

Document: Proposed Rule

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**TITLE 410 INDIANA STATE DEPARTMENT OF
HEALTH**

Proposed Rule
LSA Document #00-113

DIGEST

Amends 410 IAC 16.2-3.1 to clarify fines and penalties, specify personnel requirements for health facilities, address over-the-counter medications, and clarify educational requirements for qualified social workers. Effective 30 days after filing with the secretary of state.

410 IAC 16.2-3.1-2 **410 IAC 16.2-3.1-25**
410 IAC 16.2-3.1-14 **410 IAC 16.2-3.1-34**

SECTION 1. 410 IAC 16.2-3.1-2 IS AMENDED TO READ AS FOLLOWS:

410 IAC 16.2-3.1-2 Licenses

Authority: IC 16-28-1-7; IC 16-28-1-12

Affected: IC 16-18-2-167; IC 16-28-1-10; IC 16-28-2-2; IC 16-28-2-4; IC 16-28-5-7

Sec. 2. (a) Any person, in order to lawfully operate a health facility as defined in IC 16-18-2-167, shall first obtain an authorization to occupy the facility or a license from the director. The applicant shall notify the director, in writing, before the applicant begins to operate a facility that is being purchased or leased from another licensee. Failure to notify the director precludes the issuance of a full license.

(b) An application shall be submitted on the prescribed form in accordance with IC 16-28-2-2. The application shall include identification of direct or indirect ownership interest of five percent (5%) or more and of corporate officers or partners.

(c) Any change in direct or indirect corporate ownership of five percent (5%) or more, which occurs during the licensure period, shall be reported to the director, in writing, at the time of the change. The facility must also provide written notice at the time the change occurs in the officers, directors, agents, or managing employees, or the corporation, association, or other company responsible for the management of the facility.

(d) A license for a new facility, an existing facility that proposes a change in the number of beds, or a facility that has changed ownership is obtained as follows:

(1) Prior to the start of construction, detailed architectural and operational plans shall be submitted through the office of the state building commissioner to the division for consideration and approval. The plans shall state the licensure classification sought. Plans for projects involving less than thirty thousand (30,000) cubic feet require suitable detailed plans and sketches. Plans for projects involving more than thirty thousand (30,000) cubic feet require certification by an architect or an engineer registered in Indiana. A plan of operation, in sufficient detail to facilitate the review of functional areas, that is, nursing unit, laundry, and kitchen, shall accompany the submitted plan.

(2) Upon receipt of a design release from the state building commissioner and the state fire marshal, an application shall be submitted to the director on the form provided and approved by the department, with the documents required by the application form.

(3) Information and supporting documents that the facility will be operated in reasonable compliance with this article and applicable statutes shall be furnished.

(4) A report by the state fire marshal that the facility is in reasonable compliance with the fire safety rules of the fire prevention and building safety commission (675 IAC) shall be furnished.

(5) If new construction or remodeling is involved, information verified by the appropriate building official that the building is in

reasonable compliance with the building rules of the fire prevention and building safety commission (675 IAC) shall be furnished.

(6) A plan of operation shall be submitted to the director. The plan shall include, but is not limited to, the following:

(A) Corporate or partnership structure.

(B) Policies and procedures, including personnel, operations, and resident care.

(C) A disaster plan.

(D) A copy of agreements and contracts.

(7) The appropriate licensure fee shall be submitted.

(e) The director may approve occupancy and use of the structure pending a final licensure decision.

(f) The director may issue a provisional license to a new facility or to a facility under new ownership in accordance with IC 16-28-2-4(2).

(g) For the renewal of a license, the director may issue a full license for any period up to one (1) year or a probationary license, or the director may refuse to issue a license as follows:

(1) The facility shall submit a renewal application to the director at least forty-five (45) days prior to the expiration of the license. The renewal application shall be on a form provided and approved by the division, which includes identification of direct or indirect ownership interest of five percent (5%) or more and of corporate officers or partners.

(2) The licensure fee shall be included with the renewal application.

(3) The director shall verify that the facility is operated in reasonable compliance with IC 16-28-2 and this article.

(4) The state fire marshal shall verify that the facility is in reasonable compliance with the applicable fire safety statutes and rules (675 IAC).

(h) If the director issues a probationary license, the license may be granted for a period of three (3) months. However, no more than three (3) probationary licenses may be issued in a twelve (12) month period. Although the license fee for a full twelve (12) month period has been paid, a new fee shall be required prior to the issuance of a probationary license.

(i) If the director denies renewal, reduces, revokes, or issues a probationary license, then a hearing officer will be appointed to hold a hearing. However, a facility may waive its right to a hearing and accept the director recommendation.

(j) For a good cause shown, waiver of any nonstatutory provisions of this rule may be granted by the executive board for a specified period in accordance with IC 16-28-1-10.

(k) A licensure survey finding or complaint allegation does not constitute a breach for the purposes of IC 16-28-2 until or unless the commissioner makes a specific determination that a breach has occurred. Moreover, the director shall issue a citation only upon a determination by the commissioner that a breach has occurred. Regardless of whether the commissioner makes a determination that a breach has occurred, a licensure survey finding or complaint allegation may be used as evidence as to whether a violation actually occurred for the purposes of licensure hearings or any other proceedings initiated under IC 16-28-2 or this article.

(l) The classification of rules into the categories that are stated at the end of each section of this rule and 410 IAC 16.2-5 through 410 IAC 16.2-7 shall be used to determine the corrective actions and penalties, if appropriate, to be imposed by the commissioner upon a determination that a breach has occurred, as follows:

(1) An offense presents a substantial probability that death or a life-threatening condition will result. For an offense, the commissioner shall issue an order for immediate correction of the offense. In addition, the commissioner ~~may~~ **shall**:

(A) impose a fine not to exceed ten thousand dollars (\$10,000); or

(B) order the suspension of new admissions to the health facility for a period not to exceed forty-five (45) days;

or both. If the offense is immediately corrected, the commissioner may waive up to fifty percent (50%) of any fine imposed and reduce the number of days for suspension of new admissions by one-half (1/2). The ~~director~~ **commissioner** may ~~revoke~~ **also impose revocation by the director of the facility's license or issue issuance of a probationary license.**

(2) A deficiency presents an immediate or direct, serious adverse effect on the health, safety, security, rights, or welfare of a resident. For a deficiency, the commissioner shall issue an order for immediate correction of the deficiency. In addition, the commissioner may:

(A) impose a fine not to exceed five thousand dollars (\$5,000); or

~~(A) (B)~~ **(B) order the suspension of new admissions to the health facility for a period not to exceed thirty (30) days; or**

~~(B)~~ **impose a fine not to exceed five thousand dollars (\$5,000) if the facility holds a probationary license or if the breach is a**

repeat of the same deficiency within a twelve (12) month period; or both. However, the commissioner shall impose a fine upon the occurrence of the first deficiency, regardless of the licensure status of the facility, if the first deficiency is intentional or is the result of gross negligence. **For a repeat of the same deficiency within a fifteen (15) month period, the commissioner shall order immediate correction of the deficiency, and impose a fine not to exceed ten thousand dollars (\$10,000) or suspension of new admissions to the facility for a period not to exceed forty-five (45) days, or both. If the deficiency is immediately corrected, the commissioner may waive up to fifty percent (50%) of any fine imposed and reduce the number of days for suspension of new admissions by one-half (½). The commissioner may also impose revocations by the director of the facility license or issuance of a probationary license.**

(3) A noncompliance presents an indirect threat on the health, safety, security, rights, or welfare of a resident. For a noncompliance, the commissioner shall require the health facility to ~~submit a~~ **comply with any** plan of correction **approved or directed** under IC 16-28-5-7. If the facility is found to have a pattern of noncompliance, the commissioner may suspend new admissions to the health facility for a period not to exceed ~~ten (10)~~ **fifteen (15) days, or impose a fine not to exceed one thousand dollars (\$1,000), or both.** Additionally, if the health facility is found to have a repeat of the same noncompliance in any ~~eighteen (18)~~ **fifteen (15)** month period, the commissioner **shall issue an order for immediate correction of the noncompliance. The commissioner** may impose a fine not to exceed ~~one five thousand dollars (\$1,000):~~ **(\$5,000), or suspension of new admissions to the health facility for a period not to exceed thirty (30) days, or both.**

(4) A nonconformance is any other classified rule that does not fall in the three (3) categories established in subdivisions (1) through (3). For a nonconformance, the commissioner ~~may request~~ **shall require** the health facility to ~~submit a~~ **comply with any** plan of correction **approved or directed** in accordance with IC 16-28-5-7. **For a repeat of the same nonconformance within a fifteen (15) month period, the commissioner shall require the health facility to comply with any plan of correction approved or directed in accordance with IC 16-28-5-7. For a repeat pattern of nonconformance the commissioner may suspend new admissions to the health facility for a period not to exceed fifteen (15) days or impose a fine not to exceed one thousand dollars (\$1,000), or both.**

(m) For Medicare and Medicaid certified facilities, or both, the department shall not collect both a civil money penalty under 42 CFR 488 and a fine under IC 16-28 and this article. (*Indiana State Department of Health; 410 IAC 16.2-3.1-2; filed Jan 10, 1997, 4:00 p.m.: 20 IR 1526, eff Apr 1, 1997; errata filed Apr 10, 1997, 12:15 p.m.: 20 IR 2414*)

SECTION 2. 410 IAC 16.2-3.1-14 IS AMENDED TO READ AS FOLLOWS:

410 IAC 16.2-3.1-14 Personnel

Authority: IC 16-28-1-7; IC 16-28-1-12

Affected: IC 16-28-5-1; IC 16-28-13-3

Sec. 14. (a) Each facility shall have specific procedures written and implemented for the screening of prospective employees. Specific inquiries shall be made for prospective employees. The facility shall have a personnel policy that considers references and any convictions in accordance with IC 16-28-13-3.

(b) A facility must not use any individual working in the facility as a nurse aide for more than four (4) months on a full time, part time, temporary, per diem, or other basis unless that individual:

- (1) is competent to provide nursing and nursing-related services; and
- (2) has completed a training and competency evaluation program approved by the division or a competency evaluation program approved by the division.

(c) Each nurse aide who is hired to work in a facility shall have successfully completed a nurse aide training program approved by the division or shall enroll in the first available approved training program scheduled to commence within sixty (60) days of the date of the nurse aide's employment. The program may be established by the facility or by an organization or institution. The training program shall consist of at least the following:

(1) Thirty (30) hours of classroom instruction within one hundred twenty (120) days of employment. At least sixteen (16) of those hours shall be in the following areas prior to any direct contact with a resident:

- (A) Communication and interpersonal skills.
- (B) Infection control.
- (C) Safety/emergency procedures, including the Heimlich maneuver.
- (D) Promoting resident's independence.
- (E) Respecting residents' rights.

- (2) The remainder of the thirty (30) hours of instruction shall include the following:
- (A) Basic nursing skills as follows:
 - (i) Taking and recording vital signs.
 - (ii) Measuring and recording height and weight.
 - (iii) Caring for residents' environment.
 - (iv) Recognizing abnormal changes in body functioning and the importance of reporting such changes to a supervisor.
 - (v) Caring for residents when death is imminent.
 - (B) Personal care skills, including, but not limited to, the following:
 - (i) Bathing.
 - (ii) Grooming, including mouth care.
 - (iii) Dressing.
 - (iv) Toileting.
 - (v) Assisting with eating and hydration.
 - (vi) Proper feeding techniques.
 - (vii) Skin care.
 - (viii) Transfers, positioning, and turning.
 - (C) Mental health and social service needs as follows:
 - (i) Modifying aides' behavior in response to residents' behavior.
 - (ii) Awareness of developmental tasks associated with the aging process.
 - (iii) How to respond to residents' behavior.
 - (iv) Allowing the resident to make personal choices, providing and reinforcing other behavior consistent with the resident's dignity.
 - (v) Using the resident's family as a source of emotional support.
 - (D) Care of cognitively impaired residents as follows:
 - (i) Techniques for addressing the unique needs and behaviors of individuals with dementia (Alzheimer's and others).
 - (ii) Communicating with cognitively impaired residents.
 - (iii) Understanding the behavior of cognitively impaired residents.
 - (iv) Appropriate responses to the behavior of cognitively impaired residents.
 - (v) Methods of reducing the effects of cognitive impairments.
 - (E) Basic restorative services as follows:
 - (i) Training the resident in self-care according to the resident's abilities.
 - (ii) Use of assistive devices in transferring, ambulation, eating, and dressing.
 - (iii) Maintenance of range of motion.
 - (iv) Proper turning and positioning in bed and chair.
 - (v) Bowel and bladder training.
 - (vi) Care and use of prosthetic and orthotic devices.
 - (F) Residents' rights as follows:
 - (i) Providing privacy and maintenance of confidentiality.
 - (ii) Promoting residents' right to make personal choices to accommodate their needs.
 - (iii) Giving assistance in resolving grievances and disputes.
 - (iv) Providing needed assistance in getting to and participating in resident and family groups and other activities.
 - (v) Maintaining care and security of residents' personal possessions.
 - (vi) Promoting residents' right to be free from abuse, mistreatment, and neglect, and the need to report any instances of such treatment to appropriate facility staff.
 - (vii) Avoiding the need for restraints in accordance with current professional standards.
- ~~(3) The thirty (30) hours may not be counted toward the facility's required staffing.~~
- ~~(4) (3) Seventy-five (75) hours of supervised clinical experience, at least sixteen (16) hours of which must be in directly supervised practical training. As used in this subdivision, "directly supervised practical training" means training in a laboratory or other setting in which the trainee demonstrates knowledge while performing tasks on an individual under direct supervision of a registered nurse or a licensed practical nurse. These hours shall consist of normal employment as a nurse aide under the supervision of a licensed nurse. The seventy-five (75) hours shall be counted toward the facility's required staffing.~~
- (5) (4) Training that ensures the following:
- (A) Students do not perform any services for which they have not trained and been found proficient by the instructor.
 - (B) Students who are providing services to residents are under the general supervision of a licensed nurse.

(d) A facility must arrange for individuals used as nurse aides as of the effective date of this rule, to participate in a competency evaluation program approved by the division, and preparation necessary for the individual to complete the program.

(e) Before allowing an individual to serve as a nurse aide, a facility must receive registry verification that the individual has met competency evaluation requirements unless:

- (1) the individual is a full-time employee in a training and competency evaluation program approved by the division; or
- (2) the individual can prove that he or she has recently successfully completed a training and competency evaluation program approved by the division and has not yet been included in the registry.

Facilities must follow up to ensure that such individual actually becomes registered.

(f) A facility must check with all state nurse aide registries it has reason to believe contain information on an individual before using that individual as a nurse aide.

(g) If, since an individual's most recent completion of a training and competency evaluation program, there has been a continuous period of twenty-four (24) consecutive months during none of which the individual provided nursing or nursing-related services for monetary compensation, the individual must complete a new training and competency evaluation program or a new competency evaluation program.

(h) The facility must complete a performance review of every nurse aide at least once every twelve (12) months, and must provide regular in-service education based on the outcome of these reviews. The in-service training must be as follows:

- (1) Sufficient to ensure the continuing competence of nurse aides, but must be no less than twelve (12) hours per year.
- (2) Address areas of weakness as determined in nurse aides' performance reviews and may address the special needs of residents as determined by the facility staff.
- (3) For nurse aides providing services to individuals with cognitive impairments, also address the care of the cognitively impaired.

(i) The facility must ensure that nurse aides and qualified medication aides are able to demonstrate competency in skills and techniques necessary to care for residents' needs, as identified through resident assessments, and described in the care plan.

(j) Medication shall be administered by licensed nursing personnel or qualified medication aides. If medication aides handle or administer drugs or perform treatments requiring medications, the facility shall ensure that the persons have been properly qualified in medication administration by a state-approved course. Injectable medications shall be given only by licensed personnel.

(k) There shall be an organized ongoing in-service education and training program planned in advance for all personnel. This training shall include, but not be limited to, the following:

- (1) Resident rights.
- (2) Prevention and control of infection.
- (3) Fire prevention.
- (4) Safety and accident prevention.
- (5) Needs of specialized populations served.

(l) The frequency and content of in-service education and training programs shall be in accordance with the skills and knowledge of the facility personnel as follows. For nursing personnel, this shall include at least twelve (12) hours of in-services per calendar year and six (6) hours of in-service per calendar year for nonnursing personnel.

(m) In-service programs for items required under subsection (k) shall contain a means to assess learning by participants.

(n) The administrator may approve attendance at outside workshops and continuing education programs related to that individual's responsibilities in the facility. Documented attendance at these workshops and programs meets the requirements for in-service training.

(o) In-service records shall be maintained and shall indicate the following:

- (1) The time, date, and location.
- (2) Name of the instructor.
- (3) The title of the instructor.
- (4) The name of the participants.

(5) The program content of in-service.

The employee will acknowledge attendance by written signature.

(p) Initial orientation of all staff must be conducted and documented and shall include the following:

- (1) Instructions on the needs of the specialized population(s) served in the facility, for example, aged, developmentally disabled, mentally ill, or children.
- (2) A review of residents' rights and other pertinent portions of the facility's policy manual.
- (3) Instruction in first aid, emergency procedures, and fire and disaster preparedness, including evacuation procedures and universal precautions.
- (4) A detailed review of the appropriate job description, including a demonstration of equipment and procedures required of the specific position to which the employee will be assigned.
- (5) Review of ethical considerations and confidentiality in resident care and records.
- (6) For direct care staff, instruction in the particular needs of each resident to whom the employee will be providing care.

(q) Each facility shall maintain current and accurate personnel records for all employees. The personnel records for all employees shall include the following:

- (1) Name and address of employee.
- (2) Social Security number.
- (3) Date of beginning employment.
- (4) Past employment, experience, and education if applicable.
- (5) Professional licensure, certification, or registration number if applicable.
- (6) Position in the facility and job description.
- (7) Documentation of orientation to the facility and to the specific job skills.
- (8) Signed acknowledgment of orientation to resident rights.
- (9) Performance evaluations in accordance with the facility's policy.
- (10) Date and reason for separation.

(r) The employee's personnel record shall be retained for at least three (3) years following termination or separation of the employee from employment.

(s) Professional staff must be licensed, certified, or registered in accordance with applicable state laws or rules.

(t) A physical examination shall be required for each employee of a facility **at the time of within one (1) month prior to** employment. The examination shall include a tuberculin skin test, using the Mantoux method (5 TU PPD), administered by persons having documentation of training from a department-approved course of instruction in intradermal tuberculin skin testing, reading, and recording unless a previously positive reaction can be documented. The result shall be recorded in millimeters of induration with the date given, date read, and by whom administered. **The tuberculin skin test must be read prior to the employee starting work.** The facility must assure the following:

- (1) At the time of employment, **or within one (1) month prior to employment**, and at least annually thereafter, employees and nonpaid personnel of facilities shall be screened for tuberculosis. For health care workers who have not had a documented negative tuberculin skin test result during the preceding twelve (12) months, the baseline tuberculin skin testing should employ the two-step method. If the first step is negative, a second test should be performed one (1) to three (3) weeks after the first step. The frequency of repeat testing will depend on the risk of infection with tuberculosis.
- (2) All employees who have a positive reaction to the skin test shall be required to have a chest x-ray and other physical and laboratory examinations in order to complete a diagnosis.
- (3) The facility shall maintain a health record of each employee that includes:
 - (A) a report of the preemployment physical examination; and
 - (B) reports of all employment-related health examinations.
- (4) An employee with symptoms or signs of active disease, (symptoms suggestive of active tuberculosis, including, but not limited to, cough, fever, night sweats, and weight loss) shall not be permitted to work until tuberculosis is ruled out.

(u) For purposes of IC 16-28-5-1, a breach of:

- (1) subsection (c), (e), (f), (g), (i), (j), or (s) is a deficiency;
- (2) subsection (a), (b), (d), (h), (k), (l), (m), (n), (o), (p), or (t) is a noncompliance; and
- (3) subsection (q) or (r) is a nonconformance.

(Indiana State Department of Health; 410 IAC 16.2-3.1-14; filed Jan 10, 1997, 4:00 p.m.: 20 IR 1537, eff Apr 1, 1997; errata, 20 IR 1738; errata filed Apr 10, 1997, 12:15 p.m.: 20 IR 2414)

SECTION 3. 410 IAC 16.2-3.1-25 IS AMENDED TO READ AS FOLLOWS:

410 IAC 16.2-3.1-25 Pharmacy services

Authority: IC 16-28-1-7; IC 16-28-1-12

Affected: IC 16-28-5-1; IC 25-26-13

Sec. 25. (a) The facility must provide routine and emergency drugs and biologicals to its residents, or obtain them under an agreement.

(b) The administration of drugs and treatments, including alcoholic beverages, nutrition concentrates, and therapeutic supplements, shall be as ordered by the attending physician and shall be supervised by a licensed nurse as follows:

(1) Medication shall be administered by licensed nursing personnel or qualified medication aides. When other than licensed personnel administer drugs, the facility shall ensure that the person has been properly qualified in medication administration by a state approved course.

(2) The resident shall be observed for effects of medications. Documentation of any undesirable effects shall be contained in the clinical record. The physician shall be notified immediately if undesirable effects occur, and such notification shall be documented in the clinical record.

(3) The individual administering the medication shall document the administration indicating the time, name of drug or treatment, and dosage (if applicable), with name or initials.

(4) Medication shall be administered by the person who has set up the doses, except under a single unit dose package system.

(5) Setting up of doses for more than one (1) scheduled administration is not permitted.

(6) Injectable medications shall be given only by licensed personnel.

(7) No medication shall be used for any resident other than the resident for whom it was prescribed.

(8) Per required need (PRN) medications may be administered only upon authorization of a licensed nurse or physician. All contacts with a nurse or physician not on the premises for authorization to administer PRNs shall be documented in the nursing notes indicating the time and date of the contact.

(9) Any error in medication administration shall be noted in the resident's record. The physician shall be notified of any error in medication administration when there are any actual or potential detrimental effects to the resident. The facility must ensure that it is free of medication error rates of five percent (5%) or greater and that residents are free of any medication errors that jeopardize their health, safety, or welfare.

(c) The facility may permit qualified medication aides and student nurses to administer drugs under the general supervision of a licensed nurse following successful completion of the state qualifying test for medication aides.

(d) Student nurses may administer medications when under the direct supervision of the instructor and the activity is part of the student's educational programs.

(e) The facility must employ or obtain the services of a licensed pharmacist who is required to do the following:

(1) Provide consultation and written reports on all aspects of the provision of pharmacy services in the facility.

(2) Establish a system of records of receipt and disposition of all controlled drugs in sufficient detail to enable an accurate reconciliation.

(3) Determine that drug records are in order and that an account of all controlled drugs is maintained and periodically reconciled.

(f) If a facility operates its own duly licensed pharmacy it shall comply with IC 25-26-13.

(g) The facility shall only utilize a pharmacy that:

(1) complies with the facility policy regarding receiving, packaging, and labeling of pharmaceutical products unless contrary to state and federal laws and rules on pharmacy practices;

(2) provides prescribed drugs, including the availability of a twenty-four (24) hour prescription service on a prompt and timely basis; and

(3) refills prescription drugs, when needed, in order to prevent interruption of drug regimens.

(h) The drug regimen of each resident must be reviewed at least once a month by a licensed pharmacist.

(i) The pharmacist must report any irregularities to the attending physician and the director of nursing, and these reports must be acted upon.

(j) **Over-the-counter medications, prescription drugs,** and biologicals used in the facility must be labeled in accordance with currently accepted professional principles, and include the appropriate accessory and cautionary instructions, and the expiration date when applicable.

(k) Labeling of **prescription** drugs and biologicals shall include the following:

- (1) Resident's full name.
- (2) Physician's name.
- (3) Prescription number.
- (4) Name and strength of drug.
- (5) Directions for use.
- (6) Date of issue and expiration date (when applicable).
- (7) Name and address of the pharmacy that filled the prescription.

If a facility is supplied medication in a unit dose packaging, reasonable variations that comply with the acceptable pharmaceutical procedures are permitted.

(l) Over-the-counter medications must be identified with the following:

- (1) Resident name.**
- (2) Physician name.**
- (3) Expiration date.**
- (4) Name of drug.**
- (5) Strength.**

(m) In accordance with state and federal law, the facility must store all drugs and biologicals in locked compartments under proper temperature controls, and permit only authorized personnel to have access to the keys.

(n) The facility must provide separately locked, permanently affixed compartments for storage of controlled drugs listed in Schedule II of the Comprehensive Drug Abuse Prevention and Control Act of 1976 and other drugs subject to abuse, except when the facility uses single unit package drug distribution systems, in which the quantity stored is minimal and a missing dose can be readily detected.

(o) Discontinued, outdated, or deteriorated medication shall not be maintained or used in the facility. Medications shall be disposed of in compliance with federal, state, and local laws.

(p) All unused portions of any properly labeled medications, including controlled substances, shall be released to the discharged resident, along with instructions for their use, upon written order of the physician.

(q) Unopened and unexposed medication may be returned to the issuing pharmacy for credit to the appropriate party.

(r) Unused portions of medications not released with the resident or returned for credit shall be destroyed on the premises within seven (7) days by the consultant pharmacist or licensed nurse with a witness.

(s) Disposition of any released, returned, or destroyed medication shall be written in the resident's clinical record and shall include the following information:

- (1) The name of the resident.
- (2) The name and strength of the drug.
- (3) The prescription number.
- (4) The reason for disposal.
- (5) The amount disposed of.
- (6) The method of disposition.
- (7) The date of disposal.

(8) The signatures of the persons conducting the disposal of the drug.

~~(s)~~ (t) For purposes of IC 16-28-5-1, a breach of:

- (1) subsection (a), (b), (c), (f), (g), (i), (j), (k), (l) (m), (n), or (o) is a deficiency;
- (2) subsection (d), (e), (h), ~~(t)~~, ~~(q)~~, (p), (r), or ~~(r)~~ (s) is a noncompliance; and
- (3) subsection ~~(p)~~ (q) is a nonconformance.

(Indiana State Department of Health; 410 IAC 16.2-3.1-25; filed Jan 10, 1997, 4:00 p.m.: 20 IR 1548, eff Apr 1, 1997; errata filed Apr 10, 1997, 12:15 p.m.: 20 IR 2414)

SECTION 4. 410 IAC 16.2-3.1-34 IS AMENDED TO READ AS FOLLOWS:

410 IAC 16.2-3.1-34 Social services

Authority: IC 16-28-1-7; IC 16-28-1-12

Affected: IC 16-28-5-1; IC 25-23.6-5-1

Sec. 34. (a) The facility must provide medically-related social services to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident, including the following where appropriate:

- (1) Assessment of each resident's psychosocial needs and development of a plan for providing care.
- (2) Review of the resident's needs and care plan with progress notes indicating implementation of methods to respond to identified needs.
- (3) Assistance to residents and spouses to utilize community resources through referral when the services needed are not provided by the facility.
- (4) Assistance to residents in adjusting to the facility, exercising rights as residents, and promoting the continuance of relationships with the family and community.
- (5) Advice and appropriate referrals to minimize social and economic obstacles to discharge and coordination of discharge planning.
- (6) Coordination of relocation planning, including advice and referral to community resources before and during relocation.
- (7) Establishment of a positive and socially therapeutic environment through staff training and input on policies and procedures.
- (8) Promotion of facility-community interaction.

(b) At least fifteen (15) minutes of time shall be provided per resident per week by the qualified social worker or social service designee for social service duties.

(c) In facilities of more than one hundred twenty (120) beds, the facility must employ, full time, a qualified social worker. A qualified social worker is one (1) of the following:

- (1) Indiana board certification in social work under IC 25-23.6-5-1 with at least one (1) year's experience in a health care setting working directly with individuals.
- (2) An individual with a bachelor's **or advanced** degree, **or both**, in social work or a bachelor's **or advanced** degree, **or both**, in a human services field, including: ~~but not limited to:~~
 - (A) sociology;
 - (B) special education;
 - (C) rehabilitation counseling; or
 - (D) psychology; **and or**
 - (E) **gerontology;**

and one (1) year of supervised social service experience in a health care setting working directly with individuals.

(d) In facilities of one hundred twenty (120) beds or less, a person who provides social services is an individual with one (1) of the following qualifications:

- (1) Indiana board certification in social work under IC 25-23.6-5-1 with at least one (1) year's experience in a health care setting working directly with individuals.
- (2) A bachelor's **or advanced** degree, **or both**, in social work or a degree in the human services fields of sociology, special education, rehabilitation counseling, psychology, and gerontology and one (1) year of supervised social service experience **under the supervision of a qualified social worker** in a health care setting working directly with individuals.
- (3) A high school diploma or its equivalent who has satisfactorily completed, or will complete within six (6) months, a forty-eight (48) hour social service course approved by the division. Consultation must be provided by a person who meets the qualifications

under subdivision (1) or (2). Consultation by a person who meets the qualifications under subdivision (1) or (2) must occur no less than an average of four (4) hours per month.

(4) Ordained minister, priest, rabbi, or sister or brother of religious institutes who has satisfactorily completed a forty-eight (48) hour social service course approved by the division. A person who has not completed a course must have consultation of no less than an average of four (4) hours per month from a person who meets the qualifications of subdivision (1) or (2) until the person has satisfactorily completed the division approved course.

(e) Current employment as a social service designee who completed an approved social service course prior to the effective date of this rule shall be allowed to maintain a position as a social service designee in health care facilities. Consultation shall be provided in accordance with subsection (d).

(f) For purposes of IC 16-28-5-1, a breach of:

(1) subsection (a) is a deficiency;

(2) subsection (b), (c), or (d) is a noncompliance; and

(3) subsection (e) is a nonconformance.

(Indiana State Department of Health; 410 IAC 16.2-3.1-34; filed Jan 10, 1997, 4:00 p.m.: 20 IR 1553, eff Apr 1, 1997; errata filed Jan 10, 1997, 4:00 p.m.: 20 IR 1593; errata filed Apr 10, 1997, 12:15 p.m.: 20 IR 2414)

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on January 24, 2001 at 2:00 p.m., at the Indiana State Department of Health, 2 North Meridian Street, Rice Auditorium, Indianapolis, Indiana the Indiana State Department of Health will hold a public hearing on proposed amendments to clarify fines and penalties, specify personnel requirements for health facilities, address over-the-counter medications, and clarify educational requirements for qualified social workers. Copies of these rules are now on file at the Health Care Regulatory Services Commission, Indiana State Department of Health, 2 North Meridian Street, Fourth Floor and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Richard D. Feldman, M.D.
State Health Commissioner
Indiana State Department of Health