables. Each resident's clothing and other property shall be reserved for his own use; (7-1-99)T

k. Provision for the timely return of the resident's valuables and personal purchases at the time of his transfer, discharge, or death; (7-1-99)T

l. Provisions for smoking or non-smoking; (7-1-99)T

m. Provisions for alerting or calling an operator or attendant during the night and permitting any resident to secure the attention of personnel at any time; (7-1-99)T

n. Plans and procedures for the operation of the physical plant, which include, but are not limited to, utilities, fire safety, and plant maintenance; (7-1-99)T

o. Investigations and review of written reports by the administrator of every incident/accident involving a resident; and (7-1-99)T

p. Notification of the resident's family or legal guardian/conservator, or in the case of Department clients, the regional office of the Department, of any unusual happenings to a resident such as accidents, sudden illness, disease, unexplained absence, or death. (7-1-99)T

q. Any physician, nurse, employee of a public or private health facility, or a state licensed or certified residential facility serving vulnerable adults, medical examiner, dentist, Ombudsman for the elderly, osteopath, optometrist, chiropractor, podiatrist, social worker, police officer, pharmacist, physical therapist, or home care worker who has reasonable cause to believe that a vulnerable adult is being or has been abused, neglected, or exploited shall immediately report such information to the Idaho Commission on Aging or its Area Agencies on Aging (Section 39-5303, Idaho Code). (7-1-99)T

r. It is the facility's responsibility to immediately report suspected abuse, neglect or exploitation of any vulnerable adult to the Commission on Aging. When there is reasonable cause to believe that abuse, or sexual assault has resulted in death or serious physical injury jeopardizing the life, health, or safety of a vulnerable adult resident, the facility must report such information within four (4) hours to the appropriate law enforcement agency. (refer to Sections 39-5303 and 39-5310, Idaho Code). (7-1-99)T

02. Resident Medications. There shall be a policy describing the facility's system for handling resident medications in accordance with Section 428 of these rules. (7-1-99)T

03. Behavior Management Programs. If any behavior management is used, there shall be a policy describing the facility's behavior management program which is: (7-1-99)T

a. Designed and closely monitored to assure that the interventions of the program are positive;

(7-1-99)T

b. The least restrictive and least aversive means of obtaining the desired result; and (7-1-99)T

c. Must be approved by an individual qualified in resident behavior management and must be approved by the Department if the client is a client of the Department. (7-1-99)T

04. Habilitation/Training. If appropriate, there shall be a policy describing the facility's habilitation/training program which: (7-1-99)T

a. Is designed to promote optimal independence; (7-1-99)T

b. Maximize the developmental or independence potential of the resident; and (7-1-99)T

c. Is provided in the setting that is the least restrictive of the resident's personal liberties. (7-1-99)T

421. INCIDENTS AND COMPLAINTS.

01. Facility Response To Incidents And Complaints. Each facility shall develop and implement a written incident and complaint policy and procedure which shall include, but not be limited to, the following: (7-1-99)T

a. A method of assuring that the owner, administrator or person designated by the administrator is notified of all incidents or complaints; (7-1-99)T

b. That the owner, administrator or person designated by the owner or administrator has personally investigated and prepared a written report of finding for each incident or complaint; (7-1-99)T

c. That the person making the complaint or reporting the incident has received a response of action taken to resolve the matter or a reason why no action needs to be taken; and (7-1-99)T

d. In the case of an anonymous complaint, the administrator shall document the action taken or a reason why no action needs to be taken. (7-1-99)T

02. Administrator Availability For Complaints. In order to assure the opportunity for complaints from the residents, the neighborhood, and the community to be made directly to the owner, administrator, or person designated by the owner or administrator, each facility shall establish a regular time when the owner, administrator, or person designated by the owner, administrator shall be present to personally respond to such incidents or complaints. (7-1-99)T

03. Log Of Complaints. Each facility shall establish and maintain a separate complaint log that includes a list of all complaints lodged, the name of the person lodging the complaint, the date and time the complaint was lodged, who investigated the complaint, and what actions were taken to resolve the complaint. The complaint log shall be made available for review during visits by the licensing agency. (7-1-99)T

422. ADMISSION POLICIES.

01. Admission Policies. Each facility shall develop and follow a written admission policy. This written description of services provided by the facility to the residents shall be on file and available to the public and shown to any potential resident, his legal guardian/conservator, or both. The written admission policy shall include as a minimum, but not be limited to, the following: (7-1-99)T

a. The purpose, quantity and characteristics of the service; (7-1-99)T

b. Any restrictions or conditions imposed on the resident as a result of religious beliefs or philosophy of the owner or administrator, any particular dietary beliefs, or any unusual restrictions or practices or both regardless of the reason; (7-1-99)T

c. Any limitations concerning delivery of routine personal care by persons of the opposite sex. (7-1-99)T

d. Placement to Meet the Needs of the Resident. The health, number, age, and sex of children or other adults in the facility shall be taken into account in evaluating the appropriateness of a placement for meeting the needs of an adult. (7-1-99)T

02. Review Prior To Admission. Services offered, charges, and information required of residents shall be reviewed with the potential resident or his legal guardian/conservator prior to admission. (7-1-99)T

03. Fee Description. A written description of how fees shall be handled by the facility for a partial month's care shall be included. (7-1-99)T

04. Notice Of Increase Of Monthly Fee. Resident or resident's legal guardian/conservator shall be notified in writing of an increase in the facility monthly rates at least thirty (30) calendar days prior to such a raise in monthly rates. (7-1-99)T

05. Agreement To Handle Funds. A written agreement whether or not the facility shall accept responsibility for the residents' personal funds shall be available. (7-1-99)T

06. Signed Admission Agreement. The admission agreement must be signed by the resident or his legal guardian/conservator and a representative of the facility. (7-1-99)T

07. Policies Of Acceptable Admissions. Written descriptions of the conditions for admitting residents to the facility shall include but not be limited to: (7-1-99)T

a. No resident shall be admitted or retained for whom the facility does not have the capability or services to provide appropriate care, or who requires a level of service, or type of service for which the facility is not licensed to provide or which the facility does not provide, or if the facility does not have the personnel, appropriate in numbers and with appropriate skill to provide such services; (7-1-99)T

b. No resident shall be admitted or retained who requires ongoing skilled nursing, intermediate care, or care not within the legally licensed authority of the facility unless there are specialized facility provisional agreements with the Department that allow for skilled nursing or intermediate care; (7-1-99)T

c. No resident shall be admitted or retained who requires ongoing highly technical skilled nursing procedures. Limited nursing services will require a nurse on site during the nursing procedure; (7-1-99)T

d. No resident shall be admitted or retained who requires skilled nursing care on a twenty-four (24) hour basis; (7-1-99)T

e. No resident shall be admitted or retained with pressure ulcers or open wounds that are not healing; (7-1-99)T

f. No resident shall be admitted or retained with draining wounds for which the drainage cannot be contained; (7-1-99)T

g. No resident shall be admitted or retained who is beyond the level of fire safety provided by the facility; and (7-1-99)T

h. No resident shall be admitted or retained whose physical, emotional, or social needs are not compatible with the other residents in the facility. (7-1-99)T

08. Categories Of Residents. The facility shall notify potential residents of the types of populations it specializes in serving and it will not discriminate on the basis of race, color, national origin, religion, sex or disability. (7-1-99)T

09. Admission Of Residents. The facility shall not admit any residents without a written order by the attending physician or authorization by the Department. (7-1-99)T

10. Short-Term Care Admissions For Fourteen Days Or Less. Facilities may provide care for potential residents that meet regular admission requirements including physician orders for diet, treatment, medications, and an authorized negotiated service agreement. No admission is permitted that places the facility over its licensed bed capacity. (7-1-99)T

423. ADMISSION AGREEMENTS.

01. Admission Agreements. Prior to or on day of admission to the facility, the facility and the resident or the resident's legal guardian/conservator shall enter into an admission agreement. The agreement shall be in writing and shall be signed by both parties. The admission agreement may be integrated with the negotiated service agreement provided that all requirements for the negotiated service agreement and admission agreement are met. The admission agreement shall include at a minimum the following: (7-1-99)T

a. Services that the facility shall provide including, but not limited to, daily activities, recreational activities, maintenance of self-help skills, assistance with activities of daily living, arrangements for medical and dental services, provisions for trips to social functions, special diets, and arrangements for payments; (7-1-99)T

b. Whether or not the resident shall assume responsibility for his own medication including reporting missed medication or medication taken on a PRN basis; (7-1-99)T

c. Whether or not the facility shall accept responsibility for the residents' personal funds; (7-1-99)T

d. How a partial month's refund shall be handled; (7-1-99)T

e. Responsibility for valuables belonging to the resident and provision for the return of residents' valuables should the resident leave the facility; (7-1-99)T

f. Fifteen (15) calendar days' written notice or up to thirty (30) calendar days as agreed to in the admission agreement prior to transfer or discharge on the part of either party; (7-1-99)T

g. Conditions under which emergency transfers shall be made; (7-1-99)T

h. Permission to transfer pertinent information from the resident's medical record to an acute care facility, nursing facility, licensed residential and assisted living facility, or certified family home; (7-1-99)T

i. Resident responsibilities as appropriate; and (7-1-99)T

j. Other information as may be appropriate. (7-1-99)T

k. Written documentation of the resident’s preference regarding the formulation of an Advance Directive in accordance with Idaho state law. If applicable, a copy of the resident’s Advance Directive shall be available. (7-1-99)T

02. Conditions Of Termination Of The Admission Agreement. The admission agreement shall not be terminated except under the following conditions: (7-1-99)T

a. By written notification by either party giving the other party fifteen (15) calendar days' written notice or up to thirty (30) calendar days as agreed to in the admission agreement; (7-1-99)T

b. The resident's mental or physical condition deteriorates to a level requiring evaluation, service, or both that cannot be provided in a facility; (7-1-99)T

c. Nonpayment of the resident's bill; (7-1-99)T

d. In emergency conditions a resident may be transferred out of the facility without fifteen (15) days' written notice or up to thirty (30) days as agreed to in the admission agreement to protect the resident or other residents in the facility from harm; and (7-1-99)T

e. Other written conditions as may be mutually established between the resident, the resident's legal guardian/conservator and the administrator of the facility at the time of admission. (7-1-99)T

03. Admission And Discharge Register. Each facility shall maintain an admission and discharge register listing names of each resident, date admitted, the place from which the resident was admitted, date discharged, reason for discharge, and adequate identification of the facility to which the resident is discharged or future home address. (7-1-99)T

04. Maintaining The Admission And Discharge Register. The admission and discharge register shall be maintained as a separate document, apart from individual resident files, and shall be kept current. (7-1-99)T

424. UNIFORM ASSESSMENT CRITERIA.

01. Facility Responsibility For Private-Pay Residents. The facility shall develop, identify, assess, or direct a uniform needs assessment of private-pay residents who seek supported living services. The Department's uniform assessment tool may be used as the facility's identified uniform needs assessment. (7-1-99)T

02. Information To Be Included In A Uniform Needs Assessment For Private-Pay Residents. The uniform needs assessment instrument used by the facility for private-pay residents shall include, but not be limited to identification/background information, medical diagnosis, medical and health problems, prescription and over the counter medications, behavior patterns, cognitive function, functional status, and assessed level of care. (7-1-99)T

03. Qualifications Of Person Making Uniform Needs Assessments For Private-Pay Residents. The uniform needs assessment shall be conducted by persons who are trained in administering the facility's identified uniform needs assessment instrument. (7-1-99)T

04. Time Frames For Completing The Uniform Needs Assessment Instrument For Private-Pay Residents. The assessment will be completed no later than fourteen (14) calendar days after admission. The assessment shall be reviewed when there is a change in need or every twelve (12) months whichever comes first. (7-1-99)T

05. Use Of Uniform Needs Assessment For Determining The Ability Of Facility To Meet Private-Pay Resident Needs. The results of the assessment may be used to evaluate the ability of an administrator and facility to meet the identified residents' needs. The results of the assessment may also be used to determine the need for special training or licenses or certificates that may be required in caring for certain residents. (7-1-99)T

06. Use Of The Uniform Needs Assessment Instrument In Determining Facility Staffing Ratios For Private-Pay Residents. A facility shall have sufficient numbers and types of personnel to provide care and supervision to all residents within the facility's care in accordance with each resident's negotiated service agreement based on the uniform needs assessment instrument and in accordance with any other rules governing the facility. (7-1-99)T

07. Uniform Assessments For Department Clients. Department clients shall be assessed by the Department in accordance with IDAPA 16.03.23, "Rules Governing Uniform Assessments for State-Funded Clients". (7-1-99)T

425. NEGOTIATED SERVICE AGREEMENT.

01. Use Of Negotiated Service Agreement. Each resident shall enter into a negotiated service agreement to provide for coordination of services and for guidance of the personnel and management of the facility where the person resides. A personal care services plan of care and an Individual Support Plan which includes the core elements of the Negotiated Service Agreement is considered equivalent to the Negotiated Service Agreement.

Upon completion, the agreement shall clearly identify the resident and describe the services to be provided to the resident and how such services are to be delivered, and the Negotiated Service Agreement shall be implemented. (7-1-99)T

02. Core Elements Of The Negotiated Service Agreement, Plan Of Care, Or Individual Support Plan. A resident's service plan shall be based on the following, but not limited to: (7-1-99)T

a. Assessment; (7-1-99)T

b. Service needs for activities of daily living; (7-1-99)T

c. Need for limited nursing services; (7-1-99)T

d. Need for medication assistance; (7-1-99)T

e. Frequency of needed services; (7-1-99)T

f. Level of assistance; (7-1-99)T

g. Habilitation/Training needs, to specify the program being used; (7-1-99)T

h. Behavioral management needs, to include a specific plan which identifies situations that trigger inappropriate behavior; (7-1-99)T

i. Physician's signed and dated orders; (7-1-99)T

j. Admission records; (7-1-99)T

k. Community support systems; (7-1-99)T

l. Resident's desires; (7-1-99)T

m. Transfer/discharge; and (7-1-99)T

n. Other identified needs. (7-1-99)T

03. Signature And Approval Of Agreement. The administrator and resident/resident's legal guardian/conservator, shall sign the service agreement upon its completion, no later than fourteen (14) calendar days after the resident's admission. (7-1-99)T

04. Signing Date That The Agreement Was Approved. The administrator and resident/resident's legal guardian/conservator shall date the service agreement upon its completion, not to exceed fourteen (14) calendar days after the resident's admission. (7-1-99)T

05. Review Date. The service agreement shall document the next scheduled date of review. (7-1-99)T

06. Development Of The Service Agreement. The facility administrator shall consult the resident and those other relevant persons identified by the consumer/resident, in the development of their service agreement. As required by applicable program requirements, licensed and professional staff will be involved in the development of the plan. (7-1-99)T

07. Provision Of Copy Of Agreement. Signed copies of the agreement shall be given to the resident, to the resident's legal guardian/conservator, or for Department clients, to the Department for review, and authorization and approval, and a copy placed in the resident's records file, no later than fourteen (14) calendar days from admission. (7-1-99)T

08. Resident Choice. A resident shall be given the choice and control of how and what services the

facility or external vendors will provide, to the extent the resident can make choices. (7-1-99)T

09. **Record**. A record shall be made of any changes or inability to provide services outlined in the negotiated service agreement. (7-1-99)T

10. **External Services**. The agreement shall include a statement regarding when there is no need for access to external services. (7-1-99)T

11. **Periodic Review**. The negotiated service agreement may be reviewed as necessary but must be reviewed at least every six (6) months. (7-1-99)T

426. RESIDENT RECORDS.

01. **Admission Records**. Records required for admission to a facility shall be maintained and updated and shall be confidential. Their availability without the consent of the resident, subject to IDAPA 16.05.01, "Rules Governing the Protection and Disclosure of Department Records," shall be limited to the facility staff, professional consultants, the resident's physician and representatives of the Department. All entries shall be kept current, recorded legibly in ink, dated, signed, and shall include, but not be limited to, the following: (7-1-99)T

a. Name and Social Security number; and (7-1-99)T

b. Permanent address if other than the facility; and (7-1-99)T

c. Marital status and sex; and (7-1-99)T

d. Birth place and date of birth; and (7-1-99)T

e. Name and addresses of responsible agent or agency including telephone numbers; and (7-1-99)T

f. Personal physician and dentist; and (7-1-99)T

g. Admission date and name of person who completed admission form; and (7-1-99)T

h. Results of a history and physical examination performed by a licensed physician or nurse practitioner within six (6) months prior to admission; and (7-1-99)T

i. For persons not clients of the Department, the history and physical shall include a description of the functional abilities of the resident including his specific strengths and limitations and the specific needs for personal assistance and supervision indicating that the resident is appropriate for placement in a facility; and (7-1-99)T

j. A list of medications, diet, and treatments prescribed for the resident which is signed and dated by the physician giving the order; and (7-1-99)T

k. Religious affiliation if resident chooses to so state; and (7-1-99)T

l. Interested relatives and friends other than those outlined in Subsection 426.01.e. to include, names, addresses, and telephone numbers of family members, legal guardian/conservator, and significant others; and (7-1-99)T

m. For clients of the Department a psychosocial history, completed within six (6) months prior to admission, by a licensed social worker, psychologist, psychiatrist, or licensed physician; and (7-1-99)T

n. Social information, obtained by the facility through interview with the resident, family, case manager, targeted service coordinator or legal guardian/conservator. The information shall include the resident's social history, hobbies, and interests; and (7-1-99)T

o. Written admission agreement which is signed and dated by the administrator and the resident/

resident's legal guardian/conservator; and (7-1-99)T

p. A signed copy of the resident's bill of rights as detailed in Section 250, or documentation that the resident or resident's legal guardian/conservator has read and understands his rights as a resident of the facility; and (7-1-99)T

q. A copy of the resident's admission Uniform Assessment Instrument for residential and assisted living; and (7-1-99)T

r. A copy of the signed and dated admission negotiated service agreement; plan of care, or individual support plan between the resident/resident's legal guardian/conservator and the facility. (7-1-99)T

02. Ongoing Resident Records. At the time of admission, an inventory of items belonging to the resident shall be developed. That inventory can be updated at any time during their stay. Records shall be kept current, to include but not be limited to: (7-1-99)T

a. Admission information as required in Section 426.01 of this Chapter; and (7-1-99)T

b. A current list of medications, diet, and treatments prescribed for the resident which is signed and dated by the physician giving the order. Current orders may be a copy of the signed doctor's order from the pharmacy; and (7-1-99)T

c. Any incident/accident occurring while the resident is in the facility; and (7-1-99)T

d. Documentation of any medication refused by the resident, not given to the resident or not taken by the resident with the reason for the omission. All PRN medication shall be documented with the reason for taking the medication; and (7-1-99)T

e. Notes from the contract nurse, home health, physical therapy, or other service providers, or all documenting the services provided to each resident at each visit; and (7-1-99)T

f. Documentation of significant changes in the residents' physical, mental status, or both and the facility's response; and (7-1-99)T

g. If appropriate, the resident's financial trust fund accounting records; and (7-1-99)T

h. The resident's Uniform Assessment Instruments, to include the admission assessment and all assessments for the past year, for facility care; and (7-1-99)T

i. Signed and dated negotiated service agreements, plans of care, or individual support plans, to include the admission negotiated service agreement and all service agreements for the past year, between the resident/ resident's legal guardian/conservator and the facility; and (7-1-99)T

j. Contact name, address, phone number of individuals providing paid supports; and (7-1-99)T

k. Signed copies of all care plans that are prepared by all outside service agencies. (7-1-99)T

03. Maintenance Of Resident Records. Resident records shall be maintained on each resident at the facility for not less than one (1) year after the resident has left the facility. (7-1-99)T

427. RESIDENT CHARGES AND FINANCIAL RECORDS.

01. Resident Funds Policies. If a resident's funds are turned over to the facility or administrator for any purpose other than payment for services allowed under these rules, or if the facility administrator, his relative, or personnel act as resident payee, the facility will be deemed to be handling residents' funds. Each facility shall develop and implement a policy and procedure outlining how residents' funds shall be handled. This policy and procedure shall include, but not be limited to, the following: (7-1-99)T

a. The facility policy and procedure shall state whether the facility shall or shall not handle residents' funds. (7-1-99)T

b. This policy or procedure shall be clearly stated in the admission policy and in the admission agreement. (7-1-99)T

c. If the facility is deemed to manage funds and the resident leaves the facility under any circumstances, the facility can only retain room and board funds prorated to the last day of the fifteen (15) day notice period, or thirty (30) day notice period per agreement, or upon moving from the facility, whichever is later. All remaining funds must follow the resident, and resident funds must be used for resident expenses until a new payee is appointed. (7-1-99)T

02. Handling Of Resident Funds. If the facility agrees to handle residents' funds, the following shall apply: (7-1-99)T

a. A separate trust account must be established for each resident. There can be no commingling of resident funds with facility funds. Borrowing between resident accounts is prohibited; (7-1-99)T

b. Each resident shall be notified that a trust fund is available for his use if he needs this service; (7-1-99)T

c. If it is determined that a resident needs the use of a trust fund service, the facility shall be required to deposit the residents' funds into a trust fund; (7-1-99)T

d. A provision to bill each resident for his facility care charges on a monthly basis from the trust account; (7-1-99)T

e. A provision to document on a monthly or on a weekly basis any financial transactions in excess of five dollars ($5) between the resident and the facility or any of the facility's personnel. A separate transaction record shall be maintained for each resident; (7-1-99)T

f. In any case in which the facility cannot produce proper accounting records of residents' funds or property, the facility shall be presumed to owe the funds not accounted for to the resident and restitution of the funds to the resident shall be a condition for continued operation of the facility; (7-1-99)T

g. The facility shall not require the resident to purchase goods or services from the facility for other than those designated in the admission policies, or the admission agreement, or both; (7-1-99)T

h. The facility shall afford the resident or the resident's legal guardian/conservator or person of the resident's choosing access to the resident's financial record; (7-1-99)T

i. The facility must assure that the resident has access to his personal funds during reasonable hours; (7-1-99)T

j. Upon the death of a private-pay resident, with a trust fund, the facility must convey the resident's personal funds and a final accounting of such funds to the individual administering the resident's estate within ninety (90) days; and (7-1-99)T

k. Upon the death of a client of the Department, with a trust fund, the facility must convey the resident's personal funds and a final accounting of such funds to the Department within thirty (30) calendar days. (7-1-99)T

428. MEDICATION STANDARDS AND REQUIREMENTS.

01. Medication Policy. Each facility shall develop and implement a written medication policy and procedure that outlines in detail the procedures to be followed regarding the delegation of medications and to include

the requirements of the Administrative Rules of the Board of Nursing, IDAPA 23.01.01, "Rules of the Board of Nursing," Subsection 010.05, Section 400, Subsections 400.02, 400.04, and 400.05 where applicable. The medication policy shall include, but not be limited to, the following: (7-1-99)T

a. If the resident is granted responsibility for his own medication, a written approval stating that the resident is capable of self-administration of medications, must be obtained from the resident's primary physician; (7-1-99)T

b. The facility shall take the necessary precautions to protect residents from obtaining medications that are being stored either in individual resident rooms or by the facility; (7-1-99)T

c. The facility administrator shall be responsible for providing the necessary assistance to the resident in taking his medication; (7-1-99)T

d. Documentation of any medication refused by the resident, not given to the resident or not taken by the resident with the reason for the omission. All PRN medication shall be documented with the reason for taking the medication. (7-1-99)T

02. Medication Distribution System. Each facility shall use Medi-sets, or blister pack, or other system as approved by the department. The Medication System must be filled by a pharmacist and appropriately labeled in accordance with pharmacy standards. A licensed nurse may fill Medi-sets which must be appropriately labeled with medication name, dosage, amount and time to be taken, and special instructions if appropriate. (7-1-99)T

03. Assistance With Medication. PRN medications and temporary routine medications of fourteen (14) days or less may be maintained in an appropriately labeled multidose container. Each medication must be given to the resident directly from the medi-set or blister pack or medication container. The resident must be observed taking the medication. (7-1-99)T

04. Unused Medication. Unused or discontinued medications shall not accumulate at the facility for longer than thirty (30) days, unless there is reason to believe that the medication will be reordered by the attending physician within a reasonable length of time. The unused medication shall be disposed of in a manner that assures that it cannot be retrieved. A written record of all disposal of drugs shall be maintained in the facility and shall include: (7-1-99)T

a. A description of the drug, including the amount; (7-1-99)T

b. The resident for whom the medication was prescribed; (7-1-99)T

c. The reason for disposal; (7-1-99)T

d. The method of disposal; and (7-1-99)T

e. Signatures of responsible facility personnel and a witness. (7-1-99)T

429. ACTIVITIES.

01. Policy And Plan. Each facility shall assist, encourage and promote residents to maintain and develop their highest potential for independent living through their participation in recreational and other activities. (7-1-99)T

02. Activity Opportunities. The facility shall provide opportunities so the following activities are available to residents: (7-1-99)T

a. Socialization through group discussion, conversation, recreation, visiting, arts and crafts, music; (7-1-99)T

b. Daily living activities to foster and maintain independent functioning; (7-1-99)T

c. Physical activities such as games, sports, and exercises which develop and maintain strength, coordination, and range of motion; (7-1-99)T

d. Education through special classes or activities; and (7-1-99)T

e. Leisure time so residents may engage in activities of their own choosing. (7-1-99)T

03. Community Resources For Activities. The facility shall utilize community resources to promote resident participation in integrated activities of their choice both in and away from the facility. (7-1-99)T

430. NURSING SERVICES.
A licensed nurse shall visit the facility at least once every month, not to exceed a forty (40) day time period. Verification of the nurse's current license must be on file at the facility. That nurse shall perform the following functions: (7-1-99)T

01. Resident Response To Medications. Conduct a nursing assessment of each resident's response to medications; and (7-1-99)T

02. Current Medication Orders. Assure that the residents' medication orders are current by verifying that the medication listed by the pharmacist on the medi-set, blister pack, or medication container, to include over-the-counter-medication as appropriate, is current with physician orders; and (7-1-99)T

03. Resident Health Status. Conduct a nursing assessment, in accordance with the resident's uniform assessment and negotiated service agreement, of the health status of each resident by identifying symptoms of illness, or changes, or both in mental and physical health status; and (7-1-99)T

04. Recommendations. Make recommendations to the administrator regarding any medication needs or other health need requiring follow up; and (7-1-99)T

05. Progress Of Previous Recommendations. Conduct a nursing assessment of the progress on previous recommendations made to the administrator regarding any medication needs or other health needs that required follow up; and (7-1-99)T

06. Self Medicator. Conduct a nursing assessment on each resident participating in a self administration medication regime of the resident's ability to safely continue the self administration medication regime for the next month; and (7-1-99)T

07. Medication Interactions And Usage. Conduct a review of residents' use of over-the-counter medications for side effects, interactions, abuse or a combination of these adverse effects. If side effects are determined the nurse shall notify the resident's physician and make the appropriate counseling available to the resident; and (7-1-99)T

08. Date. Document the nursing assessments with the date of each visit. (7-1-99)T

431. -- 449. (RESERVED).

450. FOOD SERVICE.

01. Food Services Provided By Facility. When food services are provided by any facility, the following standards and requirements shall be met: (7-1-99)T

a. Assure that all persons wear clean garments and an apron, smock, or other cover-up when working in the kitchen. Long, shoulder length, hair shall be restrained; (7-1-99)T

b. Assure that all persons keep their hands clean at all times while engaged in preparing and serving

food and drink. Hands shall be rewashed each time the person returns to the kitchen from other activities in the facility; and (7-1-99)T

c. Assure that no person having a communicable disease in the transmittable stage or who is suspected of being a carrier of organisms that may cause a communicable disease shall not be involved in food preparation and service. (7-1-99)T

02. Policies Of Nutritional Care. Facilities with a licensed bed capacity of sixteen (16) or more residents shall have written policies and procedures for providing proper nutritional care of its residents whether provided by the facility or a third party. Policies shall include at least the following: (7-1-99)T

a. Job descriptions; (7-1-99)T

b. Personnel responsibilities; (7-1-99)T

c. Procedures to follow if a resident refuses food; and (7-1-99)T

d. Food handling and sanitation procedures. (7-1-99)T

451. MENU PLANNING.
Residents' shall be provided at least the minimum food and nutritional needs of the residents in accordance with the current Recommended Dietary Allowances established by the Food and Nutrition Board of the National Research Council, adjusted for age, sex and activity. (7-1-99)T

01. Additional Menu Items. Items on the menu shall: (7-1-99)T

a. Include foods commonly served within the community and to which the residents are accustomed; (7-1-99)T

b. Reflect seasonal food selections as well as residents' food habits, preferences, and physical abilities; (7-1-99)T

c. Provide a sufficient variety of foods in adequate amounts at each meal; (7-1-99)T

d. Be varied for each day of the week, different for the same days from week to week; and (7-1-99)T

e. Not include restrictions of any kind based on dietary beliefs or practices of the owner and administrator unless the facility's admission policies clearly indicate. (7-1-99)T

02. Menus Must: (7-1-99)T

a. Be reviewed, signed and dated by a dietitian, nutritionist or home economist ensuring that the menus meet the current RDAs before being implemented; (7-1-99)T

b. Be available where they can be easily viewed by residents upon request; (7-1-99)T

c. Be corrected to reflect substitutions that were made and snacks provided; and (7-1-99)T

d. Be kept on file in the facility for three (3) months. (7-1-99)T

e. Facilities of sixteen (16) residents or more shall have available in the kitchen a current diet manual approved by the licensing agency. A facility using a diet manual other than the Idaho Diet Manual shall be submitted to the licensing agency for approval. (7-1-99)T

03. Facilities With Fifteen Beds Or Less. In facilities of fifteen (15) beds or less, menus shall be planned, in writing at least three (3) weeks in advance for regular diets. (7-1-99)T

04. More Than Sixteen Beds. Facilities serving sixteen (16) or more residents shall develop and implement a cycle menu which covers a minimum of two (2) seasons and is six (6) to nine (9) weeks in length. (7-1-99)T

452. MODIFIED OR THERAPEUTIC DIETS.
Modified or Therapeutic Diets. When therapeutic diet services are provided, the facility shall meet the following. (7-1-99)T

01. Modified Or Therapeutic Diet. Have on file, a physician's order for each modified or therapeutic diet; (7-1-99)T

02. Planned Or Approved Menu. Have a menu planned or approved, signed and dated by a dietitian prior to being served, which meets the nutritional standards to the extent possible; (7-1-99)T

03. Regular Diet Menu. The menu shall be planned as close to the regular diet as possible; (7-1-99)T

04. Types And Amounts Of Food To Be Served. Have readily available, in the kitchen, the meal pattern, including types and amounts of food to be served; (7-1-99)T

05. Serve The Menu As Planned; and (7-1-99)T

06. Keep The Therapeutic Menus On File For Three Months. (7-1-99)T

453. FOOD STORAGE.

01. Food Storage Temperature. All potentially hazardous foods and beverages shall be kept at a safe temperature, forty-five (45) degrees Fahrenheit or below and at one hundred forty (140) degrees Fahrenheit or above, except during necessary periods of preparation and service. (7-1-99)T

02. Frozen Food Storage Temperatures. Frozen foods shall be maintained at zero (0) degrees or below except during necessary periods of preparation and service. (7-1-99)T

03. Refrigerator And Freezer Temperature. Each refrigerator and freezer used for storage of perishable food shall be provided with an accurate thermometer located in the warmest part toward the side front of the refrigerator and where the temperature can be easily and readily observed. (7-1-99)T

04. Thawing Of Frozen Food. Frozen foods which are potentially hazardous if not properly handled shall be thawed for preparation in one (1) of the following ways: (7-1-99)T

a. In refrigerated units at a temperature not exceeding forty-five (45) degrees Fahrenheit; (7-1-99)T

b. Under potable running water, at a temperature of seventy (70) degrees Fahrenheit or below, with sufficient water velocity to agitate and float off loose particles into the overflow; (7-1-99)T

c. In a microwave oven; or (7-1-99)T

d. As part of a conventional cooking process. (7-1-99)T

05. Safe Food. Food received or used in facility shall be clean, wholesome, free from spoilage, adulteration, misbranding, and safe for human consumption. Outdated products shall not be used. (7-1-99)T

06. Food Storage. Stored food shall be placed in such a manner as to be kept from dust and splash contamination. All food shall be stored off the floor. (7-1-99)T

07. Canned Food. Food contained in rusted, dented, or unlabeled cans shall not be used. (7-1-99)T

08. Food Supply. The facility shall maintain a seven (7) day supply of nonperishable foods and a two

(2) day supply of perishable foods. (7-1-99)T

454. FOOD PREPARATION AND SERVICE.

01. Food Preparation. Foods shall be prepared by methods that conserve nutritional value, flavor, and appearance. (7-1-99)T

02. Raw Unprocessed Food. Raw unprocessed food, fruits, or vegetables shall be thoroughly washed before use. (7-1-99)T

03. Home Canned Foods. Home canned foods shall not be served except home canned jams, jellies, fruits, pickles, and preserves. (7-1-99)T

04. Dry Milk Products. Reconstituted dry milk and dry milk products; i.e., whey, may be used only in instant desserts, whipped products, or for cooking and baking purposes. (7-1-99)T

05. Meal Spacing. Not more than fourteen (14) hours shall elapse between the end of an evening meal and the beginning of the following morning meal containing a protein food. (7-1-99)T

06. Meal Intervals. Intervals between breakfast and lunch and lunch and dinner shall not be less than four (4) hours nor more than six (6) hours between each. (7-1-99)T

07. Main Meal. If the main meal of the day is served at noon, the evening meal shall include at least one (1) ounce of a protein food (meat, cheese, fish, or egg), vegetable, fruit or dessert, and beverage preferably milk. (7-1-99)T

08. Temperature Of Served Food. Foods shall be attractively served at proper temperatures. (7-1-99)T

09. Form Of Food Served. Foods shall be served in a form to meet individual resident's needs. (7-1-99)T

10. Boxed Lunch And Dinner Meal. If residents carry lunches, box or sack, at noon, the main meal shall be served in the evening. (7-1-99)T

11. Box Lunch Nutrition. A box lunch shall be nutritionally adequate and varied. (7-1-99)T

12. Standardized Recipes. For facilities serving sixteen (16) or more individuals, standardized recipes shall be required. (7-1-99)T

455. FOOD SERVICE SANITATION STANDARDS.

01. Pots And Pans. Pots and pans shall be adequate in number and shall be maintained in a smooth, nonpitted, easily cleanable condition. (7-1-99)T

02. Cups, Dishes, and Utensils. Cups, dishes, and eating utensils that are stained, pitted, chipped, unglazed, or not easily cleanable shall not be used. (7-1-99)T

03. Food Service Walls. The walls of all food preparation, utensil washing, and hand washing rooms or areas shall have smooth, easily cleanable surfaces and shall be washable up to the highest level by splash or spray. (7-1-99)T

04. Water. Hot and cold running water under pressure shall be easily accessible to all rooms where food is prepared or utensils are washed. (7-1-99)T

05. Live Animals. No live animals or fowl shall be kept or maintained in the food service area. (7-1-99)T

06. Living Quarters. Neither food preparation, nor service areas, shall be used as living quarters for facility personnel. (7-1-99)T

07. Garbage, Trash, And Rubbish. All garbage, trash, and rubbish shall be collected and disposed of in a sanitary manner. (7-1-99)T

a. All garbage, trash, and rubbish shall be collected daily and taken to storage facilities; (7-1-99)T

b. Garbage shall be removed from storage facilities frequently enough to prevent a potential health hazard; (7-1-99)T

c. Wet garbage shall be collected and stored in impermeable, leak proof, fly tight containers pending disposal; and (7-1-99)T

d. All containers, storage areas, and surrounding premises shall be kept clean and free of vermin. (7-1-99)T

08. UNICODE. The acquisition, preparation, including freezing, canning, storage and serving of all food and drink and the washing of dishes in a facility shall comply with IDAPA 16.02.19, "Rules Governing Food Safety and Sanitation Standards for Food Establishments (UNICODE)," February 1, 1998, which is incorporated herein by reference and outlined in Section 008. (7-1-99)T

456. -- 474. (RESERVED).

475. ENVIRONMENTAL SANITATION STANDARDS.

01. Responsibility For Maintenance Of Sanitary Conditions. The facility is responsible for the prevention of disease and for the maintenance of sanitary conditions. (7-1-99)T

02. Water Supply. The water supply for the facility shall be adequate, of a safe, and sanitary quality, to include, but not be limited to: (7-1-99)T

a. A Department approved private, public, or municipal water supply shall be used; (7-1-99)T

b. If water is from a private supply, water samples shall be submitted to the Department through a private accredited laboratory or the District Public Health Laboratory for bacteriological examination at least annually or more frequently if deemed necessary by the Department. Copies of the laboratory reports shall be kept on file at the facility; and (7-1-99)T

c. There shall be a sufficient amount of water under adequate pressure to meet the sanitary requirements of the facility at all times. (7-1-99)T

03. Sewage Disposal. All sewage and liquid wastes shall be discharged, collected, treated, and disposed of in a manner approved by the Department. (7-1-99)T

04. Garbage And Refuse Disposal. Garbage and refuse disposal shall be provided by the facility. The disposal method, shall include, but not be limited to: (7-1-99)T

a. Garbage containers both inside and outside the facility, used for storage of garbage and refuse, shall be constructed of durable, non-absorbent materials and shall not leak; (7-1-99)T

b. Garbage containers in common areas both inside and outside the facility, used for storage of garbage and refuse, shall be provided with tight-fitting lids; (7-1-99)T

c. Garbage containers shall be maintained in good repair; (7-1-99)T

d. Sufficient garbage containers shall be afforded to hold all garbage and refuse which accumulates between periods of removal from the premises of the facility; and (7-1-99)T

e. Storage areas shall be kept clean and sanitary. (7-1-99)T

f. If public or contract garbage collection service is available, the facility shall subscribe to these services. (7-1-99)T

05. Insect And Rodent Control. The facility shall be maintained free from infestations of insects, rodents, and other pests. Toxic chemicals and pesticides used in the control program shall be selected on the basis of the pest involved and used only in the manner prescribed by the manufacturer. Toxic chemicals and pesticides shall be: (7-1-99)T

a. Properly labeled; and (7-1-99)T

b. Stored in an area separate from where food is stored, prepared, and served or where medications are stored; and, (7-1-99)T

c. Not stored in resident areas. (7-1-99)T

06. Linen-Laundry Facilities And Services. Adequate facilities and procedures shall be provided for the proper and sanitary washing of linen and other washable goods laundered at the facility. The linen-laundry facility shall: (7-1-99)T

a. Have available at all times a quantity of linen essential to the proper care and comfort of residents. Two (2) complete changes of clean bed linen shall be on hand for each licensed bed in the facility. The use of torn or unclean bed linen is prohibited; (7-1-99)T

b. Be well-lighted and have ventilation adequate in size for the needs of the facility, maintained in a sanitary manner, and kept in good repair; and (7-1-99)T

c. If linen and personal laundry are sent out, care shall be taken that soiled linen and clothing are properly handled before sending out, and that clean linen and clothing are received and stored in the proper manner. (7-1-99)T

07. Soiled Linen Handling. Soiled linen shall be handled as follows: (7-1-99)T

a. All soiled linen shall be collected, stored, and transported in a sanitary manner; (7-1-99)T

b. Soiled linen shall not be sorted, processed, or stored in kitchens, food preparation areas, or food storage areas; and (7-1-99)T

c. Soiled linen shall not be allowed to accumulate at the facility. (7-1-99)T

08. Clean Linen Handling. Clean linen shall be handled as follows: (7-1-99)T

a. Clean linen shall be handled, stored, dried, and sorted in a sanitary manner; (7-1-99)T

b. Closets for the storage of clean linen shall be provided on each floor and in each building where residents sleep; and (7-1-99)T

c. Residents' and personnel laundry shall be collected, transported, sorted, washed, and dried in a sanitary manner and shall not be washed with bed linens. (7-1-99)T

09. Labeled Clothing. Residents' clothing laundered by the facility shall be labeled to ensure proper return to the owner only if likely to be commingled. (7-1-99)T

10. Housekeeping Services And Equipment. Sufficient housekeeping, maintenance personnel, and equipment shall be provided to maintain the interior and exterior of the facility in a clean, safe, and orderly manner. Prior to occupancy of any sleeping room by a new resident, the room shall be thoroughly cleaned including the bed, bedding, and furnishings. (7-1-99)T

476. -- 499. (RESERVED).

500. REQUIREMENTS FOR FIRE AND LIFE SAFETY STANDARDS.

01. Local And State Codes. Buildings on the premises used as a facility must meet all requirements of local and state codes concerning fire and life safety that are applicable to licensed residential and assisted living facilities. (7-1-99)T

02. Life Safety Code Requirements. Licensed residential and assisted living facilities shall meet the provisions of the Life Safety Code of the National Fire Protection Association, 1988 Edition, which are applicable to residential and assisted living facilities as specified below and outlined in Section 008. (7-1-99)T

03. Existing Facilities Housing Nine Or Less Residents. Existing facilities licensed prior to July 1, 1992, and housing nine (9) or less residents on the first story only shall comply with the requirements of Chapter 21, Residential Board and Care Section of the Life Safety Code, 1988 Edition for Prompt Evacuation Capability except that the requirement for door closures on sleeping room doors shall not apply. Facilities may elect to comply with the fire safety evaluation system for Residential Board and Care, Prompt Evacuation Capability as outlined in Chapter 6 of NFPA Manual 101M, 1988 Edition which is incorporated by reference and outlined in Section 008. (7-1-99)T

04. New Buildings. Newly constructed buildings or buildings being converted to a facility, or both, after July 1, 1992, and who house nine (9) or less residents on the first story only shall comply with the requirements of Chapter 21, Residential Board and Care Section of the Life Safety Code, 1988 Edition for Impractical Evacuation Capability. Exceptions: (7-1-99)T

a. Any newly constructed building or building being converted to a facility and who house only residents classified as Level I or Level II need only comply with the requirements for Prompt Evacuation Capability as outlined in Subsection 500.03; (7-1-99)T

b. In any newly constructed building or building being converted to a facility, the minimum water supply for residential sprinkler systems shall be equal to the water demand rate times ten (10) minutes; and(7-1-99)T

c. A facility may elect to comply with the Fire Safety Evaluation System (FSES) for Residential Board and Care, Impractical Evacuation Capability, as outlined in Chapter 6 of NFPA Manual 101M, 1988 Edition which is incorporated by reference and outlined in Section 008. (7-1-99)T

05. Facilities Housing Ten Through Fifteen Residents. Buildings housing ten (10) through fifteen (15) residents on the first story only shall comply with the requirements of either: (7-1-99)T

a. The Limited Care Section of the Life Safety Code, 1988 Edition; (7-1-99)T

b. Chapter 21, Residential Board and Care Section of the Life Safety Code, 1988 Edition, for Impractical Evacuation Capability and have a Department approved resident safety plan which includes staffing. A facility may elect to comply with the Fire Safety Evaluation System (FSES) for Residential Board and Care, Impractical Evacuation Capability, as outlined in Chapter 6 of NFPA Manual 101M, 1988 Edition which is incorporated by reference and outlined in Section 008; or (7-1-99)T

c. The minimum water supply for the residential sprinkler system shall be equal to the water demand rate times ten (10) minutes. (7-1-99)T

06. Housing Of Sixteen Or More Residents. Buildings housing sixteen (16) or more residents or any building housing residents on stories other than the first story shall comply with the Limited Care Section of the Life Safety Code, 1988 Edition. Exception: Facilities licensed prior to July 1, 1992, may continue to comply with the

Residential Custodial Care Section of the Life Safety Code, 1981 Edition as outlined in Section 008. Existing licensed facilities shall be in compliance by July 1, 1994. (7-1-99)T

07. Fire Alarm/Smoke Detection System. An electrically supervised, manually operated fire alarm/ smoke detection system shall be installed throughout each building housing residents. The system shall include a control panel, manual pull stations, smoke detectors, sounding devices, power backup and any sprinkler flow/alarm devices that may be present and must be compatible with any future sprinkler system add on. The system, including devices, their location, and installation shall be approved by the licensing agency prior to installation. Buildings licensed prior to July 1, 1992, shall be given until July 1, 1995, to install the system. Exception: Facilities that comply with the requirements of Chapter 21, Residential Board and Care Section of the Life Safety Code, 1988 Edition for Impractical Evacuation Capability. (7-1-99)T

08. Corridors Or Hallways. Dead-end corridors or dead-end hallways shall not exceed thirty (30) feet in length. (7-1-99)T

09. Resident Placement. Any resident requiring assistance in ambulation shall reside on the first story unless the facility complies with Subsection 500.06. (7-1-99)T

10. Fire Drills. All personnel and residents shall participate in a minimum of one (1) fire drill per shift per quarter. Fire drills shall be unannounced. Written documentation of each drill shall be maintained on file at the facility and shall contain a description of each drill, the date and time of the drill, response of the personnel and residents, problems encountered and recommendations for improvement, and the name of each personnel in attendance during the drill. (7-1-99)T

11. Structure, Maintenance, Equipment To Assure Safety. The facility shall be structurally sound and shall be maintained and equipped to assure the safety of residents, personnel, and the public, to include, but not be limited to: (7-1-99)T

a. Furnishings, decorations, or other objects shall not be placed so as to obstruct exit access or exits; (7-1-99)T

b. All ramps, open porches, sidewalks, and open stairs shall be maintained free of snow and ice buildup; (7-1-99)T

c. Wood stoves shall be provided with railings or other protection designed to prevent residents from coming into contact with the stove surfaces; (7-1-99)T

d. All fireplaces shall be provided with heat tempered glass fireplace enclosures or equivalent; (7-1-99)T

e. Boilers, hot water heaters, and unfired pressure vessels shall be equipped with automatic pressure relief valves; (7-1-99)T

f. Portable comfort heating devices of any kind shall be prohibited; and (7-1-99)T

g. Quantities of flammable and highly combustible materials deemed hazardous by the licensing agency shall not be stored in the facility unless the building is protected throughout by an approved automatic fire extinguishing system. (7-1-99)T

12. Natural Or Man-Made Hazards. On the premises of each facility where natural or man-made hazards are present, suitable fences, guards, railing, or a combination shall be provided to protect the residents. (7-1-99)T

13. Weeds, Trash, And Rubbish. The premises and all buildings used as a facility shall be maintained free from the accumulation of weeds, trash, and rubbish. (7-1-99)T

14. Exit Door Locks. Any locks on exit doors shall be single action easily operable from the inside

without the use of keys or any special knowledge. Exception: Special locking arrangements as permitted under Section 5-2.1.6. of the Life Safety Code, 1988 Edition which is incorporated by reference as outlined in Section 008. (7-1-99)T

15. Portable Fire Extinguishers. Portable fire extinguishers shall be installed throughout each building utilized as a facility. Each extinguisher shall be installed in accordance with requirements set forth in NFPA Standard #10, Standard for Portable Fire Extinguishers, 1988 Edition which is incorporated by reference as outlined in Section 008. (7-1-99)T

16. Electrical Installations And Equipment. Electrical installations and equipment shall comply with applicable local or state electrical requirements to include but not be limited to the following: (7-1-99)T

a. Equipment designed to be grounded shall be maintained in a grounded condition; and (7-1-99)T

b. Extension cords and multiple electrical adapters shall be prohibited. Exception: Listed grounded multiple electrical adapters with built-in breaker. (7-1-99)T

17. Solid Fuel Heating Devices. Solid fuel heating devices shall be installed in accordance with NFPA Standards #211, Standards for Chimneys, Fireplaces, Vents, and Solid Burning Appliances, 1988 Edition which is incorporated by reference and is outlined in Section 008. (7-1-99)T

18. Medical Gases. Medical gas storage, handling, and use shall be in accordance with NFPA Standard 99, Standards for Health Care Facilities, 1990 Edition which is incorporated by reference and is outlined in Section 008. (7-1-99)T

19. Telephone. There shall be a telephone available on the premises for use in the event of an emergency. Emergency telephone numbers shall be posted near the telephone. (7-1-99)T

20. Smoking. The facility shall develop written rules governing smoking; and, these rules shall be adopted, posted, and made known to all facility personnel, residents, and the public. These rules shall include at least the following: (7-1-99)T

a. Prohibiting smoking in any area where flammable liquids, gases, or oxidizers are in use or stored; (7-1-99)T

b. Prohibiting residents from smoking in bed; (7-1-99)T

c. Prohibiting unsupervised smoking by residents classified as not mentally or physically responsible. This includes residents so affected by medication; (7-1-99)T

d. Prohibiting smoking in areas where combustible supplies or materials are stored; (7-1-99)T

e. Designating areas for personnel, resident, and public smoking; and (7-1-99)T

f. Nothing in this section requires that smoking be permitted in a facility whose admission policies prohibit smoking. (7-1-99)T

21. Disaster Preparedness. Each facility shall develop and implement a disaster preparedness plan to follow in the event of fire, explosion, flood, earthquake, high wind, or other disaster. The plan shall include, but not be limited to, the following: (7-1-99)T

a. Written procedures outlining steps to be taken in the event of a fire including who is to respond, each person's responsibilities, to where residents are to be evacuated, and notification of the fire department; (7-1-99)T

b. Information as to where residents shall be taken in the event the building cannot be immediately reentered. A written agreement shall be developed between the facility and the location to which residents are to be

relocated; and (7-1-99)T

c. Documentation shall be available in each facility indicating that the residents have been advised, upon admission, of actions required under emergency conditions. (7-1-99)T

22. Report Of Fire. A separate report on each fire incident occurring within the facility shall be submitted to the Department within thirty (30) days of the occurrence. The reporting form, "Facility Fire Incident Report," shall be issued by the Department to secure specific data concerning date, origin, extent of damage, method of extinguishment, and injuries, if any. (7-1-99)T

501. MAINTENANCE OF EQUIPMENT AND SYSTEMS FOR FIRE AND LIFE SAFETY.

01. Maintenance Of Equipment And Systems. The facility shall assure that all equipment and systems are properly maintained to assure the safety of the residents. (7-1-99)T

02. Fuel-Fired Heating. Fuel-fired heating devices and systems, including wood stoves, shall be inspected/serviced/cleaned at least annually by a person professionally engaged in the business of servicing these devices or systems. The inspection record shall be maintained on file in the facility. (7-1-99)T

03. Portable Fire Extinguishers. Portable fire extinguishers shall be serviced in accordance with NFPA Standard 10, Standard for Portable Fire Extinguishers, 1988 Edition. In addition, portable fire extinguishers shall be examined at least monthly by a designated person in the facility to determine that: (7-1-99)T

a. Each extinguisher is in its designated location; (7-1-99)T

b. Each extinguisher seal or tamper indicator is not broken; (7-1-99)T

c. Each extinguisher has not been physically damaged; (7-1-99)T

d. Each extinguisher gauge, if provided, shows a charged condition; and (7-1-99)T

e. The inspection tag attached to the extinguisher shall show at least the initials of the person making the monthly examination and the date of the examination. (7-1-99)T

04. Fire Alarm/Smoke Detection System Service/Testing. (7-1-99)T

a. The facility's fire alarm/smoke detection system shall be inspected/tested/serviced at least annually by a person or business professionally engaged in the servicing of such systems. Results of the inspection/test shall be maintained on file; and (7-1-99)T

b. The fire alarm/smoke detection system shall be inspected/tested at least monthly by a designated facility employee. Results of the inspection/test shall be maintained on file. (7-1-99)T

05. Automatic Fire Extinguishing System - Inspection. All automatic fire extinguishing systems shall be inspected/tested/serviced at least annually by an appropriate contractor licensed by the Idaho State Fire Marshal's office. A report, prepared by the contractor shall be maintained on file in the facility documenting the results of the annual inspection/testing/service. (7-1-99)T

502. -- 524. (RESERVED).

525. BUILDING CONSTRUCTION AND PHYSICAL STANDARDS.

01. Building Character. All buildings utilized as licensed residential and assisted living facilities shall be of such character as to be suitable for such use. Facilities shall be of such character as to enhance normalization and integration of residents into the community. (7-1-99)T

02. Remodeling Or Additions. Remodeling or additions to facilities shall be consistent with and not

detract from the residential use of the property. Remodeling which identifies the facility such as remodeling garages when this is not the general practice in the neighborhood or constructing large buildings which overwhelm the lot on which the facility is located is prohibited. (7-1-99)T

03. Approval. All buildings shall be subject to the approval of the licensing agency. (7-1-99)T

04. Walls And Floor Surfaces. Walls and floors shall be of such character to permit frequent cleaning. Walls and ceilings in kitchens, bathrooms, and utility rooms shall have smooth enameled or equally washable surfaces. (7-1-99)T

05. Toilet And Bathrooms. Each facility shall provide: (7-1-99)T

a. A toilet and bathroom for resident use so arranged that it is not necessary for an individual to pass through another resident's room to reach the toilet or bath; (7-1-99)T

b. Toilet and bathrooms separated from all adjoining rooms by solid walls or partitions; (7-1-99)T

c. Mechanical ventilation to the outside from all inside toilet and bathrooms without operable windows; (7-1-99)T

d. Each tub, shower, and lavatory connected to hot and cold running water; (7-1-99)T

e. At least one (1) flush toilet for every six (6) persons, residents, or personnel; (7-1-99)T

f. At least one (1) tub or shower for every eight (8) persons, residents, or personnel; (7-1-99)T

g. At least one (1) lavatory with a mirror for each toilet; and (7-1-99)T

h. At least one (1) toilet, tub or shower, and lavatory in each building in which residents sleep, with additional units if required by the number of persons. Residents shall not be required to go outside to get to the toilet, tub or shower, or lavatory. (7-1-99)T

06. Accessibility For Persons With Mobility And Sensory Impairments. For residents with mobility or sensory impairments, the facility shall provide a physical environment which meets the needs of the person for independent mobility and use of appliances, bathroom facilities, and living areas. New construction must meet the requirements of the Americans with Disabilities Act Accessibility Guidelines (ADAAG). Existing facilities shall comply, to the maximum extent feasible with Title III-4.4000 of the Americans with Disabilities Act, without creating an undue hardship or burden on the facility, and shall provide as required, the necessary accommodations: (7-1-99)T

a. Ramps for residents who require assistance with ambulation shall comply with the requirements of the Americans with Disabilities Act Accessibility Guidelines (ADAAG) 4.8; (7-1-99)T

b. Bathrooms and doors large enough to allow the easy passage of a wheelchair as provided for in the Americans with Disabilities Act Accessibility Guidelines (ADAAG) 4.13; (7-1-99)T

c. Grab bars in resident toilet and bathrooms that comply with the Americans with Disabilities Act Accessibility Guidelines (ADAAG) 4.26; (7-1-99)T

d. Toilet facilities that comply with the Americans with Disabilities Act Accessibility Guidelines (ADAAG) 4.16 and 4.23; (7-1-99)T

e. Non retractable faucet handles that comply with the Americans with Disabilities Act Accessibility Guidelines (ADAAG) 4.19 (with the exception of self-closing valves under 4.19.5) and 4.27; and (7-1-99)T

f. Suitable hand railing shall be provided on both sides of all stairs leading into and out of a building for residents who require the use of crutches, walkers, or braces. (7-1-99)T

07. Lighting. The facility shall provide adequate lighting in all resident sleeping rooms, dining rooms, living rooms, recreation rooms, and hallways. (7-1-99)T

08. Ventilation. The facility shall be ventilated, and precautions shall be taken to prevent offensive odors. (7-1-99)T

09. Plumbing. All plumbing in the facility shall comply with local and state codes. All plumbing fixtures shall be easily cleanable and maintained in good repair. (7-1-99)T

10. Heating. A heating system shall be provided for the facility that is capable of maintaining a minimum temperature of seventy (70) degrees Fahrenheit during the day and a minimum of sixty-two (62) degrees Fahrenheit during the night. Wood stoves shall not be permitted as the sole source of heat and the thermostat for the primary source of heat shall be remotely located away from any wood stove. (7-1-99)T

11. Dining/Recreation/Living Space. For facilities licensed after July 1, 1991, the total area set aside for these purposes shall be not less than thirty (30) square feet per resident. A hall or entry shall not be included as living or recreation space. (7-1-99)T

12. Residents Required To Go Outside. Residents requiring the use of wheelchairs, walkers, or assistance with ambulation shall not be admitted to facilities that require residents to go outside to go back and forth from the dining room/shower/bath/recreation areas. (7-1-99)T

13. Covered Cement Walks. For facilities licensed after July 1, 1991, where residents are required to leave their rooms to go to dining or recreation, covered cement walks are required. (7-1-99)T

14. Resident Sleeping Rooms. The facility shall assure that: (7-1-99)T

a. Each resident sleeping room is not in attics, stairs, halls, or any other room commonly used for other than bedroom purposes; (7-1-99)T

b. A room with a window that opens into an exterior window well shall not be used for a resident sleeping room; (7-1-99)T

c. Not more than four (4) residents shall be housed in any multi-bed sleeping room in facilities licensed prior to July 1, 1991. New facilities or conversions licensed after July 1, 1992, shall not have more than two (2) residents in any multi-bed sleeping room. The sale of a facility licensed prior to July 1, 1992, shall not be considered a new facility or conversion; (7-1-99)T

d. Square footage requirements for existing facilities that have been continuously licensed since before May 9, 1977, shall provide sleeping rooms which allow for not less than seventy-five (75) square feet of floor space per resident in a single-bed sleeping room and not less than sixty (60) square feet of floor space per resident in a multi-bed sleeping room with a minimum of three (3) feet between beds; (7-1-99)T

e. Square footage requirements for facilities licensed on or after May 9, 1977, shall provide sleeping rooms which allow for not less than one-hundred (100) square feet of floor space per resident in a single-bed sleeping room and not less than eighty (80) square feet of floor space per resident in a multi-bed sleeping room; (7-1-99)T

f. Each resident's sleeping room shall be provided with an operable window. The window opening shall be not less than twenty-two (22) inches wide, twenty-four (24) inches in height, and five and seven-tenths (5.7) square feet in area. Exception: This is not necessary if there is a door to the outside; (7-1-99)T

g. The operable window sill height shall not exceed thirty-six (36) inches above the floor in new construction, additions, or remodeling; (7-1-99)T

h. The operable window sill height shall not exceed forty-four (44) inches above the floor in existing buildings being converted to a facility; (7-1-99)T

i. Each resident sleeping room shall provide a total window space that equals at least ten percent (10%) of the room's total square footage; (7-1-99)T

j. Window screens shall be provided on operable windows; (7-1-99)T

k. Resident sleeping rooms shall be provided with walls that run from floor to ceiling and with doors that will stop the passage of smoke and provide the resident with adequate privacy; (7-1-99)T

l. Ceiling heights in sleeping rooms shall be at least seven (7) feet, six (6) inches; and (7-1-99)T

m. Closet space in each resident sleeping room shall be provided at the rate of at least four (4) square feet per resident. Common closets utilized by two (2) or more residents shall be provided with substantial dividers for separation of each resident's clothing. All closets shall be equipped with doors. Free-standing closets shall be deducted from the square footage of the sleeping room. (7-1-99)T

15. Storage Areas. In addition to the storage area in the resident's room, general storage shall be provided at the rate of ten (10) square feet per licensed bed. (7-1-99)T

16. Intercom System. An intercom system shall be installed in the facility based upon the design of the building, needs of the residents, or staffing pattern. The intercom shall not be a substitute for supervision. (7-1-99)T

17. Dietary Standards. The facility shall assure that: (7-1-99)T

a. Newly constructed facilities, admitting or planning to admit sixteen (16) or more residents, shall submit professionally prepared drawings or plans of the kitchen for review prior to construction; and (7-1-99)T

b. Carpeting is prohibited in the food preparation area, and where existing, shall be replaced with an easily cleanable surface when worn out or becomes heavily soiled. (7-1-99)T

526. REQUIREMENTS FOR EXISTING BUILDINGS TO BE CONVERTED TO A FACILITY.
In addition to requirements set forth in Section 525, buildings to be converted to facilities shall comply with the following: (7-1-99)T

01. Site. The building/home location shall be: (7-1-99)T

a. In a lawfully constituted fire district; and (7-1-99)T

b. Served by an all-weather road kept open to motor vehicles at all times of the year; and (7-1-99)T

c. Accessible to physician or emergency medical services within thirty (30) minutes driving time; and (7-1-99)T

d. Accessible within thirty (30) minutes driving time to necessary social, medical, and rehabilitation services. (7-1-99)T

02. Occupancy Approval. Any building proposed for conversion to a facility shall be approved by the licensing agency prior to issuance of a license. Any items of noncompliance shall be corrected prior to issuance of the license. (7-1-99)T

03. Use Of Modular (i.e., Factory Built) Buildings And Manufactured Homes. Modular Buildings as defined in Section 39-4105, Idaho Code, must conform to the requirements of the Uniform Building Code unless approved for use as a facility prior to July 1, 1999, and may continue to be licensed when evaluated on a case-by-case basis for fire and life safety issues. Manufactured Homes as defined in Section 39-4105, Idaho Code, shall not be used. (7-1-99)T

527. NEW CONSTRUCTION, ADDITIONS, ALTERATIONS.

01. Construction. Facilities whose construction commenced after July 1, 1991, or buildings being converted to a facility after July 1, 1991, shall conform to the requirements of the Life Safety Code, 1988 Edition, Chapter 12, for a Limited Care Facility. Exception: A building housing fifteen (15) beds or less where all sleeping rooms are located on the first story, may comply with the requirements of the Life Safety Code, 1988 Edition, Chapter 21, Residential Board and Care which is incorporated by reference and is outlined in Section 008. See Section 500. (7-1-99)T

02. Plans And Specifications. Plans and specifications on any new facility or any addition/remodeling are governed by the following: (7-1-99)T

a. Plans shall be prepared by an architect or engineer licensed in the state of Idaho. A variance of this requirement may be granted by the licensing agency when the size of the project does not necessitate involvement of an architect or engineer; (7-1-99)T

b. Prior to commencing work, plans and specifications shall be submitted to, and approved by, the licensing agency to assure compliance with applicable construction standards, codes, and regulations; (7-1-99)T

c. Preliminary plans, to be submitted, shall include the assignment of all spaces, size of areas and rooms; (7-1-99)T

d. Preliminary plans, to be submitted, shall include drawings of each floor including, but not limited to, the basement, approach or site plan, roads, parking areas, and sidewalks; (7-1-99)T

e. Preliminary plans, to be submitted, shall include outline specifications describing the general construction, including interior finishes, acoustical material, heating, electrical, and ventilation systems; (7-1-99)T

f. Preliminary plans, to be submitted, shall be drawn to scale of sufficient size to clearly present the proposed design, but not less than a scale of one-eighth (1/8) inch to the foot; (7-1-99)T

g. Working drawings shall be developed in close cooperation and with approval of the licensing agency and other appropriate agencies prior to construction; (7-1-99)T

h. Working drawings shall be of accurate dimensions and shall include all necessary explanatory notes, schedules, and legends. The drawings shall be stamped/signed by the architect or engineer; and (7-1-99)T

i. Working drawings shall be complete and adequate for contract purposes. (7-1-99)T

528. -- 549. (RESERVED).

550. REQUIREMENTS FOR FURNISHING, EQUIPMENT, AND SUPPLIES.
Furnishing, Equipment, and Supplies. Each facility shall provide: (7-1-99)T

01. Living Room Furnishings. Reading lamps, tables, and comfortable chairs or sofas in living rooms. (7-1-99)T

02. Resident Sleeping Room Furnishings. Comfortable furnishings and individual storage for personal items for each resident in each sleeping room. (7-1-99)T

03. Resident Bed. Each resident with his own bed, which shall be at least thirty-six (36) inches wide, substantially constructed, and in good repair. Roll-away beds, cots, folding beds, or double bunks shall be prohibited. Each bed shall be provided with springs which are in good repair, a clean and comfortable mattress which is standard for the bed, and a pillow. (7-1-99)T

04. Drinking Glasses. Clean drinking glasses for resident use. Common drinking glasses shall be prohibited. (7-1-99)T

05. Resident Telephone Privacy. A telephone in the facility which is accessible to all residents. The telephone shall be situated in such a manner so as to provide the resident adequate privacy while using the telephone. (7-1-99)T

06. Basic Services And Supplies. Room, board, activities of daily living services, supervision, assistance and monitoring of medications, linen, towels, wash cloths, soap, shampoo, comb, hairbrush, toilet paper, sanitary napkins, first aid supplies, electric razors or other means of shaving, toothbrush, toothpaste, laundering of linens owned by the facility, emergency transportation, housekeeping services, maintenance, utilities, and basic T.V. in common areas shall be included in the basic room and board charges and must be available at no extra charge. (7-1-99)T

551. -- 673. (RESERVED).

674. MENTAL HEALTH CONTRACT BEDS.
Facilities may enter into agreements with the Department to provide short-term care to certain residents designated by the mental health program of the Department. These residents are temporarily distressed and unable to fully meet their basic needs. They require strong support, supervision, and while nonviolent or a danger to self or others, could regress without these supports. The following conditions must be met by the facility: (7-1-99)T

01. License And Personnel. The facility is on a full license and is staffed with at least one (1) staff member up and awake at night to assure the safety of all residents. (7-1-99)T

02. Written Contract. The facility has a written contract with the Department outlining the responsibilities of both parties and lists the names and telephone numbers of individuals who may be contacted if questions arise regarding the residents' care. (7-1-99)T

03. Resident Assessment. The facility has on file the results of an assessment which clearly assures that the resident is not a danger to himself or others. (7-1-99)T

04. Personnel Orientation And Training. Personnel providing direct resident care shall have documented evidence on file at the facility of appropriate orientation and training in providing care for residents in the mental health program. (7-1-99)T

675. HOURLY ADULT CARE.

01. Policies. Policies governing the acceptance of individuals to the hourly adult care program shall be developed and implemented and shall provide at least the following: (7-1-99)T

a. Types of individuals who may not be accepted; (7-1-99)T

b. Health and other pertinent information regarding the individual's needs; (7-1-99)T

c. Emergency telephone numbers for contact with family members or physician and other identification information; and (7-1-99)T

d. Written policies shall be available to participants, families and general public. (7-1-99)T

02. Hourly Adult Care Operation. Policies shall be developed and implemented governing the operation of the hourly adult care program and shall include at least the following: (7-1-99)T

a. Time periods of program not to exceed fourteen (14) consecutive hours in a twenty-four (24) hour period; (7-1-99)T

b. Cost of program to resident; (7-1-99)T

c. A description of services offered, including, but not limited to meals, activities, transportation

services, if offered, and supervision; and (7-1-99)T

d. Records required. (7-1-99)T

03. Medications. (7-1-99)T

a. The facility shall not admit residents to the hourly adult care program who cannot administer their own medications. See Subsection 010.47; (7-1-99)T

b. Each hourly adult care resident shall be responsible for bringing his own supply of medications for the stay; and (7-1-99)T

c. The facility shall be responsible for the safeguarding of the hourly adult care resident's medications while he is at the facility. (7-1-99)T

04. Records. (7-1-99)T

a. The facility shall maintain a record for each hourly adult care resident which includes at least admission identification information including responsible party and physician; (7-1-99)T

b. The facility shall maintain a record for each hourly adult care resident which includes at least pertinent health and social information relevant to the supervision of the resident; (7-1-99)T

c. A log of hourly adult care participants shall be maintained for at least the previous year. (7-1-99)T

05. Restrictions. (7-1-99)T

a. Hourly adult care services may be provided to such number of individuals that the facility can handle without interference with the normal activities of the facility; (7-1-99)T

b. Provision of time appropriate accommodations shall be made available for the participant, to include, but not be limited to, napping furniture for day time hours, 6 a.m. through 10 p.m., such as lounge chairs, recliners, and couches; (7-1-99)T

c. The facility shall have the ability to space napping furniture at least three (3) feet apart if needed or requested; (7-1-99)T

d. Beds and bedrooms shall be available for the sleeping hours when needed by the hourly adult care resident. This bed will not be counted as a licensed bed if resident sleeps over; (7-1-99)T

e. Beds, and bedrooms of residents shall not be utilized; and (7-1-99)T

f. No individual shall be admitted to the hourly adult care program who requires skilled nursing or intermediate care or for whom the facility cannot adequately provide services and supervision. (7-1-99)T

676. -- 699. (RESERVED).

700. SPECIALIZED CARE UNITS/FACILITIES FOR ALZHEIMER/DEMENTIA RESIDENTS.
The facility or unit caring for Alzheimer/Dementia residents shall meet the requirements of Rules For Licensed Residential and Assisted Living Facilities In Idaho, Sections 000 through Section 699 and Sections 900 through 999. (7-1-99)T

01. Type Of Facility Required To Meet Specialized Requirements. All facilities, who have a Level III resident with a diagnosis of Alzheimer or an equivalent dementing illness shall meet the requirements for the Specialized Care Units/Facilities For Alzheimer/Dementia Residents, Section 700. (7-1-99)T

02. Policy. Specialized residential care and assisted living units/facilities are specifically designed,

dedicated, and operated to provide the individual with chronic confusion, or dementing illness, or both, with the maximum potential to reside in a secure residential environment through the provision of a supervised life-style which is safe, structured but flexible, stress free, and encourages physical activity through a well developed activity and recreational program. The program constantly strives to enable residents to maintain the highest practicable physical, mental or psychosocial well-being. (7-1-99)T

03. Services. Habilitation services, activity program, and behavior management shall be provided to meet the needs of the resident according to their individualized negotiated service agreement. (7-1-99)T

04. Additional Licensure Requirements. A written program of care to be offered by the special care unit/facility shall be developed to include, but not be limited to: (7-1-99)T

a. A description of the resident population to be served; (7-1-99)T

b. A statement of philosophy, objectives, and beliefs upon which decisions will be made regarding the special care unit/facility and the expected results; (7-1-99)T

c. A description of the admission and discharge criteria; (7-1-99)T

d. A description of security systems; (7-1-99)T

e. Policies and procedures developed for the specialized unit/facility; (7-1-99)T

f. A proposed staffing pattern; (7-1-99)T

g. A plan for specialized personnel training; and (7-1-99)T

h. A description of programs for activities and social services. (7-1-99)T

05. Personnel Orientation. Each facility offering specialized care units/facilities for Alzheimer/ Dementia residents shall develop an orientation training program, for personnel providing care and supervision to these residents, to include, but not be limited to, the following: (7-1-99)T

a. Alzheimer and Dementia; (7-1-99)T

b. Symptoms and behaviors of memory impaired people; (7-1-99)T

c. Communication with memory impaired people; (7-1-99)T

d. The resident's adjustment to residency in the special care unit/facility; (7-1-99)T

e. Inappropriate and problem behavior of special care unit/facility residents and appropriate personnel interventions; (7-1-99)T

f. Activities of daily living for special care unit/facility residents; and (7-1-99)T

g. Stress reduction for special care unit/facility personnel and resident. (7-1-99)T

06. Orientation Training. Personnel shall have at least six (6) additional hours of orientation training prior to providing unsupervised service. (7-1-99)T

07. Continuing Training. An additional two (2) hours of the required eight (8) hours per year of continuing training shall be in the provision of services to resident's with Alzheimer's disease or dementia disorders. (7-1-99)T

08. Admission Policy. Each facility offering special care units/facilities for Alzheimer/Dementias shall develop and implement a written admission policy governing the acceptance of individuals into the unit/facility. The

written policy shall include, but not be limited to the following: (7-1-99)T

a. All residents shall be evaluated by their primary physician for the resident's appropriateness for placement into a secure residential environment prior to admission. The facility shall obtain a written statement from the physician stating that the resident is appropriate for admission prior to the resident's admission; (7-1-99)T

b. Clients of the Department shall also have an assessment from the Department, for the resident's appropriateness for placement into a secure residential environment of the special care unit/facility prior to admission. The facility shall obtain from the Department a written statement that the resident is appropriate for admission prior to the resident's admission; (7-1-99)T

c. The facility shall not admit any resident without a written statement from the resident's primary physician for private-pay residents and from the Department for clients of the Department that the resident's degree/ stage of confusion/dementia is appropriate for the level of services that the facility is licensed to provide; (7-1-99)T

d. No resident shall be admitted whose safety cannot be assured by the appropriate combination of personnel and facility design. (7-1-99)T

e. Residents shall be at a stage of their disease such that only periodic professional observation and evaluation are required; and (7-1-99)T

f. The facility administrator/personnel shall immediately report to the resident's attending physician for private-pay residents and to the Department for Department clients any sudden or significant change in orientation and behavior, especially wandering, which may indicate the need for a more secure environment. The resident shall be re-evaluated by their primary physician for private-pay residents and by the Department for Department clients for progression of the resident's dementia requiring transfer to a facility with greater supervision and security. (7-1-99)T

09. Medications. (7-1-99)T

a. Psychotropic/behavioral modifying medication intervention shall be used as a last recourse only and at the lowest effective dosage. Prior to the facility obtaining physician orders for psychotropic/behavior modifying medication, the facility shall implement a less restrictive systematic non medication, behavioral management, approach to assist and redirect the resident to control his behavior. (7-1-99)T

b. The facility shall ensure that physician orders for psychotropic/behavioral modifying medications are ordered for a specific condition as diagnosed and documented in the medical record, at the lowest possible dosage and for a duration not to exceed a six (6) month period. At the end of the six (6) month period, the need for the medication and the current dosage shall be reassessed by the resident's physician for possible dose reduction and discontinuation of the medication. The facility shall have written documentation, signed and dated by the physician and consultant pharmacist regarding his reassessment and determinations, in the resident's medical record. (7-1-99)T

10. Behavioral Management. The resident with inappropriate behaviors shall be evaluated with appropriate documentation for each incident of inappropriate behavior to determine the following: (7-1-99)T

a. Baseline to determine the intensity, duration, and frequency of the inappropriate behavior; (7-1-99)T

b. Study of antecedent behaviors and activities; (7-1-99)T

c. Identification of recent changes or additional risk factors in the resident's life; (7-1-99)T

d. Environment factors such as time of day, personnel involved, noise, levels; (7-1-99)T

e. Medical status; (7-1-99)T

f. Staffing patterns at times of inappropriate behavior; (7-1-99)T

g. Alternative, structured activities or behaviors that have been successful or unsuccessful for the resident in the past; and (7-1-99)T

h. Effectiveness of behavioral management approaches. (7-1-99)T

11. Safety. (7-1-99)T

a. The unit/facility shall have available an outside area or yard that assures the safety of the residents. Areas are to be fenced/walled, gates are to be easily operable to public and personnel, plants are to be non-hazardous for human contact/consumption and adequate personnel will be present. (7-1-99)T

b. Procedures shall be written and implemented, outlining the steps to be taken by personnel when a resident is discovered to be missing from the unit/facility. (7-1-99)T

c. Procedures shall be written and implemented, outlining precautions to be taken when hazardous cleaning materials or potentially dangerous mechanical equipment is being used in the unit/facility. (7-1-99)T

d. Procedures shall be written and implemented, outlining the steps to be taken by personnel when a resident's behavior becomes uncontrollable. (7-1-99)T

701. -- 899. (RESERVED).

900. IMPOSITION OF ENFORCEMENT REMEDIES.

01. Recommendation Of Remedy. In determining which remedy to recommend, the Department shall consider the facility's compliance history, change of ownership, the number of deficiencies, scope and severity of the deficiencies. Subject to these considerations, the Department may impose any of the remedies described in Subsections 150.01.a through 150.01.g. (7-1-99)T

02. Immediate Jeopardy. If the Department finds that the facility's deficiency or deficiencies immediately jeopardize the health or safety of its residents, the Department shall: (7-1-99)T

a. Appoint temporary management and impose one (1) or more of the remaining remedies specified in Subsections 150.01.a. through 150.01.g.; and (7-1-99)T

b. Summarily suspend the facility's license. (7-1-99)T

03. No Immediate Jeopardy. If the licensing agency finds that the facility's deficiency or deficiencies do not immediately jeopardize resident health or safety, the Department may impose one (1) or more of the remedies specified in Subsections 150.01.a. through 150.01.d. and 150.01.f. and 150.01.g. (7-1-99)T

04. Repeated Noncompliance. If the licensing agency makes a determination of repeated noncompliance with respect to a facility the licensing agency may impose any of the remedies listed in Subsections 150.01.a. through 150.01.g. The licensing agency shall monitor the facility on-site on an as needed basis, until the facility has demonstrated to the licensing agency's satisfaction that it is in compliance with all program requirements governing the facility and that it will remain in compliance. (7-1-99)T

05. Failure To Comply. If a facility has not complied with any program requirement within three (3) months of the date the facility is found to have been out of compliance with such requirement, or as stated in the facility accepted plan of correction and the Department has verified, via on-site resurveys, that the facility has made little or no progress in correcting deficiencies then the Department shall institute a revocation action against the facility. (7-1-99)T

901. -- 924. (RESERVED).

925. ENFORCEMENT REMEDY OF BAN ON ALL ADMISSIONS.
The licensing agency shall notify the facility via certified mail banning all admissions to the facility pending

satisfactory correction of all deficiencies. Such bans to the facility or to any part thereof shall remain in effect until the licensing agency determines that the facility has achieved full compliance with all program requirements, or until a substitute remedy is imposed. (7-1-99)T

926. ENFORCEMENT REMEDY OF BAN ON ADMISSIONS OF RESIDENTS WITH SPECIFIC DIAGNOSIS.

The licensing agency shall notify the facility via certified mail when banning admission of all residents with a specific diagnosis. Such bans may be imposed for all prospective residents both state and private, and shall prevent the facility from admitting the kinds of resident it has shown an inability to provide adequate care for. (7-1-99)T

927. ENFORCEMENT REMEDY OF CIVIL MONETARY PENALTIES.

01. Civil Monetary Penalties. Civil monetary penalties shall be based upon one (1) or more findings of noncompliance. Actual harm to a resident or residents need not be shown. Nothing shall prevent the Department from imposing this remedy for deficiencies which existed prior to the survey or complaint investigation through which they are identified. A single act, omission or incident shall not give rise to imposition of multiple penalties, even though such act, omission or incident may violate more than one (1) rule. In such cases, the single highest class of deficiency shall be the basis for penalty. Compliance by the facility at a later date shall not result in the reduction of the penalty amount. If the facility appeals the imposition of the civil monetary penalty, they must post a bond equivalent to the amount of the civil monetary penalty. The three (3) classes of deficiencies upon which civil monetary penalties shall be based are as follows: (7-1-99)T

a. Class A: A deficiency or combination of deficiencies which places one (1) or more residents at substantial risk of serious physical or mental harm; (7-1-99)T

b. Class B: A deficiency or combination of deficiencies, other than Class A deficiencies, which have a direct adverse affect on the health, safety, welfare, or rights of residents; (7-1-99)T

c. Class C: A deficiency, or combination of deficiencies other than A or B deficiencies, which are likely to have an adverse affect on the health, safety, welfare, or rights of residents. (7-1-99)T

02. Amount Assessment Of Civil Monetary Penalty. When civil monetary penalties are imposed, such penalties shall be assessed for each day the facility is or was out of compliance. The amounts below shall be multiplied by the total number of beds according to the records of the state licensing agency at the time of the survey. Penalties shall be imposed for each class of deficiencies identified in a survey or complaint investigation. (7-1-99)T

a. Class A Initial Deficiency is eight dollars ($8); Class A Repeat Deficiency is ten dollars ($10); Class B Initial Deficiency is five dollars ($5); Class B Repeat Deficiency is eight dollars ($8); Class C Initial Deficiency is two dollars ($2); Class C Repeat Deficiency is four dollars ($4). (7-1-99)T

b. In any ninety (90) day period, the penalty amounts may not exceed the applicable ceiling as described immediately below. The ceiling, initial, or repeat, shall be determined by the category which has the largest percentage of the deficiencies cited in the survey or complaint investigation; (7-1-99)T

c. Ceiling amounts for facilities of three (3) and four (4) bed size are one thousand four hundred forty dollars ($1440) for an Initial Deficiency; and two thousand eight hundred eighty dollars ($2880) for a Repeat Deficiency. For facilities from five to fifty (5-50) bed size the ceiling amounts are three thousand two hundred dollars ($3200) for an Initial Deficiency; and six thousand four hundred dollars ($6400) for a Repeat Deficiency. For facilities from fifty one to one-hundred (51-100) bed size the ceiling amount for an Initial Deficiency is five thousand four hundred dollars ($5400); and ten thousand eight hundred dollars ($10,800) for a Repeat Deficiency. For facilities from one hundred and one to one hundred and fifty (101-150) bed size the ceiling amount for an Initial Deficiency is eight thousand eight hundred dollars ($8800); and seventeen thousand six hundred dollars ($17,600) for a Repeat Deficiency. For facilities from one hundred and fifty one (151) or more the ceiling amount is fourteen thousand six hundred ($14,600) for an Initial Deficiency; and twenty nine thousand two hundred ($29,200) for a Repeat Deficiency. (7-1-99)T

03. Imposing Civil Monetary Penalties. Civil monetary penalties shall be imposed as follows:

(7-1-99)T

a. Upon its discovery of a deficiency, the licensing agency shall deliver to the Department, within a period, not to exceed thirty (30) calendar days, its recommendation for assessment of a penalty as a result of such deficiency; and (7-1-99)T

b. The penalty shall be assessed by the Director. (7-1-99)T

04. Notice Of Civil Monetary Penalties. The Department shall give written notice to the facility of its imposition of any such penalty within a period not to exceed thirty (30) days of its receipt of a recommendation by the state licensing agency for the assessment of a penalty. The notice shall inform the facility of the amount of the penalty, the basis for its assessment and the facility's appeal rights. (7-1-99)T

05. Payment Of Penalties. Within thirty (30) calendar days from the date the notice is received by the facility, the facility shall pay the full amount of the penalties unless the facility requests administrative review of the decision to assess the penalty or penalties. The amount of a civil monetary penalty determined through administrative review shall be paid within thirty (30) calendar days of the facility's receipt of the administrative review decision unless the facility requests an administrative hearing. The amount of the civil monetary penalty determined through a hearing shall be paid within thirty (30) calendar days of the facility's receipt of the hearing decision unless the facility files a petition for judicial review. Interest shall be assessed and collected on all unpaid penalties at the legal rate of interest for judgments, as set forth herein. Such assessments shall begin one (1) calendar day after: (7-1-99)T

a. The date of the initial assessment of the penalty; or (7-1-99)T

b. If the facility waives its right to a hearing and opts to pay the penalty, the amount of the civil monetary penalty will be reduced by thirty-five percent (35%). (7-1-99)T

c. The date of issuance of the administrative review, administrative hearing or the final judicial review. (7-1-99)T

06. Collection Of Civil Monetary Penalties. If a facility fails or refuses to pay a penalty within the time required, the Department may impose other penalties or institute a revocation action against the facility. Nothing herein shall prohibit the Department from obtaining judicial enforcement of its right to collect penalties and interest thereon. (7-1-99)T

07. Failure To Pay. Failure of a facility to pay the entire penalty, together with interest, as specified in Subsection 927.05, shall result in an automatic final decision and no further administrative or judicial review or hearing shall be available to the facility. (7-1-99)T

08. Use Of Civil Monetary Penalties. The Department shall use civil monetary penalties' receipts to protect the health and property of the residents including: (7-1-99)T

a. Maintenance or operation of a facility pending correction of deficiencies or closure; or (7-1-99)T

b. Paying costs of relocating residents; or (7-1-99)T

c. Reimbursing residents for personal funds lost which reimbursement shall not adversely affect a person's Medicaid eligibility. (7-1-99)T

928. ENFORCEMENT REMEDY OF TEMPORARY MANAGEMENT.

01. Need For Temporary Management. The Department shall impose the remedy of temporary management in situations where the licensing agency finds that there is a need to oversee operation of the facility and to assure the health and safety of the facility's residents while there is an orderly transfer of residents of the facility to other facilities or while improvements are made in order to bring the facility into compliance with all program requirements. (7-1-99)T

02. Recommendation For Temporary Management. Within five (5) calendar days of its completion of a survey or complaint investigation, the licensing agency shall deliver to the Director its written recommendation for appointment of temporary management if, in the agency's judgment, such appointment is necessary. The recommendation shall provide the basis for the decision, including the assessment of the capability of the facility's current management to achieve and maintain compliance with all rules. (7-1-99)T

03. Appointment Of Temporary Management. The Director shall appoint temporary management. (7-1-99)T

04. Notice Of Temporary Management. The Department shall give written notice to the facility of its appointment of temporary management within seven (7) calendar days of its receipt of a recommendation for appointment from the state licensing agency, unless the Department determines that temporary management is not necessary. When the licensing agency and Department have determined that the facility deficiency or deficiencies immediately jeopardize the health or safety of its residents, no administrative review shall be required prior to appointment of temporary management and the provisions of Section 951 shall apply. (7-1-99)T

05. Who May Serve As Temporary Manager. The Director may appoint any person or organization which meets the following qualifications: (7-1-99)T

a. The temporary manager shall not have any pecuniary interest in or preexisting fiduciary duty to the facility to be managed; (7-1-99)T

b. The temporary manager must not be related, within the first degree of kinship, to the facility's owner, manager, administrator or other management principal; (7-1-99)T

c. The temporary manager must possess sufficient training, expertise and experience in the operation of a facility as would be necessary to achieve the objectives of temporary management. If the temporary manager is to serve in a facility, the manager must possess an Idaho Residential Care Administrator's license; (7-1-99)T

d. The temporary manager must not be an existing competitor of the facility who would gain an unfair competitive advantage by being appointed as temporary manager of the facility. (7-1-99)T

06. Powers And Duties Of The Temporary Manager. The temporary manager shall have the authority to direct and oversee the management, hiring and discharge of any consultant or personnel, including the administrator of the facility. The temporary manager shall have the authority to direct the expenditure of the revenues of the facility in a reasonable, prudent manner, to oversee the continuation of the business and the care of the residents, to oversee and direct those acts necessary to accomplish the goals of the program requirements and to direct and oversee regular accounting, and the making of periodic reports to the licensing agency. The temporary manager shall provide reports no less frequently than monthly showing the facility's compliance status. Should the facility fail or refuse to carry out the directions of the temporary manager, the Department may, at its discretion, impose any other remedies described herein. (7-1-99)T

a. The temporary manager shall observe the confidentiality of the operating policies, procedures, employment practices, financial information, and all similar business information of the facility, except that the temporary manager shall make reports to the state licensing agency as provided in this section; (7-1-99)T

b. The temporary manager shall be liable for gross, willful or wanton negligence, intentional acts of omissions, unexplained shortfalls in the facility's fund, and breaches of fiduciary duty; (7-1-99)T

c. The temporary manager shall be bonded in an amount equal to the facility's revenues for the month preceding the appointment of the temporary manager; (7-1-99)T

d. The temporary manager shall not have authority to cause or direct the facility or its owner, administrator to incur debt or to enter into any contract with a duration beyond the term of the temporary management of the facility; (7-1-99)T

e. The temporary manager shall not have authority to incur, without the permission of the owner, administrator or the Department, capital expenditures in excess of two thousand dollars ($2,000), unless the capital expenditures are directly related to correcting the identified deficiencies; (7-1-99)T

f. The temporary manager shall not have authority to cause or direct the facility to encumber its assets or receivables, or the premises on which it is located, with any lien or other encumbrances; (7-1-99)T

g. The temporary manager shall not have authority to cause or direct the facility to cancel or reduce its liability or casualty insurance coverage; (7-1-99)T

h. The temporary manager shall not have authority to cause or direct the sale of the facility, its assets or the premises on which it is located. (7-1-99)T

07. Responsibility For Payment Of The Temporary Manager. All compensation and per diem costs of the temporary manager shall be paid by the facility. The Department shall bill the facility for the costs of the temporary manager after termination of temporary management. The costs of the temporary manager for any thirty (30) day period shall not exceed one-sixth (1/6) of the maximum allowable administrator's's annual salary for the largest facility. Within fifteen (15) calendar days of receipt of the bill, the facility shall pay the bill or request administrative review to contest the costs for which it was billed. (7-1-99)T

08. Termination Of Temporary Management. A temporary manager may be replaced under the following conditions: (7-1-99)T

a. The Department may replace any temporary manager whose performance is deemed unsatisfactory by the Department. No formal procedure is required for such removal or replacement but written notice of any action shall be given to the facility, including the name of any replacement manager. (7-1-99)T

b. The Department shall not terminate temporary management until it has reasonable assurances that the facility has management capability to ensure continued compliance with all rules. (7-1-99)T

c. A facility subject to temporary management may petition the Department for replacement of a temporary manager whose performance it considers unsatisfactory. The petition shall include why the replacement of a temporary manager is necessary or appropriate. The Department shall respond to a petition for replacement within five (5) calendar days after receipt of said petition. (7-1-99)T

929. ENFORCEMENT REMEDY OF SUMMARY SUSPENSION AND TRANSFER OF RESIDENTS.

01. Summarily Suspend The Facility's License And Transfer Residents. The licensing agency may summarily suspend a facility's license and transfer residents when residents' health and safety are in immediate jeopardy. See Section 111, Subsection 929.02 and Section 971. (7-1-99)T

02. Emergency Powers Of The Director. In the event of an emergency endangering the life or safety of a resident, the Director may summarily suspend or revoke any facility license. As soon thereafter as practicable, the Director shall provide an opportunity for a hearing. (7-1-99)T

930. ENFORCEMENT REMEDY OF PROVISIONAL LICENSE.
Facilities found to be in substantial compliance with this chapter but failing to comply in every detail may be issued a provisional license. See Subsections 126.03.a. and 126.03.b. (7-1-99)T

931. ENFORCEMENT REMEDY OF REVOCATION OF LICENSE.

01. Revoke The Facility's License. The Department may institute a revocation action when the facility is not in substantial compliance with this chapter. (7-1-99)T

02. Causes For Revocation. The licensing agency may revoke any license: (7-1-99)T

a. The license holder has willfully misrepresented or omitted information on the application or other

documents pertinent to obtaining a license; (7-1-99)T

b. The facility is not in substantial compliance with these rules; (7-1-99)T

c. When persuaded by a preponderance of the evidence that such conditions exist which endanger the health or safety of any resident; (7-1-99)T

d. Any act adversely affecting the welfare of residents is being permitted, aided, performed, or abetted by the person or persons in charge of the facility. Such acts may include, but are not limited to, neglect, physical abuse, mental abuse, emotional abuse, violation of civil rights, or exploitation; (7-1-99)T

e. The license holder has demonstrated or exhibited a lack of sound judgment essential to the operation and management of a facility; (7-1-99)T

f. The license holder has violated any of the conditions of a provisional license; (7-1-99)T

g. The facility has one (1) or more major deficiencies. A major deficiency is a deficiency that endangers the health or safety or welfare of any resident; (7-1-99)T

h. An accumulation of minor violations that taken as a whole would constitute a major deficiency as noted in Subsection 931.02.g.; (7-1-99)T

i. Repeat violations of any requirement of these rules or of the Idaho Code; (7-1-99)T

j. The facility lacks adequate personnel, as required by these rules or as directed by the Department, to properly care for the number and type of residents residing at the facility; and (7-1-99)T

k. The facility is not in substantial compliance with the provisions for services or residents' rights outlined in Subsection 101.04.d., Section 250 through Subsection 251.03.e. (7-1-99)T

l. License holder refuses to allow the licensing agency or the Protection and Advocacy agencies described in Subsection 250.13 full access to the facility environment, facility records, and the residents. (7-1-99)T

932. ENFORCEMENT REMEDY OF INJUNCTION.
Notwithstanding any other remedy at law, the Director may seek an injunction in the name of the state against any person or governmental unit to enjoin the establishment, conduct, management, or operation of a facility in violation of the provisions of this chapter. See Sections 39-3358, 39-3380, 39-3558, and 39-3570, Idaho Code. (7-1-99)T

933. -- 949. (RESERVED).

950. RIGHT TO SELL.
Nothing contained in Section 150 shall limit the right of any facility owner to sell, lease, mortgage, or close any facility in accordance with all applicable laws. (7-1-99)T

951. NOTICE OF ENFORCEMENT REMEDY.
The Department shall give notice of the imposition of any remedy described in this chapter after the facility is afforded any allowable reviews or hearings as follows: (7-1-99)T

01. Notice To Facility. The Department shall give notice to the facility in writing, transmitted in a manner which shall reasonably ensure timely receipt by the facility such as certified mail or personal delivery; and (7-1-99)T

02. Notice To Public. The Department shall give notice to the public by transmitting printed notices to the facility. The facility shall post all notices where they can reasonably be expected to be read by the facility's residents or their representatives, including, but not limited to, exits and common areas. The notices shall remain in place until all remedies are officially removed by the licensing agency. Failure of a facility to comply with notice posting requirements shall constitute a Class B deficiency; and (7-1-99)T

03. Notice To The Ombudsman. The Department shall give notice to the state Ombudsman for the elderly; and (7-1-99)T

04. Notice To The Resident's Attending Physicians. The Department shall give notice to the attending physician of each resident affected by a finding of substandard quality of care; and (7-1-99)T

05. Notice To The Professional Licensing Boards. The Department shall give notice to professional licensing boards, as appropriate; and (7-1-99)T

06. Failure To Effect Notice. Failure of the Department to effect notice as required in Section 951 through Subsection 951.06 shall not be grounds for the facility to contest any action taken under this chapter. (7-1-99)T

952. -- 969. (RESERVED).

970. PROCEDURE FOR HEARINGS FOR ENFORCEMENT ACTIONS AGAINST A LICENSE.

01. Facility Notification. Immediately upon the decision to implement an enforcement action to include denial of license, the licensing agency shall notify the applicant or administrator in writing by certified mail or by personal service of its decision to implement an enforcement action against the license and the reason for the enforcement action. (7-1-99)T

02. Administrative Review. The notification of denial or revocation shall also offer the applicant or the administrator the opportunity to request an administrative review. Should the facility wish to contest imposition of a remedy, other than a plan of correction and except as provided in Subsections 927.05 and 928.04, a written request for administrative review must be received by the Department within fourteen (14) calendar days of the facility's receipt of notice of imposition of the remedy. The request shall state the grounds for its contention that the imposition of a remedy is in error. (7-1-99)T

a. During this conference, the position of the Department and the facility may be discussed and if possible an alternative to revocation or denial developed. (7-1-99)T

b. The Department shall transmit printed notice of administrative review to the facility. Such notices shall set forth date, time and location whenever the facility has requested and been granted a review on imposition of a remedy. The facility shall post all notices so provided. The notices shall be placed in areas readily accessible and visible to residents and their representatives. (7-1-99)T

c. The Department shall issue a written decision within fourteen (14) calendar days of the completion of the facility's receipt of the administrative review. The review shall be made solely on the basis of the licensing agency recommendation, the survey report, the statement of deficiencies, any documentation the facility submits to the Department at the time of its request, and information received as a result of the administrative review process. For the purposes of such review, a hearing shall not be held and oral testimony shall not be taken. (7-1-99)T

d. If the facility fails to file a timely request, the decision to impose a remedy or remedies shall become final and no further hearing or judicial review shall be available. (7-1-99)T

03. Administrative Hearing. Should the facility wish to appeal the administrative review decision for remedies described in Section 150 through 150.01 subject to the limitations therein, it may request an administrative hearing in accordance with the provisions of IDAPA 16.05.03, Section 311, et seq., "Rules Governing Contested Cases Proceedings and Declaratory Rulings". The scope of the administrative hearing shall be limited to issues raised and meaningfully addressed in the administrative review. (7-1-99)T

a. If the Department has imposed temporary management pursuant to the provisions of Section 928 or imposed either of the remedies specified in Subsection 150.01.e., the facility shall be entitled to a hearing which shall commence not less than five (5) nor more than ten (10) calendar days after the facility's receipt of notice of imposition of said remedy or remedies. No administrative review shall be conducted in such cases and no request for

hearing shall be required. A facility may waive its right to a hearing by written notice to the licensing agency. (7-1-99)T

b. Except in the cases of appointment of a temporary manager, unless the Department has determined that immediate jeopardy to the health or safety of a facility's residents exists, transfer of residents of a facility or payment of civil monetary penalties, the imposition of remedies shall not be stayed during the pendency of any hearing. (7-1-99)T

971. TRANSFER OF RESIDENTS.
The Department may transfer residents from a facility to an alternative placement on the following grounds: (7-1-99)T

01. Violation Of Rules. As a result of a violation of a provision of the rules or standards, the facility is unable or unwilling to provide an adequate level of meals, lodging, personal assistance, or supervision to persons residing in the facility at the time of the violation. (7-1-99)T

02. Violation Of Resident's Rights. A violation of a resident's rights provided in Sections 39-3316, 39- 3387, 39-3516, 39-3576, or a combination, Idaho Code. (7-1-99)T

03. Exceed Licensed Bed Capacity. The number of residents currently in the facility exceeds the number of residents the facility is licensed to serve. (7-1-99)T

04. Unlicensed. The facility is operating without a license. (7-1-99)T

05. Imminent Danger. A violation of a provision of this chapter or applicable rules or standards results in conditions that present an imminent danger. (7-1-99)T

972. -- 995. (RESERVED).

996. ADMINISTRATIVE PROVISIONS.
Contested case appeals are governed by IDAPA 16.05.03, Section 311 et seq., "Rules Governing Contested Cases Proceedings and Declaratory Rulings". (7-1-99)T

997. CONFIDENTIALITY OF RECORDS.
Any disclosure of information obtained by the Department is subject to the restrictions contained in IDAPA 16.05.01, "Rules Governing the Protection and Disclosure of Department Records". (7-1-99)T

998. -- 999. (RESERVED).

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