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**TITLE 440 DIVISION OF MENTAL HEALTH
AND ADDICTION**

NOTE: Under P.L.215-2001, SECTION 54, the name of the Division of Mental Health is changed to Division of Mental Health and Addiction, effective July 1, 2001.

Proposed Rule
LSA Document #01-299

DIGEST

Adds 440 IAC 7.5 concerning residential living facilities which are certified by the division of mental health and addiction for individuals with a psychiatric disorder or an addiction. Repeals 431 IAC 2.1, 431 IAC 5, 431 IAC 6, and 440 IAC 7. Effective 30 days after filing with the secretary of state.

431 IAC 2.1 440 IAC 7
431 IAC 5 440 IAC 7.5
431 IAC 6

SECTION 1. 440 IAC 7.5 IS ADDED TO READ AS FOLLOWS:

ARTICLE 7.5. RESIDENTIAL LIVING FACILITIES FOR INDIVIDUALS WITH PSYCHIATRIC DISORDERS OR ADDICTIONS

Rule 1. Definitions

440 IAC 7.5-1-1 Definitions

Authority: IC 12-8-8-4; IC 12-21-2-3

Affected: IC 12-7-2-40.6; IC 12-17.4; IC 12-21-2-3; IC 12-21-2-7; IC 12-22-2-3; IC 12-23-17; IC 12-24-12-2; IC 12-24-12-10; IC 12-24-19-2; IC 12-26; IC 16-36-1; IC 23-17; IC 30-5-5-16; 42 U.S.C. 300x-2(c)

Sec. 1. The following definitions apply throughout this article:

- (1) "Addiction" means alcoholism or addiction to narcotic or other drugs, or addiction to gambling.
- (2) "Addiction services provider" means an organization certified by the division to provide a structured facility designed for the treatment, care, and rehabilitation of individuals addicted to alcohol or drugs.
- (3) "Agency" means:
 - (A) a community mental health center certified by the division under 440 IAC 4.1;
 - (B) a managed care provider certified by the division under 440 IAC 4.3;
 - (C) a residential care provider certified by the division under 440 IAC 6; or
 - (D) an addiction services provider with regular certification certified by the division under 440 IAC 4.4-2-3 that administers a residential living facility.
- (4) "Alternative family for adults program" means a program that serves six (6) or fewer individuals who have a psychiatric disorder or addiction, or both, and who reside with an unrelated householder.
- (5) "Apartment house" means any building or portion thereof that contains three (3) or more dwelling units and includes condominiums.
- (6) "Case management" means goal oriented activities that locate, facilitate, provide access to, coordinate, or monitor the full range of basic human needs, treatment, and service resources for individual consumers. The term includes, where necessary and appropriate for the consumer, the following:
 - (A) Assessment of the consumer.

- (B) Treatment planning.**
 - (C) Crisis assistance.**
 - (D) Providing access to and training the consumers to utilize basic community resources.**
 - (E) Assistance in daily living.**
 - (F) Assistance for the consumer to obtain services necessary for meeting basic human needs.**
 - (G) Monitoring of the overall delivery of services.**
 - (H) Assistance in obtaining the following:**
 - (i) Rehabilitation services and vocational opportunities.**
 - (ii) Respite care.**
 - (iii) Transportation.**
 - (iv) Education services.**
 - (v) Health supplies and prescriptions.**
 - (7) “Case manager” means an individual who provides case management activities.**
 - (8) “Community mental health center” means a mental health facility that the division has certified as fulfilling the statutory and regulatory requirements to be a community mental health center.**
 - (9) “Congregate living facility” means a supervised group living facility, a sub-acute living facility, a transitional living facility, or a semi-independent living facility for up to fifteen (15) individuals that is located in any building or portion thereof that contains facilities for living, sleeping, and sanitation, and includes facilities for eating and cooking, for occupancy by other than a family.**
 - (10) “Consumer” is an individual with a psychiatric disorder or addiction, or both.**
 - (11) “Continuum of care” means a range of required services provided by a community mental health center or a managed care provider. The term includes the following:**
 - (A) Individualized treatment planning to increase consumer coping skills and symptom management, which may include any combination of services listed under this section.**
 - (B) Twenty-four (24) hour a day crisis intervention.**
 - (C) Case management to fulfill individual consumer needs, including assertive case management when indicated.**
 - (D) Outpatient services, including the following:**
 - (i) Intensive outpatient services.**
 - (ii) Substance abuse services.**
 - (iii) Counseling.**
 - (iv) Treatment.**
 - (E) Acute stabilization services, including detoxification services.**
 - (F) Residential services.**
 - (G) Day treatment.**
 - (H) Family support services.**
 - (I) Medication evaluation and monitoring.**
 - (J) Services to prevent unnecessary and inappropriate treatment and hospitalization and the deprivation of a person’s liberty.**
 - (12) “Crisis intervention” means services in response to a psychiatric disorder or addiction emergency, either provided directly by the provider or made available by arrangement with a medical facility or an individual physician licensed under Indiana law.**
 - (13) “Division” means the Indiana division of mental health and addiction or its duly authorized agent.**
 - (14) “Dwelling unit” means any building or portion thereof that contains living facilities, including provisions for sleeping, eating, cooking, and sanitation for not more than one (1) family.**
 - (15) “Evacuation capability” means the ability of the occupants, residents, and staff, as a group, to evacuate the building. Evacuation capability is classified as follows:**
 - (A) Prompt evacuation capability is equivalent to the capability of the general population when applying the requirements of this article.**
 - (B) Slow evacuation is the capability of the group to evacuate the building in a timely manner, with some of the residents requiring assistance from the staff.**
 - (C) Impractical evacuation capability occurs when the group, even with staff assistance, cannot reliably evacuate the building in a timely manner.**
- The evacuation capability of the residents and staff is a function of both the ability of the residents to evacuate**

and the assistance provided by the staff. Evacuation capability in all cases is based on the time of day or night when evacuation would be most difficult, that is, sleeping residents or fewer staff present.

(16) "Family" means an individual or two (2) or more persons related by blood or marriage or a group of ten (10) or less persons who need not be related by blood or marriage living together in a single dwelling unit.

(17) "Gatekeeper" means an agency identified in IC 12-24-12-2 or IC 12-24-12-10 that is actively involved in the evaluation and planning of treatment for an individual committed to a state institution beginning after the commitment through the planning of the individual's transition back into the community, including case management services for the individual in the community.

(18) "Household member" means any person living in the same physical residence as a consumer living in a residential living facility licensed or certified under this rule.

(19) "Householder" means the occupant owner or leaseholder of the residence used in the alternative family program.

(20) "Individualized treatment plan" means a written plan of care and intervention developed for an individual by a treatment team in collaboration with the individual and, when appropriate, the individual's family or guardian.

(21) "Legal representative" means:

(A) a health care representative appointed under IC 16-36-1;

(B) an attorney-in-fact for health care who was appointed by the resident when the resident was competent under IC 30-5-5-16;

(C) a court appointed guardian for health care decisions; or

(D) the resident's parent, adult sibling, adult child, or spouse who is acting as the resident's health care representative under IC 16-36-1 when no formal appointment of a health care representative has been made and the resident is unable to make health care decisions.

(22) "Managed care provider" means an organization:

(A) that:

(i) for mental health services, is defined under 42 U.S.C. 300x-2(c);

(ii) provides addiction services; or

(iii) provides children's mental health services;

(B) that has entered into a provider agreement with the division under IC 12-21-2-7 to provide a continuum of care as defined in IC 12-7-2-40.6 in the least restrictive, most appropriate setting; and

(C) that is operated by at least one (1) of the following:

(i) A city, town, county, or other political subdivision of Indiana.

(ii) An agency of Indiana or of the United States.

(iii) A political subdivision of another state.

(iv) A hospital owned or operated by:

(AA) a unit of government; or

(BB) a building authority that is organized for the purpose of constructing facilities to be leased to units of government.

(v) A corporation incorporated under IC 23-7-1.1 (before its repeal August 1, 1991) or IC 23-17.

(vi) An organization that is exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code.

(vii) A university or college.

(23) "Psychiatric disorder" means a mental disorder or disease. The term does not include the following:

(A) Mental retardation.

(B) A developmental disability.

(C) Alcoholism.

(D) Addiction to narcotic or other drugs.

(E) Addiction to gambling.

(24) "Representative payee" means a person appointed by:

(A) the United States Social Security Administration;

(B) the United States Office of Personnel Management;

(C) the United States Department of Veterans Affairs; or

(D) the United States Railroad Retirement Board;

to provide one (1) or more financial management services, in order to assist an individual who is receiving government benefits and is medically incapable of making responsible financial decisions.

- (25) “Resident” means an individual who is living in a residential living facility.
- (26) “Resident living allowance” is a sum of money paid to a consumer when that consumer’s personal resources are not adequate to maintain the consumer in a therapeutic living environment.
- (27) “Residential care provider” means a provider of residential care that has been certified by the division as one (1) of the following:
- (A) A community mental health center.
 - (B) A managed care provider.
 - (C) A residential care provider.
 - (D) An addiction services provider with regular certification.
- (28) “Residential director” means an individual whose primary responsibility is to administer and operate the residential facility.
- (29) “Residential living facility” means:
- (A) sub-acute stabilization facility;
 - (B) supervised group living facility;
 - (C) transitional residential services facility;
 - (D) semi-independent living facility defined under IC 12-22-2-3; and
 - (E) alternative family homes operated solely by resident householders under this rule.
- (30) “Residential staff” or “staff” means all individuals who the agency employs or with whom the agency contracts to provide direct services to the residents in the residential living facility.
- (31) “Respite care” means temporary residential care to provide:
- (A) relief for a caregiver; or
 - (B) transition during a stressful situation.
- (32) “Semi-independent living facility” means a facility:
- (A) that is not licensed by another state agency and serves six (6) or fewer individuals with a psychiatric disorder or an addiction, or both, per residence who require only limited supervision; and
 - (B) in which the agency or its subcontractor:
 - (i) provides a resident living allowance to the resident; or
 - (ii) owns, leases, or manages the residence.
- (33) “Sub-acute stabilization facility” means a twenty-four (24) hour facility for the treatment of psychiatric disorders or addictions, and which is more restrictive than a supervised group living facility, and less restrictive than an inpatient facility.
- (34) “Supervised group living facility” means a residential facility that provides a therapeutic environment in a home-like setting to persons with a psychiatric disorder or addiction who need the benefits of a group living arrangement as post-psychiatric hospitalization intervention or as an alternative to hospitalization.
- (35) “Therapeutic living environment” means a living environment:
- (A) in which the staff and other residents contribute to the habilitation and rehabilitation of the resident; and
 - (B) that presents no physical or social impediments to the habilitation and rehabilitation of the resident.
- (36) “Transitional residential facility” means a twenty-four (24) hour per day service that provides food, shelter, and other support services to individuals with a psychiatric disorder or addiction who are in need of a short term supportive residential environment.
- (37) “Treatment team” minimally consists of the following:
- (A) The resident.
 - (B) The resident’s case manager.
 - (C) The appropriate staff of the residential facility.
 - (D) Persons from other agencies who design and provide a direct treatment service for the resident.
 - (E) If the resident has a legal representative, the team shall include the legal representative.

(Division of Mental Health and Addiction; 440 IAC 7.5-1-1)

Rule 2. Requirements for All Residential Living Facilities in This Article

440 IAC 7.5-2-1 General overview

Authority: IC 12-8-8-4; IC 12-21-2-3

Affected: IC 12-7-2-70; IC 12-17.4-3; IC 12-20-17-2; IC 12-22-2-3; IC 12-22-2-11; IC 12-30-3; IC 16-28

Sec. 1. The following is a general overview of the requirements for residential facilities under this article:

CMHCs and MCPs ONLY			ALL AGENCIES		
ISSUE	SILP	AFA	TRS	SGL	SUB-ACUTE
Covers/affects	MCP/CMHC	MCP/CMHC	All	All	All
Licensed/cert. by	Agency	Agency	Agency	DMH	DMH
Certification time	24 months	24 months	24 mos.	3 years	3 years
Site accredited	No	No	15/less No-16+ Yes	Yes	Yes
Beds	Maximum 6 Per residence	Max. 6 per householder	Max. 15 (can be waived)	10 single family 15 apt./congregate	Minimum 4 Maximum 15 (can be waived)
Locked egress allowed	No	No	No	No	Yes
Floor plan	No	No	No	Yes	Yes
Space per consumer	80' single 60' multiple	80' single 60' multiple/2	80' single 60' multiple	80' single 60' multiple	80' single 60' multiple
Children of residents allowed?	Yes	Yes	Yes	Yes	No
Plumbing	4 per toilet 6 per tub/shower	4 per toilet 6 per tub/shower	4 per toilet 6 per tub/shower	4 per toilet 6 per tub/shower	4 per toilet 6 per tub/shower
Setting—House	Yes	Yes	Yes	Yes	Yes
Apartment	Yes	Yes	Yes	Yes	No
Congregate	Yes	No	Yes	Yes	Yes
Mobile Home	No unless waiver	No unless waiver	No	No	No
Fire/safety Inspections by	Local	Local, 4+, SFM	15/less Local with waiver, 16+ SFM	State Fire Marshal	State Fire Marshal
PROGRAM					
Minimum oversight	1 hour per week	2 hours per month	Less than 24 hours	24 hours	24 hours
Residential living Allowance allowed	Yes	Yes	Yes	Yes	No
Length of stay limit	No	No	No	No	Up to 1 year
Medication rules	Yes	Yes	Yes	Yes	Yes
TB test—resident	Yes	Yes	Yes	Yes	Yes
Seclusion	No	No	No	No	Yes
Restraint—Chemical	No	No	No	No	No
Physical	No	No	No	No	Yes

Applies to both seriously mentally ill adults and persons with chronic addiction.
(Division of Mental Health and Addiction; 440 IAC 7.5-2-1)

440 IAC 7.5-2-2 Application of article

Authority: IC 12-8-8-4; IC 12-21-2-3

Affected: IC 12-7-2-70; IC 12-17.4-3; IC 12-20-17-2; IC 12-22-2-3; IC 12-22-2-11; IC 12-30-3; IC 16-28

Sec. 2. (a) This rule applies to the following:

(1) Providers of residential living facilities, including:

(A) agencies; and

(B) alternative family householders.

(2) Residents of residential living facilities for individuals with psychiatric disorders or addictions.

(3) Children living with a resident in a residential facility.

(b) Residential living facilities include the following:

(1) The sub-acute stabilization facility.

- (2) The supervised group living facility.
- (3) The transitional residential facility.
- (4) The semi-independent living facility.
- (5) The alternative family for adults program.

(c) Certification under this article is not required if the facility is certified or licensed as one (1) of the following:

- (1) A health facility licensed under IC 16-28.
- (2) A county home established under IC 12-30.
- (3) A residential child care establishment licensed under IC 12-17.4.
- (4) Residential care facility licensed under IC 16-28.
- (5) Shelters for homeless people established under IC 12-20-17-2.
- (6) Domestic violence prevention and treatment centers as defined at IC 12-7-2-70.

(d) Residential living facilities must do the following:

- (1) Provide appropriate supervision and activities that assist the resident in maintaining or acquiring skills necessary to live in the community.
- (2) Assist the resident in identifying and applying for all benefits and public assistance for which the resident may be determined eligible.

(Division of Mental Health and Addiction; 440 IAC 7.5-2-2)

440 IAC 7.5-2-3 Administration

Authority: IC 12-8-8-4; IC 12-21-2-3

Affected: IC 12-22-2-3; IC 16-39; 42 CFR 2

Sec. 3. (a) Residential living facilities under this article must be administered by an agency certified by the division as a community mental health center, a managed care provider, a residential care provider, or an addiction services provider with a regular certification.

(b) The agency shall have a written facility description that must be available to staff, residents, and members of the public. The description must include the following:

- (1) Services offered by the facility.
- (2) The resident populations to be served.
- (3) Admissions, transfer, and discharge criteria.
- (4) Facility goals, including staffing positions to accomplish these goals, and community resources that will be utilized to meet the residents' needs.
- (5) Facility philosophy and treatment orientation.

(c) The agency is responsible for maintaining the administrative and supervisory structure required to provide and oversee residential living facilities.

(d) When an agency subcontracts with another entity to operate a facility, the subcontractor must meet the requirements of this article.

(e) A managed care provider or community mental health center must notify the division prior to the implementation of the contract when it subcontracts with another entity.

(f) Resident records are confidential under IC 16-39 and 42 CFR 2 and are the property of the agency or entity responsible for a resident's care.

(g) The division has the right to conduct an on-site inspection of any of the residential facilities described in this article. *(Division of Mental Health and Addiction; 440 IAC 7.5-2-3)*

440 IAC 7.5-2-4 Reporting

Authority: IC 12-8-8-4; IC 12-21-2-3
Affected: IC 12-22-2-3

Sec. 4. (a) The agency must notify the division prior to operating, building, or purchasing a facility that must be licensed or certified by the division under this article.

(b) The agency must notify the division regarding the following changes prior to making such changes:

- (1) Proposed change in ownership.**
- (2) Proposed major changes in services offered, including the proposed closing of a facility.**

(c) The agency shall report any of the following incidents to the division within one (1) working day:

- (1) Any fire requiring a local fire department response.**
- (2) Any emergency rendering the residence temporarily or permanently uninhabitable.**
- (3) Any serious injury of a resident or household member requiring professional medical attention.**
- (4) A suicide attempt by a resident or household member.**
- (5) Any incident involving the resident or a household member requiring local police response.**
- (6) Suspected or alleged exploitation, neglect, or abuse of a resident or household member.**
- (7) The death of a resident or household member.**

(d) If the division determines the reported allegations warrant an investigation, the division may conduct an investigation. The agency must fully cooperate with any investigation by the division or its agents.

(e) The division may make an on-site inspection of any residential facility certified or licensed under this article, including those facilities of subcontractors, at any time.

(f) The division may suspend the agency's license or certification for up to ninety (90) days if an agency fails to report one (1) of the events listed in subsection (c). Consequences of license suspension include the prohibition of new resident placement during the suspension. (*Division of Mental Health and Addiction; 440 IAC 7.5-2-4*)

440 IAC 7.5-2-5 Admissions

Authority: IC 12-8-8-4; IC 12-21-2-3
Affected: IC 12-22-2-3

Sec. 5. (a) The agency must have written policies and procedures that govern admissions in a residential living facility.

(b) The agency must assure that the services required by the individual's treatment plan can be appropriately provided by the facility or by contractual agreement.

(c) There shall be an orientation procedure for the resident that:

- (1) specifies the arrangements and charges for housing, food, and professional services; and**
- (2) includes a written copy of the facility's statement of rules, resident rights and responsibilities, confidentiality, grievance procedures, and termination policy.**

(d) Written documentation must be maintained in the resident's file that an explanation of the resident rights and responsibilities have been presented to the individual resident and that the resident understands these rights. (*Division of Mental Health and Addiction; 440 IAC 7.5-2-5*)

440 IAC 7.5-2-6 Resident rights and responsibilities

Authority: IC 12-8-8-4; IC 12-21-2-3
Affected: IC 12-21-2-3; IC 12-27; IC 16-39-2; 42 CFR 2

Sec. 6. (a) The agency shall have and enforce written policies regarding the rights and responsibilities of residents under IC 12-27 and this article.

(b) In addition to the rights and responsibilities listed in IC 12-27, the agency shall ensure that each resident:

- (1) is in a safe environment and is free from abuse and neglect;
- (2) is treated with consideration, respect, and full recognition of the resident's dignity and individuality;
- (3) is free to communicate, associate, and meet privately with persons of the resident's choice unless:
 - (A) it infringes on the rights of another resident; or
 - (B) the restriction of this right is a part of the resident's individual treatment plan;
- (4) has the right to confidentiality concerning personal information under IC 16-39-2 and 42 CFR 2;
- (5) is free to voice grievances and to recommend changes in the policies and services offered by the agency;
- (6) is not required to participate in research projects;
- (7) has the right to manage personal financial affairs or to seek assistance in managing them unless the resident has a representative payee or a court appointed guardian for financial matters;
- (8) shall be informed about available legal and advocacy services, and may contact or consult legal counsel at the resident's own expense; and
- (9) shall be informed of the division's toll free consumer service number.

(c) The division's toll free consumer service number shall be posted in a room used by all consumers in all supervised group living facilities, sub-acute facilities, and transitional residential facilities.

(d) The resident rights and responsibilities shall be reviewed with the consumer annually.

(e) The privacy of each resident shall be respected to the maximum extent feasible and shall, at a minimum, meet the following:

- (1) Private space is available for conducting:
 - (A) intakes;
 - (B) assessments;
 - (C) individual, family, and, when provided, group counseling; and
 - (D) resident meetings.
- (2) The agency shall establish written policies and procedures that specify how consumer privacy is maintained with regard to visitors and other nonfacility personnel.

(f) The agency shall assure that residents are paid in accordance with federal and state laws and regulations for all work that is of consequential economic benefit to the agency, except the following:

- (1) Personal housekeeping tasks related directly to the resident's personal space and possessions.
- (2) Shared responsibilities for regular household chores among a group of residents.

(g) Each resident is expected to do the following:

- (1) Make every effort to respect and care for themselves, their clothing, and personal belongings.
- (2) Respect the rights of the other residents and residential staff.
- (3) Respect the personal belongings of other residents, as well as the property of the facility.
- (4) Contribute to and participate in the formulation of their own treatment plans and work toward attaining treatment goals.
- (5) Respect the privacy and confidentiality of other consumers.
- (6) Adhere to the facility's rules presented to the resident in the resident orientation procedure.
- (7) An adult consumer shall apply for all benefits and public assistance for which the consumer may be determined eligible as a condition of participation in a residential living facility.

(Division of Mental Health and Addiction; 440 IAC 7.5-2-6)

440 IAC 7.5-2-7 Resident finances

Authority: IC 12-8-8-4; IC 12-21-2-3

Affected: IC 12-21-2-3; IC 12-22-2-3

Sec. 7. Each agency shall develop and implement written policies and procedures to protect the financial interests of the residents. These policies and procedures shall:

- (1) provide financial counseling and training to all residents as needed;

- (2) allow a resident's personal funds to be used to secure incidentals and personal and special need items;
 - (3) encourage residents to maintain savings and checking accounts in community financial institutions;
 - (4) enable residents to have their own money in their possession, unless the resident has a representative payee, a guardian for financial purposes, or the resident requests assistance in writing from the residential staff;
 - (5) establish specific policies regarding the agency acting as representative payee for the resident, including meeting the fiduciary duty owed to a resident by a representative payee;
 - (6) establish an accounting system and maintain a complete record of the disbursements and items purchased for the resident when a resident's funds are disbursed by the agency on behalf of the resident;
 - (7) provide that the financial record shall be available to the resident or to the resident's legal representative;
- and
- (8) provide that staff persons shall not borrow or accept money or any thing of value from a resident.

(Division of Mental Health and Addiction; 440 IAC 7.5-2-7)

440 IAC 7.5-2-8 Resident health and treatment

Authority: IC 12-8-8-4; IC 12-21-2-3

Affected: IC 12-21-2-3; IC 12-22-2

Sec. 8. (a) An individualized treatment plan shall be developed and followed for each resident.

(1) The treatment team, with the active participation of the resident, shall design and implement a written, comprehensive individualized treatment plan in collaboration with the case manager and under the direction of the agency.

(A) A preliminary plan or a referral application indicating the desired treatment objectives must be completed prior to placement.

(B) A fully developed individual treatment plan shall be completed within the first thirty (30) days of enrollment.

(2) The individual treatment plan shall be reviewed at least every ninety (90) days.

(b) Each person admitted to a residential facility shall have written evidence of the following:

(1) The resident has had a physical examination:

(A) not more than six (6) months prior to admission; or

(B) within three (3) months after admission.

(2) A tuberculin skin test shall be completed and read within three (3) months prior to admission. If the individual has not had the tuberculin skin test within three (3) months prior to admission, the person may be admitted to the facility, but must have the test upon admission and it must be read within seventy-two (72) hours after the administration of the test.

(c) The agency must assist the resident to obtain medical and dental care.

(1) The facility shall have a written plan that outlines the procedures used to access and treat dental, pharmacological, optometric, audiological, psychiatric, and general medical care needs of residents, including at least an annual physical and dental exam.

(2) The plan shall include the following:

(A) Procedures for evaluating the resident's needs.

(B) Referral to appropriate health care providers, including choice of private practitioners.

(C) Assistance in obtaining insurance or other aid for the payment of fees for medical and dental services.

(D) Methods of training each resident to monitor the resident's own personal health, hygiene, and dental conditions.

(d) The agency shall have a written plan outlining procedures in cases of emergency or illness of staff, residents, or household member.

(e) Each resident shall be instructed in how to access physical emergency services and the agency's clinical emergency services. *(Division of Mental Health and Addiction; 440 IAC 7.5-2-8)*

440 IAC 7.5-2-9 Medication

Authority: IC 12-8-8-4; IC 12-21-2-3
Affected: IC 12-22-2

Sec. 9. (a) Agencies having residential living facilities shall establish and enforce written policies and procedures for the self-administration and monitoring of medication for residents.

(b) The written medication policies shall include the following:

- (1) How the goal of self-medication for residents is to be achieved.**
- (2) For residents who are totally self-medicating, the agency must have a procedure for:**
 - (A) monitoring the resident's use of medication;**
 - (B) ensuring adequate supplies; and**
 - (C) providing safe storage of medication.**
- (3) When assistance is required by the resident:**
 - (A) how residents who need assistance with medication will receive it;**
 - (B) how the agency will store medications for the residents; and**
 - (C) how the agency will dispose of medications no longer needed or remaining after any expiration date.**
- (4) How monitoring will be implemented.**
- (5) What documentation is required regarding medication.**

(c) The policies and procedures established in this section shall be:

- (1) developed in consultation with a nurse, pharmacist, or physician; and**
- (2) approved by the agency.**

(d) Each residential facility shall administer or monitor prescription medications with the direction of a physician. Nonprescription drugs as needed may be used by an adult resident unless the resident's physician specifies otherwise.

(e) Only staff who are authorized to administer medication under state law and in accordance with the requirements of the accrediting body may administer medication.

(f) The facility shall train all staff and householders about the following:

- (1) Medications used by their residents.**
- (2) The purposes and functions of the medications.**
- (3) Major side effects and contraindications.**
- (4) Recognition of signs that medication is:**
 - (A) not being taken;**
 - (B) being misused; or**
 - (C) ineffective.**

(Division of Mental Health and Addiction; 440 IAC 7.5-2-9)

440 IAC 7.5-2-10 Nutrition

Authority: IC 12-8-8-4; IC 12-21-2-3
Affected: IC 12-22-2

Sec. 10. (a) The agency or its subcontractor shall develop and implement written policies and procedures for staff and for residents who require training regarding more independence for the resident in the following:

- (1) Basic nutrition.**
- (2) Meal planning.**
- (3) Food purchasing and preparation.**
- (4) Food storage.**
- (5) Dish washing.**
- (6) Sanitation.**
- (7) Safety.**

(b) In supervised group living facilities, transitional residential facilities, sub-acute facilities, and alternative

families for adults, at least three (3) well-balanced meals shall be available for each day, with the exception that residents shall be encouraged to dine out occasionally, or to carry sack lunches for the periods of time when they are away from the facility.

(c) Deprivation of a meal or snack shall not be used as punishment for the infraction of a house rule or failure of the resident to carry out an aspect of the resident's treatment plan. *(Division of Mental Health and Addiction; 440 IAC 7.5-2-10)*

440 IAC 7.5-2-11 Environment

Authority: IC 12-8-8-4; IC 12-21-2-3

Affected: IC 12-21-2-3; IC 12-22-2-3

Sec. 11. (a) The location of the residence shall provide opportunities for the resident to participate in community activities and have independent access to community services. The residence shall be:

(1) reasonably accessible to the agency as well as to medical, recreational, and shopping areas, by public or agency-arranged transportation; and

(2) located in a suitable residential setting, and the location, design, construction, and furnishings of each residence shall be:

(A) appropriate to the type of facility;

(B) as homelike as possible; and

(C) conducive to the achievement of optimal development by the residents.

(b) Except for sub-acute facilities, the residential facility shall not erect any sign that might set the facility apart from other residences in the area.

(c) The agency shall avoid the creation of nontherapeutic concentrations of residential facilities in any given area, including residential facilities not administered by this agency.

(d) Each facility shall have a policy concerning pets. Pets may be permitted in a facility but shall not be allowed to create a nuisance or safety hazard. Any pet housed in a facility shall have periodic veterinary examinations and required immunizations in accordance with state and local health regulations. *(Division of Mental Health and Addiction; 440 IAC 7.5-2-11)*

440 IAC 7.5-2-12 Physical requirements

Authority: IC 12-8-8-4; IC 12-21-2-3

Affected: IC 12-21-2-3; IC 12-22-2-3

Sec. 12. (a) The living area shall meet the following requirements:

(1) The residence must be in good repair and free of hazards, such as the following:

(A) Loose or broken window glass.

(B) Loose or cracked floor coverings or ceilings.

(C) Holes in the walls.

(2) The residence must be kept free from flying insects by screens on all functional outside windows and doors or by other effective means.

(3) The resident's bedroom shall have at least one (1) window capable of being fully opened for escape and rescue purposes, and proper ventilation.

(b) The residence shall be clean, neat and orderly. The agency or its subcontractor shall ensure that the resident maintains cleanliness of the residence.

(c) The agency or its subcontractor shall provide for the comfort and safety of all occupants.

(d) All rooms used for eating, sleeping, and living shall be provided with adequate light and ventilation by means of windows as needed for safety purposes.

(e) The following shall not be used as a residence unless the division grants a waiver:

- (1) Basement rooms or rooms below grade level.
- (2) Attics and other areas originally intended for storage.
- (3) Sleeping rooms in resident hotels or motels.

(f) The division may not grant a waiver unless the illumination, ventilation, temperature, and humidity control provide the same level of comfort as rooms not requiring a waiver, and if the room is below grade, at least one (1) direct exit to the outside must be provided.

(g) Bedrooms shall not be located in such a manner as to require the passage of a resident through the bedroom of another resident.

(h) A single occupancy bedroom for an adult must have eighty (80) square feet or more of floor space.

(i) A multiple occupancy bedroom must have sixty (60) square feet or more of floor space for each adult occupant.

(j) There must be at least one (1) toilet and lavatory for every four (4) residents, and one (1) tub or shower for every six (6) residents.

(k) The per person requirements of square footage and bathroom facilities do not apply to the following:

- (1) A consumer with his or her children living with him or her in the facility.
- (2) A sub-acute facility or a transitional residential facility that was given a waiver regarding the maximum number of residents prior to January 1, 2002, and is accredited by an accrediting agency approved by the division. This waiver is not transferable.

(l) Ceiling heights in bedrooms shall be a minimum of seven (7) feet, six (6) inches. If the bedroom has a suspended or sloping ceiling, the specified ceiling heights must be met in all areas used in computation of floor space.

(m) If a private water supply or sewage system is used, the residence shall comply with local regulations regarding sanitation. Evidence of compliance shall be provided by the landlord to the agency, or if the residence is a sub-acute facility or a supervised group living facility, to the division.

(n) There shall be cooking facilities and food storage areas.

(o) The food preparation and serving areas, including the structure, construction, and installation of equipment, shall be in sanitary condition and operating properly. Food storage areas shall be properly refrigerated and protected from contamination. Storage areas for nonfood supplies shall be separate from food storage areas. Appliances, fixtures, and equipment shall be adequate for sanitary washing and drying of dishes.

(p) The facility shall ensure that arrangements are made to allow residents to launder personal items and linens at least weekly. If laundry is done on the premises, equipment must be kept in working order. (*Division of Mental Health and Addiction; 440 IAC 7.5-2-12*)

440 IAC 7.5-2-13 Safety requirements

Authority: IC 12-8-8-4; IC 12-21-2-3

Affected: IC 12-22-2

Sec. 13. (a) The agency shall have written policies and procedures to ensure resident and staff safety.

(b) The policies and procedures regarding resident and staff safety must be given to all personnel and residents and be made available to others on request.

(c) The agency or its subcontractor shall demonstrate that it has provided each resident, householder, and staff member with life safety equipment as follows:

(1) There shall be an Underwriter's Laboratories approved battery operated smoke detector in good working order on each floor of a residence and in each bedroom unless another type of alarm or detector has been installed by the landlord to comply with a local ordinance.

(2) In the case of the visually impaired resident, the residence shall be equipped with audible life safety devices.

(3) In the case of the hearing impaired resident, the residence shall be equipped with visual life safety devices.

(4) A five (5) pound ABC multipurpose type extinguisher, or the equivalent, shall be located on each floor of the facility.

(5) In a sub-acute facility, a supervised group living facility, or a transitional residential facility, at least one

(1) ten (10) pound ABC multipurpose type extinguisher shall be located in the kitchen.

(d) All sprinkler systems, fire hydrants, standpipe systems, fire alarm systems, portable fire extinguishers, smoke and heat detectors, and other fire protective or extinguishing systems or appliances shall be maintained in an operative condition at all times and shall be replaced or repaired where defective.

(e) Each resident, householder, and staff member shall be trained in procedures to be followed in the event of tornado, fire, gas leak, and other threats to life safety.

(f) Use of space heaters and unventilated fuel heaters is prohibited.

(g) Residential living facilities and operations shall conform to all applicable federal, state, or local health and safety codes, including the following:

(1) Fire protection.

(2) Building construction and safety.

(3) Sanitation.

(h) Residential living facilities shall maintain current documentation of compliance with all applicable codes.

(i) Every closet door latch shall be such that it can be opened from the inside in case of emergency.

(j) Every bathroom door shall be designed to permit the opening of the locked door from the outside in an emergency.

(k) No door with any means of egress shall be locked against egress when the building is occupied, except a sub-acute facility that meets the requirements of 440 IAC 7.5-4-7(e).

(l) The administration of the facility shall have a written posted plan for evacuation in case of fire and other emergencies.

(m) For all facilities, except semi-independent living facilities, fire evacuation drills shall be conducted monthly. The shift conducting the drill shall be alternated to include each shift once a quarter. At least one (1) drill each year shall be conducted during sleeping hours. A tornado drill shall be conducted each spring for all staff and residents.

(n) Residents of semi-independent living facilities shall be trained to handle emergency evacuation situations.

(o) Where smoking is permitted, noncombustible safety-type ash trays or receptacles, for example, glass, ceramic, or metal, shall be provided.

(p) All combustible rubbish, oily rags, or waste material, when kept within a building or adjacent to a building, shall be securely stored in metal or metal-lined receptacles equipped with tight fitting covers or in rooms or vaults constructed of noncombustible materials. Dust and grease shall be removed from hoods above stoves and other equipment at least every six (6) months.

(q) No combustibles shall be stored within three (3) feet of furnaces or water heaters.

(r) The facility shall not use any type of solid fuel-burning appliance, except fireplaces.

(s) Fireplace safety requirements shall be as follows:

(1) If the fireplace is used, the chimney flue shall be cleaned annually and a written record of the cleaning retained.

(2) Glass doors, a noncombustible hearth, and grates shall be provided for each fireplace in use.

(3) Ashes from the fireplace shall be disposed of in a noncombustible covered receptacle. The receptacle shall then be placed on the ground and away from any building or combustibles.

(4) Proper fireplace tools shall be provided for each fireplace in use.

(t) The facility shall maintain all fuel-burning appliances in a safe operating condition. There shall be an annual inspection by a qualified inspector of all fuel-burning appliances.

(u) The gas and electric shutoffs shall be labeled and easily accessible in case of emergency. (*Division of Mental Health and Addiction; 440 IAC 7.5-2-13*)

440 IAC 7.5-2-14 Furnishings

Authority: IC 12-8-8-4; IC 12-21-2-3

Affected: IC 12-21-2-3; IC 12-22-2

Sec. 14. (a) The agency shall furnish and maintain the furnishings in a residence, or they shall assist the resident in acquiring and maintaining furnishings for the residence. The intent is to assure a private residence that is homelike, comfortable, sanitary, and promotes the dignity of the resident.

(1) If the agency elects to furnish the residence, the resident may be required to make a security deposit, sign an inventory, and agree to replace lost or damaged furnishings.

(2) Furnishings shall be in good repair and attractive.

(3) Residents shall be encouraged to purchase and display personal possessions and to enhance a homelike environment with items of their choice.

(4) The facility may not require residents to provide their own furniture. Furniture provided by the residents remains the property of the residents.

(b) Basic furnishings shall include, but are not limited to, the following:

(1) A dresser.

(2) Clothing storage.

(3) Bath towels.

(4) An individual bed that shall be furnished adequately with a clean mattress and clean bedding.

(5) A table and chairs for meals.

(6) A chair or couch.

(7) Lamps as needed.

(8) Adequate dishes, utensils, and cookware.

(c) In a sub-acute facility, a transitional residential facility, or a supervised group living facility, a television and radio shall be provided for the use of the residents who have expressed an interest. Television viewing must not be a substitute for other activities. (*Division of Mental Health and Addiction; 440 IAC 7.5-2-14*)

Rule 3. Requirements Specific for Managed Care Providers and Community Mental Health Centers

440 IAC 7.5-3-1 Continuum of care

Authority: IC 12-8-8-4; IC 12-21-2-3

Affected: IC 12-21-2-3; IC 12-22-2-3

Sec. 1. A managed care provider or community mental health center that contracts with the division must assure that residential living facilities will function as part of the continuum of care. (*Division of Mental Health*)

and Addiction; 440 IAC 7.5-3-1)

440 IAC 7.5-3-2 Case management

Authority: IC 12-8-8-4; IC 12-21-2-3

Affected: IC 12-21-2-3; IC 12-22-2-3

Sec. 2. At the time of admission to the facility and throughout the service period, each resident shall be assigned to a case manager who is employed by the managed care provider or community mental health center. *(Division of Mental Health and Addiction; 440 IAC 7.5-3-2)*

440 IAC 7.5-3-3 Resident living allowance

Authority: IC 12-8-8-4; IC 12-21-2-3

Affected: IC 12-21-2-3; IC 12-22-2-3

Sec. 3. (a) Agencies that contract with the division may choose to provide a resident living allowance.

(b) An agency that provides a resident living allowance shall comply with the following:

(1) The resident living allowance shall not exceed five hundred twenty dollars (\$520) per month, except in the first month in which the resident receives the resident living allowance.

(2) A resident is eligible to receive a resident living allowance if:

(A) the resident's income, less the income incentive, is less than two hundred percent (200%) of the federal poverty guideline;

(B) the resident has no more than one thousand five hundred dollars (\$1,500) in liquid assets;

(C) the resident's other personal resources are inadequate to maintain the resident in a therapeutic living environment; and

(D) the allowance is authorized by the individual treatment plan.

(c) The agency may disburse a resident living allowance on behalf of the resident, in compliance with requirements of a representative payee. *(Division of Mental Health and Addiction; 440 IAC 7.5-3-3)*

440 IAC 7.5-3-4 Calculation of resident living allowance

Authority: IC 12-8-8-4; IC 12-21-2-3

Affected: IC 12-21-2-3; IC 12-22-2-3

Sec. 4. Residents who are eligible to receive a resident living allowance shall have the amount computed by the following method:

(1) Subtract the income incentive from the resident's income and benefits.

(2) Subtract this difference from the resident's allowable expenses. This is the amount of the resident's living allowance, up to the cost of the resident's allowable expenses or the maximum of five hundred twenty dollars (\$520) per month.

(Division of Mental Health and Addiction; 440 IAC 7.5-3-4)

440 IAC 7.5-3-5 Components of the resident's income and assets

Authority: IC 12-8-8-4; IC 12-21-2-3

Affected: IC 12-21-2-3; IC 12-22-2-3

Sec. 5. (a) The following are considered the resident's income for purposes of the resident living allowance:

(1) Wages.

(2) Interest paid on accounts.

(3) Rental income.

(4) Interest or dividends paid on certificates, bonds, or securities.

(5) Cash benefits, including the following:

(A) Insurance payments.

(B) All entitlement programs from state or federal sources.

(C) Pensions from union or other employment.

(D) Routine cash gifts from family or others.

(b) The following are requirements concerning trusts:

(1) Routine distributions from a trust for the use of an individual or on behalf of the individual by the administrator of the trust shall be considered income to the individual.

(2) Lump sum distributions from a trust may be considered liquid assets.

(A) The conditions and terms of trusts shall be disclosed in full by providing a copy of the trust instrument to the agency in order to determine if the assets of the trust shall be available to meet the individual's obligation to pay for the cost of residential services.

(B) All distributions from the trust shall be reported to the agency by the trustee to determine if the distributions have created income or assets for purposes of this rule.

(c) The following are considered liquid assets for purposes of the resident living allowance program:

(1) The excess of life insurance policies with a cash surrender value of more than three thousand dollars (\$3,000).

(2) Savings accounts.

(3) Checking accounts.

(4) Certificates of deposit.

(5) Securities.

(6) Bonds.

(7) The contents of safety deposit boxes held in the name of the individual, or in common, or jointly with others.

(d) Assets shall be valued at their current market value.

(e) Unless otherwise demonstrated, jointly held assets shall be equally prorated among all named owners.

(Division of Mental Health and Addiction; 440 IAC 7.5-3-5)

440 IAC 7.5-3-6 Income incentive

Authority: IC 12-8-8-4; IC 12-21-2-3

Affected: IC 12-21-2-3; IC 12-22-2-3

Sec. 6. Under the income incentive, the first sixteen dollars (\$16) plus fifty percent (50%) of all wages over sixteen dollars (\$16) earned during the month is not counted as income for purposes of figuring the resident living allowance. *(Division of Mental Health and Addiction; 440 IAC 7.5-3-6)*

440 IAC 7.5-3-7 Allowable expenses

Authority: IC 12-8-8-4; IC 12-21-2-3

Affected: IC 12-21-2-3; IC 12-22-2-3

Sec. 7. (a) Allowable expenses for purposes of figuring the resident living allowance include the following:

(1) Rent for the certified residence.

(2) Utilities.

(3) Telephone; long distance charges related to the individual's treatment plan shall be included as an allowable expense.

(4) Household expenses, including the following:

(A) Food.

(B) Meals eaten out.

(C) Household cleaning supplies.

(D) Laundry supplies.

(5) Transportation to and from programs and activities specified in the individual's treatment plan.

(6) Medical insurance for non-Medicaid eligible individuals.

(7) Insurance as required by court order or state statute.

(8) Medical, dental, pharmacological, optometric, and audiological expenses that:

(A) are essential to maintain or increase the level of independent functioning of the resident; and

(B) cannot be paid for through:

(i) Medicaid;

- (ii) Medicare;
 - (iii) private health insurance; or
 - (iv) other resources.
- (9) Personal care expenses, including:
- (A) clothing;
 - (B) hair care;
 - (C) personal hygiene supplies; and
 - (D) other items that are essential to the resident's participation in the program.
- (10) Current psychiatric, rehabilitative, or habilitative services, including residential supervision and case management, specified in the individualized treatment plan.
- (11) Start up costs, including residence and utility deposits or purchase of basic furnishings specified in this article.
- (12) Court ordered child support payments may be included upon demonstration to the agency of the nature and amount of the payment.
- (13) Monthly deposit in an emergency fund.

(b) For rent, utilities, and telephone, the individual's share shall be determined by equitably prorating monthly rent among all occupants, excluding the minor dependents of those occupants who are also living in the residence. (*Division of Mental Health and Addiction; 440 IAC 7.5-3-7*)

440 IAC 7.5-3-8 Emergency fund

Authority: IC 12-8-8-4; IC 12-21-2-3

Affected: IC 12-21-2-3; IC 12-22-2-3

Sec. 8. (a) In addition to the one thousand five hundred dollars (\$1,500) in liquid assets allowed the resident receiving a resident living allowance, the agency may establish an emergency fund of not more than one thousand five hundred dollars (\$1,500) for each individual to provide money for unexpected or unusual costs associated with assuring the maintenance of the person in the program.

(b) The individual's use of this fund must be for a specific item or service, and the purpose shall be reviewed and approved by the individual's treatment team. (*Division of Mental Health and Addiction; 440 IAC 7.5-3-8*)

Rule 4. Sub-Acute and Supervised Group Living Facilities

440 IAC 7.5-4-1 Application

Authority: IC 12-8-8-4; IC 12-21-2-3

Affected: IC 12-22-2-3; IC 12-22-2-11; IC 12-28-4

Sec. 1. All agencies that operate a facility or that holds itself out as operating a sub-acute stabilization facility described in IC 12-22-2-3(1) or a supervised group living facility described in IC 12-22-2-3(2) shall be subject to this rule. (*Division of Mental Health and Addiction; 440 IAC 7.5-4-1*)

440 IAC 7.5-4-2 Certification required

Authority: IC 12-8-8-4; IC 12-21-2-3

Affected: IC 12-22-2-3; IC 12-22-2-11; IC 12-28-4

Sec. 2. A sub-acute facility or a supervised group living facility must be certified by the division in order to operate. (*Division of Mental Health and Addiction; 440 IAC 7.5-4-2*)

440 IAC 7.5-4-3 Transfer of certification

Authority: IC 12-8-8-4; IC 12-21-2-3

Affected: IC 12-22-2-3; IC 12-22-2-11; IC 12-28-4

Sec. 3. A facility certified under this article may not transfer its certification to another facility site or to another legal entity. (*Division of Mental Health and Addiction; 440 IAC 7.5-4-3*)

440 IAC 7.5-4-4 Certification procedure

Authority: IC 12-8-8-4; IC 12-21-2-3

Affected: IC 12-22-2-3; IC 12-22-2-11; IC 12-28-4

Sec. 4. (a) An application for the certification of a sub-acute facility or a supervised group living facility shall be submitted to the division in the following circumstances:

- (1) The agency intends to operate a facility.**
- (2) The agency with an existing certification proposes to change the type of service or type of facility.**
- (3) A facility has changed ownership or management.**

(b) The applicant shall file the following:

- (1) A statement that the agency is applying to be a residential care provider.**
- (2) A residential care provider application.**
- (3) A statement that the agency applying for certification is a community mental health center, a managed care provider, or an addiction services provider with regular certification.**
- (4) A certificate from the local zoning authority to occupy and operate a sub-acute facility or supervised group living facility on the site.**
- (5) A plan of operation, which shall include the following:**
 - (A) A description of the facility and its location, including floor plans.**
 - (B) Corporate or partnership structure of the agency.**
 - (C) The provision of the following:**
 - (i) Twenty-four (24) hour supervision.**
 - (ii) Services provided under the supervision of a physician licensed to practice medicine in Indiana.**
 - (iii) Sufficient staffing to carry out treatment plans and provide consumer and staff safety.**
 - (D) A facility description, as required at 440 IAC 7.5-2-3.**
- (6) Information verified by the state fire marshal indicating whether the facility's operation is in compliance with the applicable fire and life safety standards set forth in 440 IAC 7.5-8, 440 IAC 7.5-9, or 440 IAC 7.5-10.**
- (7) The complete accreditation report by an accrediting body approved by the division.**

(c) The division shall approve the certification of a facility under this rule if the division determines that the facility meets the requirements in this article.

(d) The certification shall expire ninety (90) days after the expiration of the agency's accreditation. (Division of Mental Health and Addiction; 440 IAC 7.5-4-4)

440 IAC 7.5-4-5 Facility closure

Authority: IC 12-8-8-4; IC 12-21-2-3

Affected: IC 12-21-2-3; IC 12-22-2

Sec. 5. (a) The agency must initiate a new application for certification in the following circumstances:

- (1) Relocation of the residents to a new facility.**
- (2) Reopening a closed sub-acute or supervised group living facility.**

(b) The applicant shall notify the division and any agency with the responsibility to place residents, in writing, ninety (90) days in advance of closure, except where the sub-acute facility is closed or no longer able to house the residents due to an emergency or due to final action by the division revoking or denying renewal of the certificate.

(c) When there is an emergency so severe as to render a sub-acute facility or supervised group living facility uninhabitable, evacuation of the residents shall take place immediately and notice shall be given by telephone to any agency responsible for the placement of residents immediately and to the division no later than the first business day following the day of the emergency. (Division of Mental Health and Addiction; 440 IAC 7.5-4-5)

440 IAC 7.5-4-6 Revocation of certification

Authority: IC 12-8-8-4; IC 12-21-2-3

Affected: IC 12-22-2-3; IC 12-22-2-11; IC 12-28-4

Sec. 6. (a) The division shall revoke certification issued under this rule if the division's investigation finds any of the following conditions:

- (1) Failure to comply with this rule.**
- (2) A condition that, under the standards for accreditation, would cause the accrediting agency to revoke the accreditation.**
- (3) Conduct or practice in the operations of the facility that is found by the division to be detrimental to the welfare of the residents.**
- (4) The physical safety of the clients or staff of the agency is compromised by a physical or sanitary condition of the facility.**
- (5) Violation of a federal or state statute, rule, or regulation in the course of the operation of the facility.**

(b) When a license is revoked the division shall inform the residents and the general public. *(Division of Mental Health and Addiction; 440 IAC 7.5-4-6)*

440 IAC 7.5-4-7 Requirements specific to a sub-acute facility

Authority: IC 12-8-8-4; IC 12-21-2-3

Affected: IC 12-17.4-3; IC 12-21-2-3; IC 12-22-2-3; IC 12-24-12; IC 12-25; IC 12-28; IC 12-30-3; IC 16-28

Sec. 7. (a) A sub-acute stabilization facility is a facility in which an agency provides twenty-four (24) hour supervised treatment for psychiatric disorders or addictions, or both, that is less restrictive than an inpatient facility and more restrictive than a supervised group living facility.

(b) A sub-acute stabilization facility serves at least four (4) and not more than fifteen (15) individuals.

(c) The director of the division may waive the resident limitations for a sub-acute stabilization facility.

(d) A sub-acute stabilization facility may function as one (1) or both of the following:

(1) A crisis care or respite care facility:

- (A) that serves people in need of short term respite care or short term crisis care; and**
- (B) the length of stay shall not exceed forty-five (45) days.**

(2) Rehabilitative facility:

- (A) that serves people who have a need for treatment of psychiatric disorders or addictions; and**
- (B) the length of stay in a rehabilitative facility shall not exceed one (1) year. The division director may waive the one (1) year limitation.**

(e) A sub-acute facility may be a house or congregate living facility.

(f) A sub-acute may be a locked or secure facility if it complies with the applicable rules of the fire prevention and building safety commission. *(Division of Mental Health and Addiction; 440 IAC 7.5-4-7)*

440 IAC 7.5-4-8 Requirements specific to a supervised group living facility

Authority: IC 12-8-8-4; IC 12-21-2-3

Affected: IC 12-21-2-3

Sec. 8. (a) A supervised group living facility is a residential facility in which an agency provides twenty-four (24) hour supervision for residents with a psychiatric disorder or an addiction, or both.

(b) A supervised group living facility serves up to ten (10) consumers in a single family dwelling and up to fifteen (15) consumers in a apartment or congregate living setting.

(c) No supervised group living facility shall be licensed by the division if it is within one thousand (1,000) feet of another SGL licensed under this article unless the facility was approved by the division prior to October 1, 1984.

(d) The division may waive the one thousand (1,000) foot limitation for particular homes. Such waivers shall conform to the intent of the rule, which is to avoid the creation of nontherapeutic concentrations of residential facilities in any given area; and once given, will remain as long as the facility is licensed as a supervised group living facility.

(e) A supervised group living facility may be an apartment, house, or congregate facility. (*Division of Mental Health and Addiction; 440 IAC 7.5-4-8*)

Rule 5. Transitional Residential Facilities for Individuals with a Psychiatric Disorder or an Addiction

440 IAC 7.5-5-1 Transitional residential facility

Authority: IC 12-8-8-4; IC 12-21-2-3

Affected: IC 12-21-2-3

Sec. 1. (a) A transitional residential facility must meet all of the following requirements:

(1) The facility serves fifteen (15) or fewer persons with a psychiatric disorder or an addiction, or both. The limit of fifteen (15) persons does not include children of the consumers.

(2) The persons served require a time limited supportive residential environment.

(3) The persons' individual treatment plans are overseen by:

(A) a community mental health center;

(B) a certified residential care provider;

(C) a managed care provider; or

(D) an addiction services provider with regular certification.

(b) The division director may waive the limitation of fifteen (15) or fewer persons.

(c) In order for the limitation to be waived, the transitional residential facility must be accredited by an accrediting agency approved by the division.

(d) If a waiver is granted, the agency shall have an inspection conducted by the office of the state fire marshal to determine whether the facility's operation is in compliance with the applicable fire and life safety standards set forth in 440 IAC 7.5-8, 440 IAC 7.5-9, or 440 IAC 7.5-10.

(e) If a waiver is granted, the waiver will remain as long as the residence is accredited and operated by the agency.

(f) A transitional residential facility may be an apartment, house, or congregate facility.

(g) A transitional residential facility shall have evidence of compliance with local health and safety codes. (*Division of Mental Health and Addiction; 440 IAC 7.5-5-1*)

440 IAC 7.5-5-2 Administration

Authority: IC 12-8-8-4; IC 12-21-2-3

Affected: IC 12-21-2-3

Sec. 2. (a) The transitional residential facility shall be operated by an agency under this rule. The agency is responsible for maintaining the administrative and supervisory structure required to provide and oversee the transitional residential services facility.

(b) Transitional residential programs shall be conducted in residences that are certified by the agency every two (2) years, in accordance with the requirements of this article.

(c) The agency shall establish and follow written certification policies and procedures that are approved by the division.

(d) A copy of the certification form shall be kept by the agency.

(e) The transitional residential facility shall provide activities that assist the individual in maintaining or acquiring skills necessary to live in the community.

(f) Each resident shall be assigned a case manager to provide case management services. (*Division of Mental Health and Addiction; 440 IAC 7.5-5-2*)

Rule 6. Semi-Independent Living Program for Individuals with Psychiatric Disorders or Addictions

440 IAC 7.5-6-1 Application

Authority: IC 12-8-8-4; IC 12-21-2-3

Affected: IC 12-22-2-3; IC 12-24-12

Sec. 1. (a) This rule applies to the following:

(1) All managed care providers or community mental health centers that provide semi-independent living facilities.

(2) Consumers in these facilities who have a psychiatric disorder or an addiction, or both.

(3) Residents of these facilities.

(b) A semi-independent living facility shall meet all of the following requirements:

(1) Each facility has six (6) or fewer consumers.

(2) The persons served require less than twenty-four (24) hour supervision.

(3) The persons' individual treatment plans are overseen by:

(A) a community mental health center; or

(B) a managed care provider.

(4) At least one (1) of the following applies:

(A) A resident living allowance is provided to at least one (1) of the residents.

(B) The facility is owned, operated, leased, or managed by the agency or its subcontractor.

(5) There is no maximum length of time an individual can remain in a semi-independent living program. The appropriate length of stay shall be determined with each individual consumer, based on the individual treatment plan.

(*Division of Mental Health and Addiction; 440 IAC 7.5-6-1*)

440 IAC 7.5-6-2 Administration

Authority: IC 12-8-8-4; IC 12-21-2-3

Affected: IC 12-22-2-3; IC 12-24-12

Sec. 2. (a) The semi-independent living facility shall be administered by an agency under contract with the division. The agency is responsible for maintaining the administrative and supervisory structure required to provide and oversee the semi-independent living facility.

(b) Semi-independent living facilities shall be conducted in residences that are certified every two (2) years by the agency in accordance with the requirements of this article.

(c) The agency shall establish and follow written certification policies and procedures that are approved by the division.

(d) A copy of the certification form shall be kept by the agency.

(e) The semi-independent living facility shall provide adequate supervision, including, but not limited to, activities that assist the individual in maintaining or acquiring skills necessary to live in the community, including the following:

(1) Personal contacts and activities with the resident.

(2) The required minimum hours of direct contact with a resident shall be one (1) hour weekly. The actual

number of hours of supervisory time shall be determined by the individual needs of the resident.

(f) Staff of the agency shall visit each residence in a time frame specified by each resident's individual treatment plan.

(g) Staff and the resident shall determine whether the living environment is conducive to the resident's achievement of optimal development. *(Division of Mental Health and Addiction; 440 IAC 7.5-6-2)*

440 IAC 7.5-6-3 Environment

Authority: IC 12-8-8-4; IC 12-21-2-3

Affected: IC 12-22-2-3

Sec. 3. (a) Residents in semi-independent living facilities shall reside in residences with no more than six (6) persons. The actual capacity of a residence shall be determined after evaluation of the facility in accordance with standards established in this rule. A single building may have up to twenty-five (25) semi-independent living facility residences or up to twenty-five percent (25%) of a building occupied by semi-independent living facility residences, whichever is greater.

(b) A semi-independent living facility may be an apartment or house.

(c) A semi-independent living facility shall comply with local health and safety codes.

(d) The agency shall apply to the division for a waiver, setting forth the justification to allow an individual to reside in a mobile home as a semi-independent living facility.

(e) Mobile homes or manufactured housing constructed after 1984 must meet the standards of the federal Department of Housing and Urban Development "Manufactured Home Construction and Safety Standards".

(f) No mobile home that was manufactured before 1985 may serve as a semi-independent living facility. This requirement may not be waived. *(Division of Mental Health and Addiction; 440 IAC 7.5-6-3)*

Rule 7. Alternative Family for Adults Program for Individuals with Psychiatric Disorders or Addictions

440 IAC 7.5-7-1 Application

Authority: IC 12-8-8-4; IC 12-21-2-3

Affected: IC 12-22-2

Sec. 1. (a) This rule applies to all managed care providers and community mental health centers that provide an alternative family for adults program and residents of those programs.

(b) An alternative family for adults program shall meet all of the following requirements:

(1) The program serves six (6) or fewer residents with a psychiatric disorder or addiction living with a householder who is not an immediate relative (spouse, child, parent, grandparent, grandchild, or spouse of those listed).

(2) The householder is certified by the agency to care for the residents in accordance with their individual treatment plans.

(c) A copy of the certificate shall be kept on the premises of the residence, and a copy shall be kept by the agency. *(Division of Mental Health and Addiction; 440 IAC 7.5-7-1)*

440 IAC 7.5-7-2 Administration

Authority: IC 12-8-8-4; IC 12-21-2-3

Affected: IC 12-22-2

Sec. 2. (a) The alternative family for adults program shall be administered by a managed care provider or a community mental health center.

(b) The agency shall provide the following supervision:

(1) Staff of the agency shall visit each household at least monthly when residents are present to assure that the living environment is healthy, safe, and supportive.

(2) The required minimum hours of supervision with each alternative family for adults resident and householder shall be two (2) hours monthly, but the actual number of hours of supervisory time shall be determined by the agency, based on the needs of the residents and alternative family householder.

(3) Supervision shall include direct contact with the householder when the residents are not present as well as individual contacts with each resident when the householder is not present.

(4) Supervision shall include other personal contacts and activities with the householder and residents to maintain the adults in the residence and to assure residents' satisfaction with the program.

(c) The agency shall provide directly or by arrangement with others, a minimum of twelve (12) hours in-service training annually for householders as well as ten (10) hours preservice and on-the-job training for new householders.

(d) The agency shall establish a minimum payment to the householder for each resident.

(e) The agency may choose to exceed that minimum as a difficulty of care payment or as additional payment for meritorious performance. (*Division of Mental Health and Addiction; 440 IAC 7.5-7-2*)

440 IAC 7.5-7-3 Householder

Authority: IC 12-8-8-4; IC 12-21-2-3

Affected: IC 12-22-2

Sec. 3. (a) The agency shall certify individuals as alternative family for adults householders for a period of two (2) years.

(b) A householder may be recertified by the agency every two (2) years.

(c) An alternative family for adults householder shall meet the following standards:

(1) Be at least twenty-one (21) years of age.

(2) Be a resident of the community and general geographic area for at least six (6) months prior to application.

(3) Demonstrate stable life relationships through employment, relationships in the community, family ties, and in the individual's current roles and responsibilities.

(4) Be financially stable.

(5) Have good communication and interpersonal skills and the ability to empathize with persons with psychiatric disorders.

(6) Be in good health as documented annually by a physician's statement.

(7) Have a valid driver's license, a safe driving history according to the agency policy, and comply with Indiana's automobile insurance liability requirements, if the householder is responsible for transporting residents.

(8) Have completed the preservice training program provided by the agency.

(9) In the professional opinion of the agency, be capable and willing to provide a safe and therapeutic environment for the residents.

(d) The agency shall demonstrate that nutritional training has been provided to householders, including the following:

(1) The agency shall have a written nutrition training plan for householders approved by a dietitian.

(2) Staff and householders shall have access to a dietitian to discuss specific resident nutritional issues.

(e) The agency shall verify and consider the criminal history of an applicant who applies to be an alternative family for adults householder. The agency shall use a criminal records check and other methods of verification in the process.

(f) The status of being a certified alternative family for adults householder does not entitle the alternative family to have an adult placed with it. Such placements are at the discretion of the agency.

(g) The alternative family may decline to accept a specific adult solely on the grounds that the alternative family is unable to meet the individual's needs.

(h) The agency shall enter into a written agreement with each alternative family for adults householder covering the terms and conditions of the householder's participation in the alternative family for adults program. The agreement shall cover the following:

- (1) Program participation requirements, duties, and responsibilities of the householder in the program.
- (2) Householder rights.
- (3) Any restrictions on the householder's activities that are necessary conditions of participation in the program.

(i) In the event that the alternative family householder determines that it is unable to meet the needs of the individual placed with them, the alternative family householder shall notify the agency, in writing, thirty (30) days before the relocation of the adult. *(Division of Mental Health and Addiction; 440 IAC 7.5-7-3)*

440 IAC 7.5-7-4 The residence

Authority: IC 12-8-8-4; IC 12-21-2-3

Affected: IC 12-22-2

Sec. 4. (a) Alternative family for adults program shall be conducted in the principal place of residence of the alternative family householder and may be in a house or an apartment.

(b) The agency shall apply to the division for a waiver, setting forth the justification to operate an alternative family for adults program in a mobile home.

(c) Mobile homes or manufactured housing constructed after 1984 must meet the standards of the federal Department of Housing and Urban Development "Manufactured Home Construction and Safety Standards".

(d) No alternative family for adults program may be operated in a mobile home that was manufactured before 1985. This requirement may not be waived.

(e) If private pay boarders not related to the householder are residing with the family, the total number of alternative family residents and private pay boarders shall not exceed eight (8) persons.

(f) Any alternative family household with four (4) or more individuals, excluding the immediate family of the householder, shall be inspected by the office of the state fire marshal and must meet the fire and life safety requirements set forth at 440 IAC 7.5-8 or 440 IAC 7.5-9. *(Division of Mental Health and Addiction; 440 IAC 7.5-7-4)*

Rule 8. Fire and Life Safety Standards for Facilities Located in Apartment Buildings for Persons with a Psychiatric Disorder or an Addiction

440 IAC 7.5-8-1 Scope

Authority: IC 12-21-2-3

Affected: IC 12-22-2

Sec. 1. Facilities located in apartment buildings for persons with a psychiatric disorder or addicted individuals shall achieve a classification of prompt evacuation capability, as defined in 431 IAC 4-1-5, and shall comply with:

- (1) the Indiana building code under the provisions of 675 IAC 13 in effect at the time of the initial application for licensure with the division or at the time of the initial certification by the agency; or
- (2) the Indiana building rehabilitation standard, 675 IAC 12-8, for the rehabilitation of older structures.

(Division of Mental Health and Addiction; 440 IAC 7.5-8-1)

440 IAC 7.5-8-2 Application

Authority: IC 12-21-2-3

Affected: IC 12-22-2

Sec. 2. (a) The level of evacuation capabilities of the residents as a group by the procedures described in Appendix F of the National Fire Protection Association, 101, Life Safety Code, 1985 Edition shall be determined for persons with a psychiatric disorder or addiction by the agency.

(b) On the basis of this evaluation under subsection (a), a facility shall be classified as one (1) of the following:

(1) Prompt.

(2) Slow.

(3) Impractical.

(Division of Mental Health and Addiction; 440 IAC 7.5-8-2)

440 IAC 7.5-8-3 Adoption by reference

Authority: IC 12-21-2-3

Affected: IC 12-22-2

Sec. 3. (a) Those certain documents being titled the NFPA 101, Appendix F of the Life Safety Code, 1985 Edition, published by the National Fire Protection Association, Batterymarch Park, Quincy, Massachusetts 02269, and as listed in this article, are hereby adopted by reference, subject to the listed amendments, and made part of this article as if fully set out herein.

(b) Within the standards adopted under subsection (a), “authority having jurisdiction” means the division.

(c) Publications referenced within the documents adopted in subsection (a), unless specifically adopted by reference in this article, are deemed to be accepted practice and supplementary to these documents. *(Division of Mental Health and Addiction; 440 IAC 7.5-8-3)*

Rule 9. Fire and Life Safety Standards for One and Two Family Dwellings for Persons with a Psychiatric Disorder or an Addiction

440 IAC 7.5-9-1 Scope

Authority: IC 12-21-2-3

Affected: IC 12-22-2

Sec. 1. (a) All one (1) and two (2) family dwellings licensed under 431 IAC 2.1 prior to January 18, 1996, shall: **(1)** achieve a classification of prompt evacuation capability, as defined in 440 IAC 7.5-1, for one (1) and two (2) family dwellings for persons with a psychiatric disorder or addicted individuals; and **(2)** comply with the Indiana one (1) and two (2) family dwelling code under the rules of the fire prevention and building safety commission or its predecessors.

(b) All one (1) and two (2) family dwellings licensed under 431 IAC 2.1 or under 440 IAC 7.5 after January 18, 1996, shall:

(1) achieve a classification of prompt evacuation capability, as defined in 440 IAC 7.5-1, for community residential facilities for persons with a psychiatric disorder or addicted individuals; and

(2) comply with:

(A) the Indiana one (1) and two (2) family dwelling code under the provisions of 675 IAC 14, which is in effect at the time of initial application for licensure with the division or at the time of the initial certification by the agency; or

(B) the Indiana building rehabilitation standard, 675 IAC 12-8, for the rehabilitation of older structures.

(Division of Mental Health and Addiction; 440 IAC 7.5-9-1)

440 IAC 7.5-9-2 Application

Authority: IC 12-21-2-3

Affected: IC 12-22-2

Sec. 2. (a) The level of evacuation capabilities of the residents as a group by the procedures described in Appendix F of the National Fire Protection Association, 101, Life Safety Code, 1985 Edition shall be determined by the agency.

(b) On the basis of this evaluation under subsection (a), a facility shall be classified as one (1) of the following:

(1) Prompt.

(2) Slow.

(3) Impractical.

(Division of Mental Health and Addiction; 440 IAC 7.5-9-2)

440 IAC 7.5-9-3 Adoption by reference

Authority: IC 12-21-2-3

Affected: IC 12-22-2

Sec. 3. (a) The document titled the NFPA 101, Appendix F of the Life Safety Code, 1985 Edition, published by the National Fire Protection Association, Batterymarch Park, Quincy, Massachusetts 02269, and as listed in this article, are hereby adopted by reference, subject to the listed amendments, and made part of this article as if fully set out herein.

(b) Within the standards adopted under subsection (a), “authority having jurisdiction” means the division.

(c) Publications referenced within the documents adopted in subsection (a), unless specifically adopted by reference in this article, are deemed to be accepted practice and supplementary to these documents. *(Division of Mental Health and Addiction; 440 IAC 7.5-9-3)*

Rule 10. Fire and Life Safety Standards for Congregate Living Facilities for Persons with a Psychiatric Disorder or an Addiction

440 IAC 7.5-10-1 Scope

Authority: IC 12-21-2-3

Affected: IC 12-22-2

Sec. 1. (a) All congregate living facilities shall not be located in or connected to buildings that have any other use or occupancy.

(b) All congregate living facilities shall achieve a classification of prompt evacuation capability and shall comply with the rules of the fire prevention and building safety commission that apply to a congregate residence under the provisions of 675 IAC 13 that are in effect at the time of application for licensure with the division, or at the time of the initial certification by the agency, whichever is later. *(Division of Mental Health and Addiction; 440 IAC 7.5-10-1)*

440 IAC 7.5-10-2 Application

Authority: IC 12-21-2-3

Affected: IC 12-22-2

Sec. 2. (a) The agency shall determine the level of evacuation capabilities of the residents as a group by the procedures described in Appendix F of the National Fire Protection Association, Life Safety Code, 1985 Edition.

(b) On the basis of this evaluation under subsection (a), a facility shall be classified as one (1) of the following:

(1) Prompt.

(2) Slow.

(3) Impractical.

(Division of Mental Health and Addiction; 440 IAC 7.5-10-2)

SECTION 2. THE FOLLOWING ARE REPEALED: 431 IAC 2.1; 431 IAC 5; 431 IAC 6; 440 IAC 7.

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on December 27, 2001 at 10:00 a.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room 1, Indianapolis, Indiana the Division of Mental Health and Addiction will hold a public hearing on proposed new rules concerning residential living facilities for individuals with psychiatric disorders or addictions. Copies of these rules are now on file at the Indiana Government Center-South, 402 West Washington Street, Room W451 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Janet Corson
Director
Division of Mental Health and Addiction