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**TITLE 410 INDIANA STATE DEPARTMENT OF  
HEALTH**

LSA Document #02-89(F)

**DIGEST**

Adds 410 IAC 16.2-1.1 to update and add definitions. Amends 410 IAC 16.2-5 to update health and sanitation standards, qualifications of applicants for licensure, requirements for operation, maintenance, and management, and other requirements for the operation of residential care facilities. Repeals 410 IAC 16.2-1, 410 IAC 16.2-5-1.7, 410 IAC 16.2-5-3, 410 IAC 16.2-5-5, 410 IAC 16.2-5-7, 410 IAC 16.2-5-8, 410 IAC 16.2-5-9, 410 IAC 16.2-5-10, and 410 IAC 16.2-5-11. Effective March 1, 2003.

<b>410 IAC 16.2-1</b>	<b>410 IAC 16.2-5-5</b>
<b>410 IAC 16.2-1.1</b>	<b>410 IAC 16.2-5-5.1</b>
<b>410 IAC 16.2-5-0.5</b>	<b>410 IAC 16.2-5-6</b>
<b>410 IAC 16.2-5-1.1</b>	<b>410 IAC 16.2-5-7</b>
<b>410 IAC 16.2-5-1.2</b>	<b>410 IAC 16.2-5-7.1</b>
<b>410 IAC 16.2-5-1.3</b>	<b>410 IAC 16.2-5-8</b>
<b>410 IAC 16.2-5-1.4</b>	<b>410 IAC 16.2-5-8.1</b>
<b>410 IAC 16.2-5-1.5</b>	<b>410 IAC 16.2-5-9</b>
<b>410 IAC 16.2-5-1.6</b>	<b>410 IAC 16.2-5-10</b>
<b>410 IAC 16.2-5-1.7</b>	<b>410 IAC 16.2-5-11</b>
<b>410 IAC 16.2-5-2</b>	<b>410 IAC 16.2-5-11.1</b>
<b>410 IAC 16.2-5-3</b>	<b>410 IAC 16.2-5-12</b>
<b>410 IAC 16.2-5-4</b>	

SECTION 1. 410 IAC 16.2-1.1 IS ADDED TO READ AS FOLLOWS:

**Rule 1.1. Definitions**

**410 IAC 16.2-1.1-1 Applicability**

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

**Affected:** IC 16-28

**Sec. 1. The definitions in this rule apply throughout this article, except as noted.** (*Indiana State Department of Health; 410 IAC 16.2-1.1-1; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1902, eff Mar 1, 2003*)

**410 IAC 16.2-1.1-2 “Abuse” defined**

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

**Affected:** IC 16-28

**Sec. 2. “Abuse” means any physical or mental injury or sexual assault inflicted on a resident in the facility, other than by accidental means.** (*Indiana State Department of Health; 410 IAC 16.2-1.1-2; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1902, eff Mar 1, 2003*)

**410 IAC 16.2-1.1-3 “Activities of daily living” defined**

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

**Affected:** IC 16-28

**Sec. 3. “Activities of daily living” means mobility, eating, dressing, bathing, toileting, and transferring.** *(Indiana State Department of Health; 410 IAC 16.2-1.1-3; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1902, eff Mar 1, 2003)*

**410 IAC 16.2-1.1-4 “Administration of medications” defined**

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

**Affected:** IC 16-28

**Sec. 4. “Administration of medications” means preparation and/or distribution of prescribed medications. This does not include reminders, cues, and/or opening of medication containers or assistance with eye drops, when requested by a resident.** *(Indiana State Department of Health; 410 IAC 16.2-1.1-4; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1903, eff Mar 1, 2003)*

**410 IAC 16.2-1.1-5 “Administrator” defined**

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

**Affected:** IC 16-28; IC 25-19-1

**Sec. 5. “Administrator” means a person holding a valid license under IC 25-19-1.** *(Indiana State Department of Health; 410 IAC 16.2-1.1-5; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1903, eff Mar 1, 2003)*

**410 IAC 16.2-1.1-6 “Advance directives” defined**

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

**Affected:** IC 16-28

**Sec. 6. “Advance directives” means a written instrument, such as a living will or durable power of attorney for health care, recognized under state law, relating to the provision of health care when the individual is incapacitated.** *(Indiana State Department of Health; 410 IAC 16.2-1.1-6; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1903, eff Mar 1, 2003)*

**410 IAC 16.2-1.1-7 “Ambulation” defined**

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

**Affected:** IC 16-28

**Sec. 7. “Ambulation” means walking, once in a standing position.** *(Indiana State Department of Health; 410 IAC 16.2-1.1-7; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1903, eff Mar 1, 2003)*

**410 IAC 16.2-1.1-8 “Assessment” defined**

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

**Affected:** IC 16-28

**Sec. 8. “Assessment” means the identification of an individual’s present level of strengths, abilities, and needs and the conditions that impede the individual’s development or functioning.** *(Indiana State Department of Health; 410 IAC 16.2-1.1-8; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1903, eff Mar 1, 2003)*

**410 IAC 16.2-1.1-9 “Bathing” defined**

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

**Affected:** IC 16-28

**Sec. 9. “Bathing” means washing and drying the body (excluding the back and shampooing the hair), including:**

**(1) full-body bath;**

**(2) sponge bath;**

**(3) preparatory activities; and**

**(4) transferring into and out of the tub and shower.**

*(Indiana State Department of Health; 410 IAC 16.2-1.1-9; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1903, eff Mar 1, 2003)*

**410 IAC 16.2-1.1-10 “Certification” defined**

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

**Affected: IC 16-28**

**Sec. 10. “Certification” means that the federal Department of Health and Human Services has determined a facility to be in compliance with applicable statutory or regulatory requirements and standards for the purposes of participation as a provider of care and service for Title XVIII or Title XIX, or both, of the federal Social Security Act.** *(Indiana State Department of Health; 410 IAC 16.2-1.1-10; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1903, eff Mar 1, 2003)*

**410 IAC 16.2-1.1-11 “Children” defined**

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

**Affected: IC 16-28**

**Sec. 11. “Children” means individuals who:**

**(1) are less than eighteen (18) years of age and not legally emancipated; or**

**(2) if older:**

**(A) require by the reason of physical or mental handicap, care of the type usually accepted as pediatric; or**

**(B) are suffering from a handicap or ailment which, in the judgment of the attending physician, indicates that the child care facility is more appropriate to their needs than an adult care facility.**

*(Indiana State Department of Health; 410 IAC 16.2-1.1-11; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1903, eff Mar 1, 2003)*

**410 IAC 16.2-1.1-12 “Comfortable and safe temperature levels” defined**

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

**Affected: IC 16-28**

**Sec. 12. “Comfortable and safe temperature levels” means that the ambient temperature should be in a relatively narrow range, seventy-one (71) degrees Fahrenheit to eighty-one (81) degrees Fahrenheit, that minimizes residents’ susceptibility to the loss of body heat and risk of hypothermia or susceptibility to respiratory ailments and colds.** *(Indiana State Department of Health; 410 IAC 16.2-1.1-12; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1903, eff Mar 1, 2003)*

**410 IAC 16.2-1.1-13 “Communicable disease” defined**

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

**Affected: IC 16-28**

**Sec. 13. “Communicable disease” means communicable disease as defined in 410 IAC 1-2.3-11.** *(Indiana State Department of Health; 410 IAC 16.2-1.1-13; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1904, eff Mar 1, 2003)*

**410 IAC 16.2-1.1-14 “Comprehensive care facility” defined**

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

**Affected: IC 16-28**

**Sec. 14. “Comprehensive care facility” means a health facility that provides nursing care, room, food, laundry, administration of medications, special diets, and treatments and that may provide rehabilitative and restorative therapies under the order of an attending physician.** *(Indiana State Department of Health; 410 IAC 16.2-1.1-14; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1904, eff Mar 1, 2003)*

**410 IAC 16.2-1.1-15 “Comprehensive nursing care” defined**

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

**Affected: IC 16-28**

**Sec. 15. “Comprehensive nursing care” includes, but is not limited to, the following:**

**(1) Intravenous feedings.**

**(2) Enteral feeding.**

**(3) Nasopharyngeal and tracheostomy aspiration.**

**(4) Insertion and sterile irrigation and replacement of suprapubic catheters.**

**(5) Application of dressings to wounds that:**

(A) require use of sterile techniques, packing, or irrigation; or

(B) are infected or otherwise complicated.

(6) Treatment of Stages 2, 3, and 4 pressure ulcers or other widespread skin disorders.

(7) Heat treatments that have been specifically ordered by a physician as part of active treatment and require observation by nurses to adequately evaluate the process.

(8) Initial phases of a regimen involving administration of medical gases.

*(Indiana State Department of Health; 410 IAC 16.2-1.1-15; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1904, eff Mar 1, 2003)*

**410 IAC 16.2-1.1-16 “Construction type” defined**

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

**Affected:** IC 16-28

**Sec. 16. “Construction type” means the type of construction as established by the rules of the fire prevention and building safety commission (675 IAC).** *(Indiana State Department of Health; 410 IAC 16.2-1.1-16; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1904, eff Mar 1, 2003)*

**410 IAC 16.2-1.1-17 “Convenience” defined**

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

**Affected:** IC 16-28

**Sec. 17. “Convenience” means any action taken by the facility to control resident behavior or maintain residents with a lesser amount of effort by the facility and not in the resident’s best interest.** *(Indiana State Department of Health; 410 IAC 16.2-1.1-17; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1904, eff Mar 1, 2003)*

**410 IAC 16.2-1.1-18 “Department” defined**

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

**Affected:** IC 16-28

**Sec. 18. “Department” means the Indiana state department of health.** *(Indiana State Department of Health; 410 IAC 16.2-1.1-18; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1904, eff Mar 1, 2003)*

**410 IAC 16.2-1.1-19 “Developmentally disabled” defined**

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

**Affected:** IC 16-28

**Sec. 19. “Developmentally disabled” means a personal disability that:**

**(1) is attributable to:**

**(A) mental retardation, cerebral palsy, epilepsy, or autism;**

**(B) any other condition found to be closely related to mental retardation because this condition results in similar impairment of general intellectual functioning or adaptive behavior or requires similar treatment and services; or**

**(C) dyslexia resulting from a disability described in this section;**

**(2) originates before the person is eighteen (18) years of age; and**

**(3) has continued or is expected to continue indefinitely and constitutes a substantial handicap to the person’s ability to function normally in society.**

*(Indiana State Department of Health; 410 IAC 16.2-1.1-19; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1904, eff Mar 1, 2003)*

**410 IAC 16.2-1.1-20 “Discipline” defined**

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

**Affected:** IC 16-28

**Sec. 20. “Discipline” means any action taken by the facility for the express purpose of punishing or penalizing residents.** *(Indiana State Department of Health; 410 IAC 16.2-1.1-20; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1904, eff Mar 1, 2003)*

**410 IAC 16.2-1.1-21 “Division” defined**

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

**Sec. 21. “Division” means the part of the Indiana state department of health responsible for survey, licensure, and enforcement of health facilities.** *(Indiana State Department of Health; 410 IAC 16.2-1.1-21; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1904, eff Mar 1, 2003)*

**410 IAC 16.2-1.1-22 “Dressing” defined**  
**Authority:** IC 16-28-1-7; IC 16-28-1-12  
**Affected:** IC 16-28

**Sec. 22. “Dressing” means selecting, obtaining, putting on, fastening, and taking off all items of clothing, including donning or removing braces and artificial limbs.** *(Indiana State Department of Health; 410 IAC 16.2-1.1-22; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1905, eff Mar 1, 2003)*

**410 IAC 16.2-1.1-23 “Eating” defined**  
**Authority:** IC 16-28-1-7; IC 16-28-1-12  
**Affected:** IC 16-28

**Sec. 23. “Eating” means how a resident ingests and drinks, regardless of self-feeding skills.** *(Indiana State Department of Health; 410 IAC 16.2-1.1-23; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1905, eff Mar 1, 2003)*

**410 IAC 16.2-1.1-24 “Emergency” defined**  
**Authority:** IC 16-28-1-7; IC 16-28-1-12  
**Affected:** IC 16-28

**Sec. 24. “Emergency” means a situation or physical condition that presents imminent danger of death or serious physical or mental harm to one (1) or more residents of a facility.** *(Indiana State Department of Health; 410 IAC 16.2-1.1-24; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1905, eff Mar 1, 2003)*

**410 IAC 16.2-1.1-25 “Exercising rights” defined**  
**Authority:** IC 16-28-1-7; IC 16-28-1-12  
**Affected:** IC 16-28

**Sec. 25. “Exercising rights” means that the residents have autonomy and choice, to the maximum extent possible, about how they wish to live their everyday lives and receive care, subject to the facility’s rules, as long as those rules do not violate a regulatory requirement.** *(Indiana State Department of Health; 410 IAC 16.2-1.1-25; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1905, eff Mar 1, 2003)*

**410 IAC 16.2-1.1-26 “Grooming” defined**  
**Authority:** IC 16-28-1-7; IC 16-28-1-12  
**Affected:** IC 16-28

**Sec. 26. “Grooming” means maintaining personal hygiene, including the following:**

- (1) Preparatory activities.**
- (2) Combing hair.**
- (3) Washing and drying face, hands, and perineum.**
- (4) Brushing teeth.**
- (5) If applicable, shaving or applying makeup.**

*(Indiana State Department of Health; 410 IAC 16.2-1.1-26; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1905, eff Mar 1, 2003)*

**410 IAC 16.2-1.1-27 “Habilitation” defined**  
**Authority:** IC 16-28-1-7; IC 16-28-1-12  
**Affected:** IC 16-28

**Sec. 27. “Habilitation” means programs and activities designed to help a resident develop and maintain a level of independence and self-sufficiency consistent with individual capabilities and performance levels.** *(Indiana State Department of Health; 410 IAC 16.2-1.1-27; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1905, eff Mar 1, 2003)*

**410 IAC 16.2-1.1-28 “Health care facilities for children” defined**

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

**Affected:** IC 16-28

**Sec. 28. “Health care facilities for children” means those facilities that provide nursing care, habilitative and rehabilitative procedures, room, food, and laundry for children who, because of handicaps, require such care.** *(Indiana State Department of Health; 410 IAC 16.2-1.1-28; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1905, eff Mar 1, 2003)*

**410 IAC 16.2-1.1-29 “Health facility license” defined**

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

**Affected:** IC 16-28-2

**Sec. 29. “Health facility license” means any instrument issued pursuant to IC 16-28-2 by the department to any person or persons demonstrating compliance with the laws and rules governing such issuance.** *(Indiana State Department of Health; 410 IAC 16.2-1.1-29; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1905, eff Mar 1, 2003)*

**410 IAC 16.2-1.1-30 “Highest practicable” defined**

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

**Affected:** IC 16-28

**Sec. 30. “Highest practicable” means the highest level of functioning and well-being possible, limited by the individual’s present functional status, and potential for improvement or reduced rate of functional decline.** *(Indiana State Department of Health; 410 IAC 16.2-1.1-30; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1905, eff Mar 1, 2003)*

**410 IAC 16.2-1.1-31 “Home health aide” defined**

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

**Affected:** IC 16-28

**Sec. 31. “Home health aide” means an individual whose name is on the home health aide registry with no findings.** *(Indiana State Department of Health; 410 IAC 16.2-1.1-31; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1905, eff Mar 1, 2003)*

**410 IAC 16.2-1.1-32 “Infectious” defined**

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

**Affected:** IC 16-28

**Sec. 32. “Infectious” means capable of spreading infection.** *(Indiana State Department of Health; 410 IAC 16.2-1.1-32; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1905, eff Mar 1, 2003)*

**410 IAC 16.2-1.1-33 “Intermediate care facility for the mentally retarded (or persons with related conditions)” defined**

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

**Affected:** IC 16-28

**Sec. 33. “Intermediate care facility for the mentally retarded (or persons with related conditions)” means a health facility that provides active treatment for each developmentally disabled resident. In addition, the facility provides nursing care, room, food, laundry, administration of medications, modified diets, and treatments. A facility is only for developmentally disabled residents, and the facility shall be designed to enhance the development of these individuals, to maximize achievement through an interdisciplinary approach based on development principles and to create the least restrictive environment.** *(Indiana State Department of Health; 410 IAC 16.2-1.1-33; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1906, eff Mar 1, 2003)*

**410 IAC 16.2-1.1-34 “Legal representative” defined**

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

**Affected:** IC 16-28; IC 16-36-1-5

**Sec. 34. “Legal representative” means a person who is:**

- (1) a guardian;**
- (2) a health care representative;**
- (3) an attorney in fact; or**
- (4) a person authorized by IC 16-36-1-5 to give health care consent.**

*(Indiana State Department of Health; 410 IAC 16.2-1.1-34; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1906, eff Mar 1, 2003)*

**410 IAC 16.2-1.1-35 “Licensed practical nurse” or “LPN” defined**

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

**Affected:** IC 16-28; IC 25-23-1-12

**Sec. 35. “Licensed practical nurse” or “LPN” means an individual as defined in IC 25-23-1-12.** *(Indiana State Department of Health; 410 IAC 16.2-1.1-35; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1906, eff Mar 1, 2003)*

**410 IAC 16.2-1.1-36 “Licensee” defined**

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

**Affected:** IC 16-28-2

**Sec. 36. “Licensee” means the individual, partnership, corporation, association, company, and legal successor thereof who holds a valid license issued pursuant to IC 16-28-2.** *(Indiana State Department of Health; 410 IAC 16.2-1.1-36; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1906, eff Mar 1, 2003)*

**410 IAC 16.2-1.1-37 “Medical records practitioner” defined**

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

**Affected:** IC 16-28

**Sec. 37. “Medical records practitioner” means a person who is certified as or is eligible for certification as a registered health information administrator (RHIA) or an [sic., a] registered health information technician (RHIT) by the American Health Information Management Association under its requirements.** *(Indiana State Department of Health; 410 IAC 16.2-1.1-37; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1906, eff Mar 1, 2003)*

**410 IAC 16.2-1.1-38 “Medically stable” defined**

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

**Affected:** IC 16-28

**Sec. 38. “Medically stable” means that a person’s clinical condition is predictable, does not change rapidly, and medical orders are not likely to involve complex modifications or frequent changes except as appropriate to adjust medication dosage levels.** *(Indiana State Department of Health; 410 IAC 16.2-1.1-38; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1906, eff Mar 1, 2003)*

**410 IAC 16.2-1.1-39 “Medication error” defined**

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

**Affected:** IC 16-28

**Sec. 39. “Medication error” means a discrepancy between what the physician ordered and what was or was not administered.** *(Indiana State Department of Health; 410 IAC 16.2-1.1-39; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1906, eff Mar 1, 2003)*

**410 IAC 16.2-1.1-40 “Minor regimens” defined**

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

**Affected: IC 16-28**

**Sec. 40. “Minor regimens” includes, but is not limited to, the following:**

- (1) Assistance with self-maintained exdwelling and indwelling catheter care and intermittent catheterization for a chronic condition.**
- (2) Prophylactic and palliative skin care, including application of creams or ointments for treatment of minor skin problems.**
- (3) Routine dressing that does not require packing or irrigation, but is for abrasions, skin tears, closed surgical wounds, and chronic skin conditions.**
- (4) General maintenance care of ostomy, including routine change of bag with care and maintenance of surrounding tissue.**
- (5) Restorative nursing assistance, including passive and/or active assisted range of motion.**
- (6) Toileting care including assistance in use of adult briefs and cues for bowel and bladder training.**
- (7) Routine blood glucose testing involving a finger-stick method.**
- (8) Enema and digital stool removal therapies.**
- (9) General maintenance care in connection with braces, splints, and plaster casts.**
- (10) Observation of self-maintained prosthetic devices.**
- (11) Administration of subcutaneous or intramuscular injections.**
- (12) Metered dose inhalers, nebulizer/aerosol treatments self-administered by a resident, and routine administration of medical gases after a therapy regimen has been established.**

*(Indiana State Department of Health; 410 IAC 16.2-1.1-40; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1906, eff Mar 1, 2003)*

**410 IAC 16.2-1.1-41 “Misappropriation of property” defined**

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

**Affected: IC 16-28**

**Sec. 41. “Misappropriation of property” means the deliberate misplacement, exploitation, or wrongful, temporary, or permanent use of a resident’s belongings or money without the resident’s consent.** *(Indiana State Department of Health; 410 IAC 16.2-1.1-41; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1907, eff Mar 1, 2003)*

**410 IAC 16.2-1.1-42 “Mobile” defined**

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

**Affected: IC 16-28**

**Sec. 42. “Mobile” means able to move from place to place by ambulation or with the assistance of a wheelchair or other device.** *(Indiana State Department of Health; 410 IAC 16.2-1.1-42; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1907, eff Mar 1, 2003)*

**410 IAC 16.2-1.1-43 “Modified diet” defined**

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

**Affected: IC 16-28**

**Sec. 43. “Modified diet” means an adjustment of the regular diet that alters the calorie value, nutritive content, or consistency of the food.** *(Indiana State Department of Health; 410 IAC 16.2-1.1-43; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1907, eff Mar 1, 2003)*

**410 IAC 16.2-1.1-44 “Neglect” defined**

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

**Affected: IC 16-28**

**Sec. 44. “Neglect” means:**

- (1) an act or omission that places a resident in a situation that may endanger the resident’s life or health;**
- (2) abandoning or cruelly confining the resident;**
- (3) depriving the resident of necessary support, including food, clothing, shelter, and medical care; or**
- (4) depriving the resident of education as required by statute.**



*(Indiana State Department of Health; 410 IAC 16.2-1.1-44; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1907, eff Mar 1, 2003)*

**410 IAC 16.2-1.1-45 “Nurse aide” defined**

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

**Affected:** IC 16-28

**Sec. 45. “Nurse aide” means an individual as defined in 42 CFR 483.75(e)(1).** *(Indiana State Department of Health; 410 IAC 16.2-1.1-45; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1907, eff Mar 1, 2003)*

**410 IAC 16.2-1.1-46 “Nurse practitioner” defined**

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

**Affected:** IC 16-28; IC 25-23-1

**Sec. 46. “Nurse practitioner” means an individual as defined in IC 25-23-1.** *(Indiana State Department of Health; 410 IAC 16.2-1.1-46; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1907, eff Mar 1, 2003)*

**410 IAC 16.2-1.1-47 “Nursing care” defined**

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

**Affected:** IC 16-28

**Sec. 47. “Nursing care” means those activities, including:**

- (1) identifying human responses to actual or potential health conditions;**
- (2) deriving a nursing diagnosis;**
- (3) executing a nursing treatment regimen based on the nursing diagnosis;**
- (4) teaching health care practices;**
- (5) advocating provision of necessary health care services through collaboration with other health service personnel;**
- (6) executing regimens as prescribed by a physician, licensed chiropractor, dentist, optometrist, podiatrist, or nurse practitioner; and**
- (7) administering, supervising, delegating, and evaluating nursing activities.**

*(Indiana State Department of Health; 410 IAC 16.2-1.1-47; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1907, eff Mar 1, 2003)*

**410 IAC 16.2-1.1-48 “Nursing staff” defined**

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

**Affected:** IC 16-28

**Sec. 48. “Nursing staff” means, at a minimum, licensed nurses and nurse aides. Nurse aides must meet the training and competency requirements required by the state.** *(Indiana State Department of Health; 410 IAC 16.2-1.1-48; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1907, eff Mar 1, 2003)*

**410 IAC 16.2-1.1-49 “Pharmacist” defined**

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

**Affected:** IC 16-28; IC 25-26-13

**Sec. 49. “Pharmacist” means an individual as defined in IC 25-26-13.** *(Indiana State Department of Health; 410 IAC 16.2-1.1-49; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1907, eff Mar 1, 2003)*

**410 IAC 16.2-1.1-50 “Physician” defined**

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

**Affected:** IC 16-28; IC 25-22.5-1-1.1

**Sec. 50. “Physician” means an individual as defined in IC 25-22.5-1-1.1.** *(Indiana State Department of Health; 410 IAC 16.2-1.1-50; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1908, eff Mar 1, 2003)*

**410 IAC 16.2-1.1-51 “Physician orders” defined**

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

**Affected:** IC 16-28

**Sec. 51. “Physician orders” means those orders facility staff need to provide essential care to the resident, consistent with the resident’s mental and physical status. At a minimum, these orders include dietary, medications, and routine care to maintain or improve the resident’s functional abilities. (Indiana State Department of Health; 410 IAC 16.2-1.1-51; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1908, eff Mar 1, 2003)**

**410 IAC 16.2-1.1-52 “Policy manual” defined**

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

**Affected:** IC 16-28

**Sec. 52. “Policy manual” means a document that details the administrative and operating plan of the facility. (Indiana State Department of Health; 410 IAC 16.2-1.1-52; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1908, eff Mar 1, 2003)**

**410 IAC 16.2-1.1-53 “Psychologist” defined**

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

**Affected:** IC 16-28; IC 25-33-1

**Sec. 53. “Psychologist” means a person as defined in IC 25-33-1. (Indiana State Department of Health; 410 IAC 16.2-1.1-53; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1908, eff Mar 1, 2003)**

**410 IAC 16.2-1.1-54 “Qualified medication aide” defined**

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

**Affected:** IC 16-28

**Sec. 54. “Qualified medication aide” means an individual who has satisfactorily completed the state qualified medication aide course and test. (Indiana State Department of Health; 410 IAC 16.2-1.1-54; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1908, eff Mar 1, 2003)**

**410 IAC 16.2-1.1-55 “Qualified mental retardation professional” or “QMRP” defined**

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

**Affected:** IC 16-28; IC 25-22.5-5; IC 25-23-1-11; IC 25-27; IC 25-35.6-3

**Sec. 55. “Qualified mental retardation professional” or “QMRP” means a person who has specialized training or one (1) year of experience in treating the mentally retarded and is one (1) of the following:**

- (1) A psychologist with a master’s degree from an accredited program.**
- (2) A licensed doctor of medicine or osteopathy.**
- (3) An educator with a degree in education from an accredited program.**
- (4) A social worker with a bachelor’s or master’s degree in social work from an accredited program or a bachelor’s or master’s degree in a field other than social work and at least three (3) years of social work experience under the supervision of a qualified social worker.**
- (5) An occupational therapist who:**
  - (A) is a graduate of an occupational therapy curriculum accredited jointly by the council on medical education of the American Medical Association and the American Occupational Therapy Association;**
  - (B) is eligible for certification by the American Occupational Therapy Association under its requirements in effect on September 29, 1978; or**
  - (C) has two (2) years of appropriate experience as an occupational therapist and has achieved a satisfactory grade on the approved proficiency examination, except that such determinations of proficiency shall not apply with respect to persons initially licensed by the state or seeking initial qualifications as an occupational therapist after December 31, 1977.**
- (6) A speech pathologist or audiologist licensed pursuant to IC 25-35.6-3.**
- (7) A registered nurse licensed pursuant to IC 25-23-1-11.**
- (8) A therapeutic recreation specialist who is a graduate of an accredited program.**

**(9) A rehabilitative counselor who is certified by the Committee of Rehabilitation Counselor Certification.**

**(10) A physical therapist who is licensed pursuant to IC 25-27.**

*(Indiana State Department of Health; 410 IAC 16.2-1.1-55; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1908, eff Mar 1, 2003)*

**410 IAC 16.2-1.1-56 “Range of motion” defined**

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

**Affected: IC 16-28**

**Sec. 56. “Range of motion” means the extent of movement of a joint.** *(Indiana State Department of Health; 410 IAC 16.2-1.1-56; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1908, eff Mar 1, 2003)*

**410 IAC 16.2-1.1-57 “Recreation area” defined**

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

**Affected: IC 16-28**

**Sec. 57. “Recreation area” means:**

**(1) an area where residents can enjoy fresh air, either inside or outside the facility, for example:**

**(A) balcony;**

**(B) porch;**

**(C) patio;**

**(D) courtyard; or**

**(E) solarium; and**

**(2) an inside area used primarily for activities organized by the facility.**

*(Indiana State Department of Health; 410 IAC 16.2-1.1-57; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1908, eff Mar 1, 2003)*

**410 IAC 16.2-1.1-58 “Registered nurse” or “RN” defined**

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

**Affected: IC 16-28; IC 25-23-1-11**

**Sec. 58. “Registered nurse” or “RN” means an individual as defined in IC 25-23-1-11.** *(Indiana State Department of Health; 410 IAC 16.2-1.1-58; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1909, eff Mar 1, 2003)*

**410 IAC 16.2-1.1-59 “Rehabilitation” defined**

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

**Affected: IC 16-28**

**Sec. 59. “Rehabilitation” means programs and activities implemented as a component of a treatment plan or in support of a plan to restore a resident to his or her optimal level of physical and psychosocial functions.** *(Indiana State Department of Health; 410 IAC 16.2-1.1-59; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1909, eff Mar 1, 2003)*

**410 IAC 16.2-1.1-60 “Rehabilitative therapy” defined**

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

**Affected: IC 16-28**

**Sec. 60. “Rehabilitative therapy” means:**

**(1) physical therapy;**

**(2) occupational therapy;**

**(3) respiratory therapy;**

**(4) speech therapy;**

**(5) mental health therapy; and**

**(6) other medically-recognized therapies.**

*(Indiana State Department of Health; 410 IAC 16.2-1.1-60; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1909, eff Mar 1, 2003)*

**410 IAC 16.2-1.1-61 “Resident” defined**

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

**Affected:** IC 16-28

**Sec. 61. “Resident” means a person residing and receiving care in a health facility. For purposes of exercising the resident’s rights, such rights may be exercised by the resident or his or her legal representative.** *(Indiana State Department of Health; 410 IAC 16.2-1.1-61; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1909, eff Mar 1, 2003)*

**410 IAC 16.2-1.1-62 “Residential care facility” defined**

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

**Affected:** IC 16-28

**Sec. 62. “Residential care facility” means a health care facility that provides residential nursing care.** *(Indiana State Department of Health; 410 IAC 16.2-1.1-62; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1909, eff Mar 1, 2003)*

**410 IAC 16.2-1.1-63 “Residential nursing care” defined**

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

**Affected:** IC 16-28

**Sec. 63. “Residential nursing care” may include, but is not limited to, the following:**

**(1) Identifying human responses to actual or potential health conditions.**

**(2) Deriving a nursing diagnosis.**

**(3) Executing a minor regimen based on a nursing diagnosis or executing minor regimens as prescribed by a physician, physician assistant, chiropractor, dentist, optometrist, podiatrist, or nurse practitioner.**

**(4) Administering, supervising, delegating, and evaluating nursing activities as described in this section.**

*(Indiana State Department of Health; 410 IAC 16.2-1.1-63; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1909, eff Mar 1, 2003)*

**410 IAC 16.2-1.1-64 “Respiratory therapy” defined**

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

**Affected:** IC 16-28; IC 25-34.5-1-6

**Sec. 64. “Respiratory therapy” means medical specialty primarily concerned with the treatment and care of persons with deficiencies and abnormalities associated with the cardiopulmonary system and includes those activities set forth in IC 25-34.5-1-6.** *(Indiana State Department of Health; 410 IAC 16.2-1.1-64; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1909, eff Mar 1, 2003)*

**410 IAC 16.2-1.1-65 “Respite care” defined**

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

**Affected:** IC 16-28

**Sec. 65. “Respite care” means the provision by a facility of room, board, and care up to the level ordinarily provided for permanent residents of the facility to a person for not more than one (1) month for each stay in the facility.** *(Indiana State Department of Health; 410 IAC 16.2-1.1-65; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1909, eff Mar 1, 2003)*

**410 IAC 16.2-1.1-66 “Restraint” defined**

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

**Affected:** IC 16-28

**Sec. 66. “Restraint” means a device or method, including chemical means, used to limit the activity or aggressiveness of a resident where such activity or aggressiveness could be harmful to the resident or others.** *(Indiana State Department of Health; 410 IAC 16.2-1.1-66; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1909, eff Mar 1, 2003)*

**410 IAC 16.2-1.1-67 “Seclusion” defined**

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

**Affected:** IC 16-28

**Sec. 67. “Seclusion” means any circumscribed area in which a person is maintained alone and under surveillance, with the area so equipped that the person may not leave without assistance.** *(Indiana State Department of Health; 410 IAC 16.2-1.1-67; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1910, eff Mar 1, 2003)*

**410 IAC 16.2-1.1-68 “Self-limiting condition” defined**

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

**Affected:** IC 16-28

**Sec. 68. “Self-limiting condition” means the condition will normally resolve itself without further intervention or by staff implementing standard disease related clinical interventions.** *(Indiana State Department of Health; 410 IAC 16.2-1.1-68; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1910, eff Mar 1, 2003)*

**410 IAC 16.2-1.1-69 “Service plan” defined**

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

**Affected:** IC 16-28

**Sec. 69. “Service plan” means a written plan for services to be provided by the facility, developed by the facility, the resident, and others, if appropriate, on behalf of the resident, consistent with the services needed to ensure the health and welfare of the resident.** *(Indiana State Department of Health; 410 IAC 16.2-1.1-69; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1910, eff Mar 1, 2003)*

**410 IAC 16.2-1.1-70 “Significant change” defined**

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

**Affected:** IC 16-28

**Sec. 70. “Significant change” means a major improvement or decline in the resident’s physical, mental, or psychosocial status.** *(Indiana State Department of Health; 410 IAC 16.2-1.1-70; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1910, eff Mar 1, 2003)*

**410 IAC 16.2-1.1-71 “Sufficient space” defined**

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

**Affected:** IC 16-28

**Sec. 71. “Sufficient space” means the resident can access the area unless it is functionally off-limits, and the resident’s functioning is not restricted once access to the space is gained.** *(Indiana State Department of Health; 410 IAC 16.2-1.1-71; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1910, eff Mar 1, 2003)*

**410 IAC 16.2-1.1-72 “Supervise” defined**

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

**Affected:** IC 16-28

**Sec. 72. “Supervise” means to instruct an employee or subordinate in his or her duties and to oversee or direct work, but does not necessarily require immediate presence of the supervisor.** *(Indiana State Department of Health; 410 IAC 16.2-1.1-72; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1910, eff Mar 1, 2003)*

**410 IAC 16.2-1.1-73 “Therapist” defined**

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

**Affected:** IC 16-28

**Sec. 73. “Therapist” means a person who holds a valid license issued pursuant to Indiana statute or is certified or registered by the appropriate body to practice and who has completed the approved educational curriculum.** *(Indiana State Department of Health; 410 IAC 16.2-1.1-73; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1910, eff Mar 1, 2003)*

**410 IAC 16.2-1.1-74 “Toileting” defined**

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

**Affected: IC 16-28**

**Sec. 74. “Toileting” means how the resident:**

- (1) uses the toilet room (or bedpan, bedside commode, or urinal);**
- (2) transfers on and off the toilet;**
- (3) cleanses self after elimination;**
- (4) changes sanitary napkins or incontinence pads or external catheters; and**
- (5) adjusts clothing prior to and after using the toilet.**

*(Indiana State Department of Health; 410 IAC 16.2-1.1-74; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1910, eff Mar 1, 2003)*

**410 IAC 16.2-1.1-75 “Toileting care” defined**

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

**Affected: IC 16-28**

**Sec. 75. “Toileting care” means provision of care before and after use of the toilet room, commode, bedpan, or urinal. It includes transferring on and off the toilet, or both, cleansing, pad change, and changing of soiled clothing.** *(Indiana State Department of Health; 410 IAC 16.2-1.1-75; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1910, eff Mar 1, 2003)*

**410 IAC 16.2-1.1-76 “Total assistance with eating” defined**

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

**Affected: IC 16-28**

**Sec. 76. “Total assistance with eating” means the resident must be fed by another person at every meal.** *(Indiana State Department of Health; 410 IAC 16.2-1.1-76; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1910, eff Mar 1, 2003)*

**410 IAC 16.2-1.1-77 “Total assistance with toileting” defined**

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

**Affected: IC 16-28**

**Sec. 77. “Total assistance with toileting” means that the resident requires continual observation using the toilet room (or bedpan, bedside commode, or urinal) and is unable to cleanse himself or herself after elimination.** *(Indiana State Department of Health; 410 IAC 16.2-1.1-77; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1910, eff Mar 1, 2003)*

**410 IAC 16.2-1.1-78 “Total assistance with transferring” defined**

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

**Affected: IC 16-28**

**Sec. 78. “Total assistance with transferring” means transfers and position changes of a resident who is unable to bear any weight or who requires two (2) or more persons or one (1) person with a mechanical lifting device to transfer the resident.** *(Indiana State Department of Health; 410 IAC 16.2-1.1-78; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1911, eff Mar 1, 2003)*

**410 IAC 16.2-1.1-79 “Total health status” defined**

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

**Affected: IC 16-28**

**Sec. 79. “Total health status” includes the following:**

- (1) Functional status.**
- (2) Medical care.**
- (3) Nursing care.**
- (4) Nutritional status.**
- (5) Rehabilitation and restorative potential.**
- (6) Activities potential.**
- (7) Cognitive status.**
- (8) Oral health status.**

**(9) Psychosocial status.**

**(10) Sensory and physical impairments.**

*(Indiana State Department of Health; 410 IAC 16.2-1.1-79; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1911, eff Mar 1, 2003)*

**410 IAC 16.2-1.1-80 “Transfer” defined**

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

**Affected:** IC 16-28

**Sec. 80. “Transfer” means moving between two (2) surfaces, to or from a:**

**(1) bed;**

**(2) chair;**

**(3) wheelchair; or**

**(4) standing position.**

**The term does not include transfer to or from the bath or toilet. This section does not apply to transfer and discharge of residents pursuant to 410 IAC 16.2-3.1 and 410 IAC 16.2-5.** *(Indiana State Department of Health; 410 IAC 16.2-1.1-80; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1911, eff Mar 1, 2003)*

**410 IAC 16.2-1.1-81 “Written” defined**

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

**Affected:** IC 16-28

**Sec. 81. “Written” means handwritten, typewritten, or contained on electronic media.** *(Indiana State Department of Health; 410 IAC 16.2-1.1-81; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1911, eff Mar 1, 2003)*

SECTION 2. 410 IAC 16.2-5-0.5 IS ADDED TO READ AS FOLLOWS:

**410 IAC 16.2-5-0.5 Scope of residential care facilities**

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

**Affected:** IC 16-28-2; IC 16-28-5-1

**Sec. 0.5. (a) A health facility that provides residential nursing care or administers medications prescribed by a physician must be licensed as a residential care facility. A health facility licensed as a comprehensive care facility is not required to also be licensed as a residential care facility in order to provide residential nursing care.**

**(b) A residential care facility may not provide comprehensive nursing care except to the extent allowed under this rule.**

**(c) A facility that provides services, such as room, meals, laundry, activities, housekeeping, and limited assistance in activities of daily living, without providing administration of medication or residential nursing care is not required to be licensed. The provision by a licensed home health agency of medication administration or residential nursing care in a facility which provides room, meals, a laundry, activities, housekeeping, and limited assistance in activities of daily living does not require the facility to be licensed, regardless of whether the facility and the home health agency have common ownership, provided, however, that the resident is given the opportunity to contract with other home health agencies at any time during the resident’s stay at the facility.**

**(d) Notwithstanding subsection (f), a resident is not required to be discharged if receiving hospice services through an appropriately licensed provider of the resident’s choice.**

**(e) Notwithstanding subsection (f)(2), (f)(3), (f)(4), and (f)(5), a residential care facility that retains appropriate professional staff may provide comprehensive nursing care to residents needing care for a self-limiting condition.**

**(f) The resident must be discharged if the resident:**

**(1) is a danger to the resident or others;**

**(2) requires twenty-four (24) hour per day comprehensive nursing care or comprehensive nursing oversight;**

**(3) requires less than twenty-four (24) hour per day comprehensive nursing care, comprehensive nursing oversight, or**

rehabilitative therapies and has not entered into a contract with an appropriately licensed provider of the resident's choice to provide those services;

(4) is not medically stable; or

(5) meets at least two (2) of the following three (3) criteria unless the resident is medically stable and the health facility can meet the resident's needs:

(A) Requires total assistance with eating.

(B) Requires total assistance with toileting.

(C) Requires total assistance with transferring.

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

(1) subsection (a) or (b) is an offense; and

(2) subsection (c), (d), (e), or (f) is a deficiency.

*(Indiana State Department of Health; 410 IAC 16.2-5-0.5; filed Jan 21, 2003, 8:34 a.m.; 26 IR 1911, eff Mar 1, 2003)*

SECTION 3. 410 IAC 16.2-5-1.1 IS AMENDED TO READ AS FOLLOWS:

#### **410 IAC 16.2-5-1.1 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. 1.1. (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 ~~it~~ **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 ~~that of the licensee, which~~ occurs during the licensure period, shall be reported to the director, in writing, at the time ~~of the change. occurs.~~ 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 ~~division,~~ **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 ~~department of fire prevention and building services~~ **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. ~~and~~

(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, ~~that~~ **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 or 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 ~~410 IAC 16.2-3-1~~, this rule and 410 IAC 16.2-6 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 (½). 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) order the suspension of new admissions to the health facility for a period not to exceed thirty (30) days; or~~

~~(B) (A) impose a fine not to exceed five ten 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; (\$10,000); or~~

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

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 revocation 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 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) 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) 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.**

*(Indiana State Department of Health; 410 IAC 16.2-5-1.1; filed Jan 10, 1997, 4:00 p.m.: 20 IR 1560, eff Apr 1, 1997; errata filed Apr 10, 1997, 12:15 p.m.: 20 IR 2415; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1912, eff Mar 1, 2003)*

SECTION 4. 410 IAC 16.2-5-1.2 IS AMENDED TO READ AS FOLLOWS:

#### **410 IAC 16.2-5-1.2 Residents' rights**

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

**Affected:** IC 4-21.5; IC 12-10-15-9; IC 16-28-5-1

Sec. 1.2. (a) Residents have the right to have their rights recognized by the licensee. The licensee shall establish written policies regarding residents' rights and responsibilities in accordance with this article and shall be responsible, through the administrator, for their implementation. These policies and any adopted additions or changes thereto shall be made available to the resident, staff, legal representative, and general public. Each resident shall be advised of ~~these residents'~~ rights prior to admission and shall signify, in writing, upon admission and thereafter if the residents' rights are updated or changed. **There shall be documentation that each resident is in receipt of the described residents' rights and responsibilities. A copy of the residents' rights must be available in a publicly accessible area. The copy must be in at least 12-point type and a language the resident understands.**

**(b) Residents have the right to a dignified existence, self-determination, and communication with and access to persons and services inside and outside the facility. Residents have the right to exercise their rights as a resident of the facility and as a citizen or resident of the United States.**

~~(b)~~ (c) Residents have the right to exercise any or all of the enumerated rights without restraint, interference, coercion, discrimination, or threat of reprisal by the facility. These rights shall not be abrogated or changed in any instance, except that, when the resident has been adjudicated incompetent, the rights devolve to the resident's legal representative. When a resident is found by his or her physician to be medically incapable of understanding or exercising his or her rights, the rights may be exercised by the resident's legal representative.

~~(c)~~ (d) Residents have the right to be treated with consideration, respect, and recognition of their dignity and individuality.

~~(d)~~ (e) Residents have the right to be provided, at the time of admission to the facility, **the following:**

**(1) A copy of his or her admission agreement.**

**(2) A written notice of the facility's basic daily or monthly rates.**

**(3) A written statement of all facility services (including those offered on a ~~need an~~ as needed basis).**

**(4) Information on related charges, and admission, readmission, and discharge policies of the facility.**

**(5) The facility's policy on voluntary termination of the admission agreement by the resident, including the disposition of any entrance fees or deposits paid on admission. The admission agreement shall include at least those items provided for in IC 12-10-15-9.**

**(f) Residents have the right to be informed of any facility policy regarding overnight guests. This policy shall be clearly stated in the admission agreement.**

**(g) Residents have the right to be informed by the facility, in writing, at least thirty (30) days in advance of the effective date, of any changes in the rates or services that these rates cover.**

**(h) The facility must furnish on admission the following:**

**(1) A statement that the resident may file a complaint with the director concerning resident abuse, neglect, misappropriation of resident property, and other practices of the facility.**

**(2) The most recently known addresses and telephone numbers of the following:**

**(A) The department.**

**(B) The office of the secretary of family and social services.**

**(C) The ombudsman designated by the division of disability, aging, and rehabilitation services.**

**(D) The area agency on aging.**

**(E) The local mental health center.**

**(F) Adult protective services.**

**The addresses and telephone numbers in this subdivision shall be posted in an area accessible to residents and updated as appropriate.**

**(i) The facility will distribute to each resident upon admission the state developed written description of law concerning advance directives.**

**(j) Residents have the right to the following:**

**(1) Participate in the treatment plan development of his or her service plan and in any updates of that service plan.**

**(2) Choose the attending physician and other providers of services, including arranging for on-site health care services unless contrary to facility policy. Any limitation on the resident's right to choose the attending physician and/or service provider shall be clearly stated in the admission agreement. Other providers of services, within the content of this subsection, may include home health care agencies, hospice care services, or hired individuals.**

**(3) be fully informed of their medical condition by the physician; Have a pet of his or her choice, so long as the pet does not pose a health or safety risk to residents, staff, or visitors, or a risk to property unless prohibited by facility policy. Any limitation on the resident's right to have a pet of his or her choice shall be clearly stated in the admission agreement.**

**(4) Refuse any treatment or service, including medication.**

**(5) Be informed of the medical consequences of such a refusal under subdivision (4) and have such data recorded in his or her clinical record, and if treatment or medication is administered by the facility.**

**(6) Be afforded confidentiality of treatment. The resident may**

**(7) Participate or refuse to participate in experimental research. and There must be written acknowledgment of informed consent prior to participation in research activities.**

**(k) The facility must immediately consult the resident's physician and the resident's legal representative when the facility has noticed:**

**(1) a significant decline in the resident's physical, mental, or psychosocial status; or**

**(2) a need to alter treatment significantly, that is, a need to discontinue an existing form of treatment due to adverse consequences or to commence a new form of treatment.**

**(l) If the facility participates in the Medicaid waiver and/or residential care assistance programs, the facility must provide to residents written information about how to apply for Medicaid benefits and room and board assistance.**

**(m) The facility must promptly notify the resident and, if known, the resident's legal representative, when there is a change in roommate assignment.**

**(n) Residents may, throughout the period of their stay, voice grievances to the facility staff or to an outside representative of their choice, recommend changes in policy and procedure, and receive reasonable responses to their requests without fear of reprisal or interference.**

**(g) (o)** Residents have the right to form and participate in a resident council, **and families of residents have the right to form a family council**, to discuss alleged grievances, facility operation, resident rights, or other problems, and to participate in the resolution of these matters as follows:

- (1) Participation is voluntary.
- (2) During resident **or family** council meetings, privacy shall be afforded **to the extent practicable** unless a member of the staff is invited by the resident council to be present.
- (3) The licensee shall provide space **within the facility** for meetings and assistance to residents **or families** who desire to attend meetings.
- (4) The facility shall develop and implement policies for investigating and responding to complaints when made known and grievances made by:**
  - (A) an individual resident;**
  - (B) a resident council and/or family council;**
  - (C) a family member;**
  - (D) family groups; or**
  - (E) other individuals.**

**(p) Residents have the right to the examination of the results of the most recent annual survey of the facility conducted by the state surveyors and any plan of correction in effect with respect to the facility, and any subsequent surveys.**

**(h) (q)** Residents have the right to appropriate housing assignments as follows:

- (1) When both husband and wife are residents in the facility, they have the right to live as a family in a suitable room or quarters ~~if practical~~, and may occupy a double bed unless contraindicated for medical reasons by the attending physician.
- (2) Written facility policy and procedures shall address the circumstances in which persons of the opposite sex, other than husband and wife, will be allowed to occupy a bedroom, if such an arrangement is agreeable to the residents or the residents' legal representatives.

**(i) (r)** The transfer and discharge rights of residents of a facility are as follows:

- (1) As used in this section, "interfacility transfer and discharge" means the movement of a resident to a bed outside of the licensed facility.
- (2) As used in this section, "intrafacility transfer" means the movement of a resident to a bed within the same licensed facility.
- (3) When a transfer or discharge of a resident is proposed, whether intrafacility or interfacility, provision for continuity of care shall be provided by the facility.
- (4) Health facilities must permit each resident to remain in the facility and not transfer or discharge the resident from the facility unless:
  - (A) the transfer or discharge is necessary for the resident's welfare and the resident's needs cannot be met in the facility;
  - (B) the transfer or discharge is appropriate because the resident's health has improved sufficiently so that the resident no longer needs the services provided by the facility;
  - (C) the safety of individuals in the facility is endangered;
  - (D) the health of individuals in the facility would otherwise be endangered;
  - (E) the resident has failed, after reasonable and appropriate notice, to pay for a stay at the facility; or
  - (F) the facility ceases to operate.
- (5) When the facility proposes to transfer or discharge a resident under any of the circumstances specified in subdivision (4)(A), (4)(B), (4)(C), (4)(D), or (4)(E), the resident's clinical records must be documented. The documentation must be made by the following:
  - (A) The resident's physician when transfer or discharge is necessary under subdivision (4)(A) or (4)(B).
  - (B) Any physician when transfer or discharge is necessary under subdivision (4)(D).
- (6) Before an interfacility transfer or discharge occurs, the facility must, on a form prescribed by the department, do the following:
  - (A) Notify the resident of the transfer or discharge and the reasons for the move, in writing, and in a language and manner that the resident understands. The health facility must place a copy of the notice in the resident's clinical record and transmit a copy to the following:

- (i) The resident.
  - (ii) A family member of the resident if known.
  - (iii) The resident's legal representative if known.
  - (iv) The local long term care ombudsman program (for involuntary relocations or discharges only).
  - (v) The person or agency responsible for the resident's placement, maintenance, and care in the facility.
  - (vi) In situations where the resident is developmentally disabled, the regional office of the division of disability, aging, and rehabilitative services, who may assist with placement decisions.
  - (vii) The resident's physician when the transfer or discharge is necessary under subdivision (4)(C), (4)(D), (4)(E), or (4)(F).
- (B) Record the reasons in the resident's clinical record.
- (C) Include in the notice the items described in subdivision (9).
- (7) Except when specified in subdivision (8), the notice of transfer or discharge required under subdivision (6) must be made by the facility at least thirty (30) days before the resident is transferred or discharged.
- (8) Notice may be made as soon as practicable before transfer or discharge when:
- (A) the safety of individuals in the facility would be endangered;
  - (B) the health of individuals in the facility would be endangered;
  - (C) the resident's health improves sufficiently to allow a more immediate transfer or discharge;
  - (D) an immediate transfer or discharge is required by the resident's urgent medical needs; or
  - (E) a resident has not resided in the facility for thirty (30) days.
- (9) For health facilities, the written notice specified in subdivision (7) must include the following:
- (A) The reason for transfer or discharge.
  - (B) The effective date of transfer or discharge.
  - (C) The location to which the resident is transferred or discharged.
  - (D) A statement in not smaller than 12-point bold type that reads, "You have the right to appeal the health facility's decision to transfer you. If you think you should not have to leave this facility, you may file a written request for a hearing with the Indiana state department of health postmarked within ten (10) days after you receive this notice. If you request a hearing, it will be held within twenty-three (23) days after you receive this notice, and you will not be transferred from the facility earlier than thirty-four (34) days after you receive this notice of transfer or discharge unless the facility is authorized to transfer you under subdivision (8). If you wish to appeal this transfer or discharge, a form to appeal the health facility's decision and to request a hearing is attached. If you have any questions, call the Indiana state department of health at the number listed below."
  - (E) The name of the director and the address, telephone number, and hours of operation of the division.
  - (F) A hearing request form prescribed by the department.
  - (G) The name, address, and telephone number of the state and local long term care ombudsman.
  - (H) For health facility residents with developmental disabilities or who are mentally ill, the mailing address and telephone number of the protection and advocacy services commission.
- (10) If the resident appeals the transfer or discharge, the health facility may not transfer or discharge the resident within thirty-four (34) days after the resident receives the initial transfer or discharge notice unless an emergency exists as provided under subdivision (8).
- (11) If nonpayment is the basis of a transfer or discharge, the resident shall have the right to pay the balance owed to the facility up to the date of the transfer or discharge and then is entitled to remain in the facility.
- (12) The department shall provide a resident who wishes to appeal the transfer or discharge from a facility the opportunity to file a request for a hearing postmarked within ten (10) days following the resident's receipt of the written notice of the transfer or discharge from the facility.
- (13) If a health facility resident requests a hearing, the department shall hold an informal hearing at the health facility within twenty-three (23) days from the date the resident receives the notice of transfer or discharge. The department shall attempt to give at least five (5) days' written notice to all parties prior to the informal hearing. The department shall issue a decision within thirty (30) days from the date the resident receives the notice. The health facility must convince the department by a preponderance of the evidence that the transfer or discharge is authorized under subdivision (4). If the department determines that the transfer is appropriate, the resident must not be required to leave the health facility within the thirty-four (34) days after the resident's receipt of the initial transfer or discharge notice unless an emergency exists under subdivision (8). Both the resident and the health facility have the right to administrative or judicial review under IC 4-21.5 of any decision or action by the department arising under this section. All hearings held de novo shall be held in the facility where the resident resides.
- (14) An intrafacility transfer can be made only if:
- (A) the transfer is necessary for medical reasons as judged by the attending physician; or
  - (B) the transfer is necessary for the welfare of the resident or other persons.

- (15) If an intrafacility transfer is required, the resident must be given notice at least two (2) days before relocation, except when:
  - (A) the safety of individuals in the facility would be endangered;
  - (B) the health of individuals in the facility would be endangered;
  - (C) the resident's health improves sufficiently to allow a more immediate transfer; or
  - (D) an immediate transfer is required by the resident's urgent medical needs.
- (16) The written notice of an intrafacility transfer must include the following:
  - (A) Reasons for transfer.
  - (B) Effective date of transfer.
  - (C) Location to which the resident is to be transferred.
  - (D) Name, address, and telephone number of the local and state long term care ombudsman.
  - (E) For health facility residents with developmental disabilities or who are mentally ill, the mailing address and telephone number of the protection and advocacy services commission.
- (17) The resident has the right to relocate prior to the expiration of the two (2) day notice.
- (18) Prior to any interfacility or involuntary intrafacility relocation, the facility shall prepare a relocation plan to prepare the resident for relocation and to provide continuity of care. In nonemergency relocations, the planning process shall include a relocation planning conference to which the resident, his or her legal representative, family members, and physician shall be invited. The planning conference may be waived by the resident.
- (19) At the planning conference the resident's medical, psychosocial, and social needs with respect to the relocation shall be considered and a plan devised to meet these needs.
- (20) The facility shall provide reasonable assistance to the resident to carry out the relocation plan.
- (21) The facility must provide sufficient preparation and orientation to residents to ensure safe and orderly transfer or discharge from the facility.
- (22) If the relocation plan is disputed, a meeting shall be held prior to the relocation with the administrator or his or her designee, the resident, and the resident's legal representative. An interested family member, if known, shall be invited. The purpose of the meeting shall be to discuss possible alternatives to the proposed relocation plan.
- (23) A written report of the content of the discussion at the meeting and the results of the meeting shall be reviewed by the administrator or his or her designee, the resident, the resident's legal representative, and an interested family member, if known, each of whom may make written comments on the report.
- (24) The written report of the meeting shall be included in the resident's permanent record.

~~(j) (s) Residents have the right to exercise their rights as residents and citizens. Residents may, throughout the period of their stay, voice grievances to the facility staff or to an outside representative of their choice; recommend changes in policy and procedure; and receive reasonable responses to their requests without fear of reprisal or interference. The address and telephone number of:~~

- ~~(1) the department;~~
- ~~(2) the office of the secretary of family and social services;~~
- ~~(3) the ombudsman designated by the division of disability, aging, and rehabilitative services;~~
- ~~(4) the area agency on aging;~~
- ~~(5) the local mental health center; and~~
- ~~(6) the protection and advocacy services commission;~~

~~shall be displayed in a prominent place in the facility. A telephone accessible to the residents shall be provided for emergency and reasonable personal use. have reasonable access to the use of the telephone for local or toll free calls for emergency and personal use where calls can be made without being overheard.~~

~~(k) (t) Residents have the right to manage their personal affairs and funds. or When the facility manages these services, a resident may, by written request, allow the facility to execute all or part of their financial affairs. Management does not include the safekeeping of personal items. If the facility agrees to handle manage the resident's funds, the resident facility must: be provided with:~~

- ~~(1) provide the resident with a quarterly accounting of all financial affairs handled by the facility;~~
- ~~(2) provide the resident, upon the resident's request, with reasonable access, during normal business hours, to the written records of all financial transactions involving the individual resident's funds; upon request;~~
- ~~(3) provide for a separation of resident and facility funds; and~~
- ~~(4) return to the resident, no later than fifteen (15) calendar days, upon written request and within no later than fifteen (15) calendar days, all or any part of the resident's funds given the facility for safekeeping;~~
- ~~(5) deposit, unless otherwise required by federal law, any resident's personal funds in excess of one hundred dollars (\$100)~~

in an interest-bearing account (or accounts) that is separate from any of the facility's operating accounts and that credits all interest earned on the resident's funds to his or her account. (In pooled accounts, there must be a separate accounting for each resident's share.);

(6) maintain resident's personal funds that do not exceed one hundred dollars (\$100) in a noninterest-bearing account, interest-bearing account, or petty cash fund;

(7) establish and maintain a system that assures a full, complete, and separate accounting, according to generally accepted accounting principles, of each resident's personal funds entrusted to the facility on the resident's behalf;

(8) provide the resident or the resident's legal representative with reasonable access during normal business hours to the funds in the resident's account;

(9) provide the resident or the resident's legal representative upon request with reasonable access during normal business hours to the written records of all financial transactions involving the individual resident's funds;

(10) provide to the resident or his or her legal representative a quarterly statement of the individual financial record and provide to the resident or his or her legal representative a statement of the individual financial record upon the request of the resident or the resident's legal representative; and

(11) convey, within thirty (30) days of the death of a resident who has personal funds deposited with the facility, the resident's funds and a final accounting of those funds to the individual or probate jurisdiction administering the resident's estate.

~~(t)~~ (u) Residents have the right to be free from **any physical and mental abuse (including sexual abuse), neglect, and restraint, or chemical restraints imposed for purposes of discipline or convenience and not required to treat the resident's medical symptoms.**

(v) Residents have the right to be free from sexual, physical, mental abuse, corporal punishment, neglect, and involuntary seclusion.

(w) Residents have the right to be free from verbal abuse.

~~(m)~~ (x) Residents have the right to confidentiality of all personal **and clinical** records. Information from these sources shall not be released without the resident's consent, except ~~upon transfer~~ **when the resident is transferred** to another health facility, when required by law, or under a third party payment contract. The resident's records shall be made immediately available to the resident for inspection, and the resident may receive a copy within ~~a reasonable time,~~ **five (5) working days,** at the resident's expense.

~~(n)~~ (y) Residents have the right to be treated as individuals with consideration and respect for their privacy. Privacy shall be afforded for at least the following:

- (1) Bathing.
- (2) Personal care.
- (3) Physical examinations and treatments.
- (4) Visitations.

~~(o)~~ (z) Residents have the right ~~not to: be required~~

(1) **refuse** to perform services for the facility; ~~unless such work is medically indicated and included in the therapeutic treatment plan as prescribed by the physician; or unless the resident so requests and the attending physician approves, in writing:~~

(2) **perform services for the facility, if he or she chooses, when:**

(A) **the facility has documented the need or desire for work in the service plan;**

(B) **the service plan specifies the nature of the duties performed and whether the duties are voluntary or paid;**

(C) **compensation for paid duties is at or above the prevailing rates; and**

(D) **the resident agrees to the work arrangement described in the service plan.**

(aa) Residents have the right to privacy in written communications, including the right to:

(1) **send and promptly receive mail that is unopened unless the administrator has been instructed otherwise in writing by the resident; and**

(2) **have access to stationery, postage, and writing implements at the resident's own expense.**

(bb) Residents have the right and the facility must provide immediate access to any resident by:

- (1) individuals representing state or federal agencies;
- (2) any authorized representative of the state;
- (3) the resident's individual physician;
- (4) the state and area long term care ombudsman;
- (5) the agency responsible for the protection and advocacy system for developmentally disabled individuals;
- (6) the agency responsible for the protection and advocacy system for mentally ill individuals;
- (7) immediate family or other relatives of the resident, subject to the resident's right to deny or withdraw consent at any time;
- (8) the resident's legal representative or spiritual advisor subject to the resident's right to deny or withdraw consent at any time; and
- (9) others who are visiting with the consent of the resident subject to reasonable restrictions and the resident's right to deny or withdraw consent at any time.

~~(p)~~ **(cc)** Residents have the right to choose with whom they associate. The facility shall provide reasonable visiting hours, which should include at least ~~nine (9)~~ **twelve (12)** hours a day, and the hours shall be ~~posted in a prominent place in the facility and~~ made available to each resident. Policies shall also provide for emergency visitation at other ~~than posted~~ hours. The facility shall not restrict visits from the resident's legal representative ~~sponsor, surrogate advocate, or spiritual advisor, except at the request of the resident. or sponsor. The resident's mail, either incoming or outgoing, shall remain intact and unopened unless the administrator has been instructed otherwise in writing by the resident.~~

**(dd)** The facility shall provide reasonable access to any resident, consistent with facility policy, by any entity or individual that provides health, social, legal, and other services to any resident, subject to the resident's right to deny or withdraw consent at any time.

**(ee)** The facility shall allow representatives of the state ombudsman to examine a resident's clinical records with the permission of the resident or the resident's legal representative, and consistent with state law.

~~(q)~~ **(ff)** Residents have the right to participate in social, religious, community services, and other activities of their choice that do not interfere with the rights of other residents at the facility.

~~(r)~~ **(gg)** Residents have the right to individual expression through retention of personal clothing and belongings as space permits unless to do so would infringe upon the rights of others or would create a health or safety hazard.

**(hh)** The facility shall exercise reasonable care for the protection of residents' property from loss and theft. The administrator or his or her designee is responsible for investigating reports of lost or stolen resident property **and that the results of the investigation are reported to the resident.**

**(ii)** If the resident's personal laundry is laundered by the facility, the facility shall identify these items in a suitable manner, at the resident's request.

**(jj)** Residents may use facility equipment, such as washing machines, if permitted by facility.

~~(s)~~ **(kk)** For purposes of IC 16-28-5-1, a breach of: ~~subsection (a), (b), (c), (d), (e), (f), (g), (h), (i), (j), (k), (l), (m), (n), (o), (p), (q), or (r)~~

**(1) subsection (u) or (v) is an offense;**

**(2) subsection (b), (c), (d), (j), (k), (n), (o)(4), (r), (w), (x), (y), (z), (aa), (bb), or (dd) is a deficiency;**

**(3) subsection (a), (e), (f), (g), (h), (i), (l), (o)(1), (o)(2), (o)(3), (p), (q), (s), (t), (cc), (ee), (ff), (gg), (hh), or (ii) is a noncompliance; and**

**(4) subsection (m) or (jj) is a nonconformance.**

*(Indiana State Department of Health; 410 IAC 16.2-5-1.2; filed Jan 10, 1997, 4:00 p.m.: 20 IR 1562, eff Apr 1, 1997; errata filed Apr 10, 1997, 12:15 p.m.: 20 IR 2415; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1914, eff Mar 1, 2003)*

SECTION 5. 410 IAC 16.2-5-1.3 IS AMENDED TO READ AS FOLLOWS:



#### 410 IAC 16.2-5-1.3 Administration and management

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

Affected: IC 16-28-5-1; IC 25-19-1

Sec. 1.3. (a) The licensee is responsible for compliance with all applicable laws. The licensee has full authority and responsibility for the organization, management, operation, and control of the licensed facility. The delegation of any authority by the licensee does not diminish the responsibilities of the licensee.

(b) The licensee shall ~~employ~~ **provide** the number of staff as required to carry out all the functions of the facility, including the following:

- (1) Initial orientation of all employees.
- (2) A continuing in-service education and training program for all employees.
- (3) Provision of supervision for all employees.

(c) The licensee shall appoint **an administrator licensed pursuant to IC 25-19-1** and delegate to ~~an that~~ administrator ~~licensed pursuant to IC 25-19-1~~ the authority to organize and implement the day-to-day operations of the facility. The licensee, if a licensed administrator, may act as the administrator of the facility.

~~(d) If a facility offers services in addition to those provided to its long term care residents, the administrator is responsible for assuring that such additional services do not adversely affect the care provided to its residents.~~

~~(e)~~ (d) The licensee shall notify the director within three (3) working days of a vacancy in the administrator's position. The licensee shall also notify the director of the name and license number of the replacement administrator.

~~(f)~~ (e) An administrator shall be employed to work in each licensed health facility. For purposes of this subsection, an individual can only be employed as an administrator in one (1) health facility or one (1) hospital based long term care unit at a time.

~~(g)~~ (f) In the administrator's absence, an individual shall be authorized, in writing, to act on the administrator's behalf.

~~(h)~~ (g) The administrator is responsible for the overall management of the facility. ~~but shall not function as a departmental supervisor; for example, director of nursing or food service supervisor, during the same hours.~~ The responsibilities of the administrator shall include, but are not limited to, the following:

- (1) ~~Immediately~~ Informing the division by telephone, followed by written notice within twenty-four (24) hours **of becoming aware of an unusual occurrence that directly threatens the welfare, safety, or health of the residents, including a resident. Notice of unusual occurrence may be made by telephone, followed by a written report, or by a written report only that is faxed or sent by electronic mail to the division within the twenty-four (24) hour time period. Unusual occurrences include, but are not limited to, any epidemic outbreaks, poisonings, fires, or major accidents. If the division cannot be reached, such as on holidays or weekends, a call shall be made to the emergency telephone number ((317) 383-6144) or published by the division.**
- (2) Promptly arranging for **or assisting with the provision of** medical, dental, podiatry, or nursing care or other health care services as ~~prescribed~~ **requested** by the ~~attending physician~~ **resident or resident's legal representative.**
- (3) Obtaining director approval prior to the admission of an individual under eighteen (18) years of age to an adult facility.
- (4) Ensuring ~~that~~ the facility maintains, on the premises, ~~time schedules and~~ an accurate record of actual time worked that indicates the employee's full name and the dates and hours worked during the past twelve (12) months. ~~This information shall be furnished to the division staff upon request.~~
- (5) ~~Once furnished a copy by the division, maintaining a copy of this article, and making it available to all personnel, the residents, sponsors, or surrogates.~~ **Posting the results of the most recent annual survey of the facility conducted by state surveyors and any plan of correction in effect with respect to the facility, and any subsequent surveys. The results must be available for examination in the facility in a place readily accessible to residents and a notice posted of their availability.**
- (6) ~~Once furnished a copy by the division, informing affected staff of any amendments to this article no later than the effective date of the amendments.~~
- (7) (6) Maintaining reports of surveys conducted by the division in each facility for a period of two (2) years and making the reports available for inspection to any member of the public upon request.

~~(i)~~ Each facility, except a facility that cares for children or an intermediate care facility for the mentally retarded, shall encourage all employees serving residents or the public to wear name and title identification.

~~(j)~~ Each **(h)** The facility shall establish and implement a written policy manual to ensure that resident care and facility objectives are attained, to include the range of services offered, resident rights, personnel administration, and facility operations. **Such policies shall be made available to residents upon request.**

~~(k)~~ The licensee shall approve the policy manual, and subsequent revisions, in writing. The policy manual shall be reviewed and dated at least annually.

~~(l)~~ The policies shall be maintained in a manual accessible to employees and made available upon request to residents, the division, the legal representative of a resident, and the public. Management/ownership confidential directives are not required to be included in the policy manual; however, the policy manual must include all of the facility's operational policies.

~~(m)~~ **(i)** The policy manual shall contain **facility must maintain** a written fire and disaster preparedness plan to assure continuity of care of residents in cases of emergency as follows:

~~(1)~~ Facilities caring for children shall have a written plan outlining the staff procedures, including isolation and evacuation, in case of an outbreak of childhood diseases.

~~(2)~~ **(1)** Fire exit drills in facilities shall include the transmission of a fire alarm signal and simulation of emergency fire conditions, except that the movement of ~~infirm or bedridden patients~~ **nonambulatory residents** to safe areas or to the exterior of the building is not required. Drills shall be conducted quarterly on each shift to familiarize all facility personnel with signals and emergency action required under varied conditions. At least twelve (12) drills shall be held every year. When drills are conducted between 9 p.m. and 6 a.m., a coded announcement may be used instead of audible alarms.

~~(3)~~ **(2)** At least every six (6) months, a facility shall attempt to hold the fire and disaster drill in conjunction with the local fire department. A record of all training and drills shall be documented with the names and signatures of the personnel present.

~~(n)~~ **(j)** If professional or diagnostic services are to be provided to the facility by an outside resource, either individual or institutional, an arrangement shall be developed between the licensee and the outside resource for the provision of the services. If a written agreement is used, it shall specify the responsibilities of both the facility and the outside resource, the qualifications of the outside resource staff, a description of the type of services to be provided, including action taken and reports of findings, and the duration of the agreement.

~~(o)~~ Each **(k)** The facility shall conspicuously post the license or a true copy thereof within the facility in a location accessible to public view.

~~(p)~~ Each facility shall submit an annual statistical report to the department.

~~(q)~~ The facility shall have a written and signed transfer agreement with one ~~(1)~~ or more hospitals within reasonable proximity of the facility to make feasible the transfer of residents and applicable records as follows:

~~(1)~~ A facility that has been unable to establish a transfer agreement with the hospitals in the community or service area, after documented attempts to do so, is considered to have an agreement in effect.

~~(2)~~ The written transfer agreement shall be as follows:

~~(A)~~ Be in writing and shall be signed by persons authorized to execute the agreement on behalf of the institutions. Each institution shall maintain a copy of the agreement.

~~(B)~~ Ensure the change of medical and other information necessary or useful in the care and treatment of residents transferred between the institutions or in determining whether such residents can be adequately cared for.

~~(C)~~ Specify the responsibilities assumed by both the discharging and receiving institutions for:

~~(i)~~ prompt notification of the impending transfer of the resident;

~~(ii)~~ agreement by the receiving institution to admit the resident;

~~(iii)~~ arranging appropriate transportation and care of the resident during transfer; and

~~(iv)~~ the transfer of personal effects, particularly money and valuables and of information related to such items.

~~(D)~~ Specify restrictions with respect to the types of services available and/or the types of residents or health conditions that will not be accepted by the hospital or the facility, including any other criteria relating to the transfer of residents.

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

(1) subsection (a) ~~(d)~~; or ~~(h)~~ **(g)** is a deficiency;

(2) subsection (b), (c), **(d)**, **(e)**, (f), ~~(g)~~, **(h)**, **(i)**, or (j) ~~(m)~~; or ~~(q)~~ is a noncompliance; and

(3) subsection ~~(e)~~, ~~(i)~~; (k) ~~(l)~~, ~~(n)~~, ~~(o)~~, or ~~(p)~~ is a nonconformance.

*(Indiana State Department of Health; 410 IAC 16.2-5-1.3; filed Jan 10, 1997, 4:00 p.m.: 20 IR 1565, 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 2415; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1919, eff Mar 1, 2003)*

SECTION 6. 410 IAC 16.2-5-1.4 IS AMENDED TO READ AS FOLLOWS:

#### **410 IAC 16.2-5-1.4 Personnel**

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

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

Sec. 1.4. (a) Each facility shall have specific procedures written and implemented for the screening of prospective employees. **Specific Appropriate** 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) Each facility shall ~~maintain a staffing pattern for all departments that shall be made available to the division as follows:~~

~~(1) The minimum staffing ratios required by this article shall be maintained at all times, including relief periods, vacation periods, and holidays.~~

~~(2) Each employee on duty shall be dressed in accordance with facility policy; awake; and mentally and physically capable of giving care as required and responding appropriately in an emergency.~~

~~(3) Each residential care facility shall have at least one (1) employee on duty at all times.~~

**Staff shall be sufficient in number, qualifications, and training in accordance with applicable state laws and rules to meet the twenty-four (24) hour scheduled and unscheduled needs of the residents and services provided. The number, qualifications, and training of staff shall depend on skills required to provide for the specific needs of the residents. A minimum of one (1) awake staff person, with current CPR and first aid certificates, shall be on-site at all times. If fifty (50) or more residents of the facility regularly receive residential nursing services and/or administration of medication, at least one (1) nursing staff person shall be on-site at all times. Residential facilities with over one hundred (100) residents regularly receiving residential nursing services and/or administration of medication shall have at least one (1) additional employee nursing staff person awake and on duty at all times for every additional fifty (50) residents. or major fraction thereof. In a facility having both comprehensive and residential distinct parts, the employee or employees assigned to the residential distinct part may be stationed and may work in the comprehensive distinct part during the second and third shifts. Residential employees assigned to the comprehensive distinct part must be readily available to the residents of the residential distinct part. However, such employees' time does not count toward the staffing requirements of the comprehensive distinct part.**

~~(4) Personnel shall be assigned only those duties for which they are trained to perform. Employee duties shall conform with written job descriptions.~~

**(c) Any unlicensed employee providing more than limited assistance with the activities of daily living must be either a certified nurse aide or a home health aide. Existing facilities that are not licensed on the date of adoption of this rule and that seek licensure within one (1) year of adoption of this rule have two (2) months in which to ensure that all employees in this category are either a certified nurse aide or a home health aide.**

~~(e)~~ **(d)** Prior to working independently, each employee shall be given an orientation to the facility by the supervisor (or his or her designee) of the department in which the employee will work. ~~Orientation of nursing staff shall be supervised by the director of nursing or a licensed designee.~~ Orientation of all employees shall include the following:

(1) Instructions on the needs of the specialized populations served in the facility (aged, developmentally disabled, mentally ill, **dementia**, or children).

(2) A review of the facility's policy manual and applicable procedures, including:

**(A)** organization chart;

**(B)** personnel policies;

**(C)** appearance and grooming **policies for employees;** and

**(D)** residents' rights.

- (3) Instruction in first aid, emergency procedures, and fire and disaster preparedness, including evacuation procedures.
- (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) (4) Review of ethical considerations and confidentiality in resident care and records.
- (6) (5) For direct care staff, personal introduction to, and instruction in, the particular needs of each resident to whom the employee will be providing care.
- (7) (6) Documentation of the orientation in the employee's personnel record by the person supervising the orientation, and that the employee has demonstrated sufficient knowledge to properly carry out the job.

(d) Each nurse aide without one (1) year of experience in a health care setting who is hired after January 1, 1985, 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 eighty (180) days of employment. At least fifteen (15) of these hours shall be given before the nurse aide is assigned direct resident care duties. The instruction shall include orientation to the:

- (A) facility;
- (B) facility policies;
- (C) employee's duties;
- (D) basic nursing skills;
- (E) clinical practice;
- (F) resident safety and rights; and
- (G) social and psychological problems of residents.

The thirty (30) hours may not be counted toward a facility's required staffing.

(2) Seventy-five (75) hours of supervised training. 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.

(e) There shall be an organized ~~ongoing~~ in-service education and training program planned in advance for all personnel in all departments **this at least annually**. Training shall include, but is not limited to, **resident's rights**, prevention and control of infection, fire prevention, safety, and accident prevention, ~~and the needs of specialized populations served, that is, the aged, developmentally disabled, mentally ill, or children;~~ **medication administration, and nursing care, when appropriate**, as follows:

(1) In-service training programs shall contain means to assess learning by participants. These may include testing such as self-graded, before-and-after tests, clinical practice sessions under close supervision, or instructor assessment.

(2) In-service programs shall be designed to enable the staff to meet the needs of residents.

(3) (1) The frequency and content of in-service education and training programs shall be in accordance with the skills and knowledge of the facility personnel. **For nursing personnel, this shall include at least eight (8) hours of in-service per calendar year and four (4) hours of in-service per calendar year for nonnursing personnel.**

(4) Monthly in-service training shall be conducted for the nursing staff. In addition, for personnel administering medications, no less than eight (8) programs on medication administration shall be offered per year.

(5) Annual in-service training shall be conducted for all nursing personnel on supportive therapy measures; that is:

- (A) range of motion;
- (B) transfers;
- (C) positioning;
- (D) supportive use of hearing aids; or
- (E) self-help feeding devices.

(6) Programs shall be offered at least quarterly for all departments.

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

(2) In addition to the above required in-service hours in facilities with distinct dementia units, staff who have contact with such residents shall have a minimum of six (6) hours of dementia-specific training within six (6) months and three (3) hours annually thereafter to meet the needs/preferences of cognitively impaired residents effectively and to gain understanding of the current standards of care for residents with dementia.

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

- (A) Time, date, and location.

- (B) Name of instructor.
- (C) Title of instructor.
- (D) Name of participants.
- (E) Program content of in-service.

The employee will acknowledge attendance by written signature.

(f) A ~~physical examination~~ **health screen** shall be required for each employee of a facility ~~at the time of employment~~. **prior to resident contact.** The ~~examination screen~~ shall include a tuberculin skin test, using the Mantoux method (5 TU, PPD), 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 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. **The first tuberculin skin test must be read prior to the employee starting work.** 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~~; **screenings.**
- (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.

**(g) The facility must prohibit employees with communicable disease or infected skin lesions from direct contact with residents or their food if direct contact will transmit the disease. An employee with signs and symptoms of communicable disease, including, but not limited to, an infected or draining skin lesion, shall be handled according to a facility's policy regarding direct contact with residents, their food, or resident care items until the condition is resolved. Persons with suspected or proven active tuberculosis will not be permitted to work until determined to be noninfectious and documentation is provided for the employee record.**

~~(g)~~ **(h)** The 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 or registration number, if applicable.
- (6) Position in the facility and job description.
- (7) Documentation of orientation to the facility, **including residents' rights**, and to the specific job skills.
- (8) Signed acknowledgment of orientation to ~~resident~~ **residents'** rights.
- (9) Performance evaluations in accordance with facility policy.
- (10) Date and reason for separation.

~~(h)~~ **(i)** The employee personnel record shall be retained for at least three (3) years following termination or separation of the employee from employment.

~~(i)~~ **(j)** For purposes of IC 16-28-5-1, a breach of:

- (1) subsection ~~(a)~~, (b), (c), ~~(d)~~, ~~(e)~~, or ~~(f)~~ **(g) is a deficiency;**
- (2) subsection (a), (d), (e), or (f) is a noncompliance; and**
- ~~(2)~~ **(3) subsection ~~(g)~~ or (h) or (i) is a nonconformance.**

*(Indiana State Department of Health; 410 IAC 16.2-5-1.4; filed Jan 10, 1997, 4:00 p.m.: 20 IR 1567, eff Apr 1, 1997; errata filed Apr 10, 1997, 12:15 p.m.: 20 IR 2415; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1921, eff Mar 1, 2003)*

SECTION 7. 410 IAC 16.2-5-1.5 IS AMENDED TO READ AS FOLLOWS:

**410 IAC 16.2-5-1.5 Sanitation and safety standards**

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

**Affected:** IC 16-28-5-1

Sec. 1.5. (a) ~~Each~~ **The** facility shall be clean, orderly, and in a state of good repair, both inside and out, and shall provide reasonable comfort for all residents.

(b) ~~Each~~ **The** facility shall maintain equipment and supplies in a safe and operational condition and in sufficient quantity to meet the needs of the residents.

(c) ~~Each~~ **The** facility shall not have more residents ~~or beds set up for use~~ than the number for which it is licensed, except in the case of emergency when temporary permission may be granted by the director.

(d) ~~Each facility shall store inactive clinical records in a safe and accessible manner. The storage facilities shall provide protection from vermin and unauthorized use.~~

(e) ~~Each~~ **(d) The** facility shall comply with fire and safety standards, including the applicable rules of the state fire prevention and building safety commission (675 IAC) where applicable to health facilities.

(f) ~~Each~~ **(e) The** facility shall maintain buildings, grounds, and equipment in a clean condition, in good repair, and free of hazards that may adversely affect the health and welfare of the residents or the public as follows:

(1) Each facility shall establish **and implement** a written program for maintenance to ensure the continued upkeep of the facility.

(2) The electrical system, including appliances, cords, switches, alternate power sources, fire alarm and detection systems, ~~and emergency communication and signaling systems~~, shall be maintained to guarantee safe functioning and compliance with state electrical codes.

(3) All plumbing shall function properly and comply with state plumbing codes.

(4) At least yearly, heating and ventilating systems shall be inspected.

(g) Each facility shall routinely clean articles and surfaces as follows:

(1) ~~Cleaning schedules and procedures shall be accessible to and followed by employees and shall indicate the areas of the facility that shall be cleaned daily, weekly, and monthly.~~

(2) ~~Housekeeping personnel shall utilize accepted practices and procedures to keep the facility free from offensive odors and the accumulation of dust, rubbish, dirt, and hazards, including the following:~~

(A) ~~Floors in resident areas shall be maintained in a clean condition.~~

(B) ~~Toilet and bathing areas shall be thoroughly cleaned at least daily and sanitized as needed.~~

(C) ~~All furniture, bedding, and equipment shall be cleaned as often as necessary to maintain a sanitary environment, but at least monthly and before use by another resident.~~

(D) ~~Deodorizers shall not be used to cover up odors caused by unsanitary conditions.~~

(E) ~~Janitor's closets, service sinks, and storage areas shall be cleaned and maintained to meet the needs of the facility.~~

(F) ~~Storage areas, attics, or cellars shall be kept safe and free from accumulation of unserviceable articles.~~

(G) ~~Cleaning supplies and equipment shall be stored in a safe and secure manner. Residents shall not have access to any cleaning agents, bleaches, or other poisonous or flammable materials.~~

(H) ~~Mop heads shall be removable and changed as often as necessary to assure that the mop head in use is clean and free of odors.~~

(I) ~~Polishes used for floors shall provide a nonslip finish.~~

(3) ~~Employees engaged in housekeeping or laundry functions shall not be simultaneously involved in the preparation of food.~~

(4) ~~A person qualified by experience and training shall be in charge of the housekeeping department.~~

(5) ~~If the facility has a contract with an outside resource for housekeeping services, the outside resource shall meet the requirements of this subsection.~~

(h) ~~Each~~ **(f) The** facility shall have a pest control program in operation in compliance with ~~410 IAC 7-15-1~~. **410 IAC 7-20.**

(i) ~~(g)~~ 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.

(j) ~~(h)~~ Any pet housed in a facility shall have periodic veterinary examinations and required immunizations.

(k) Each facility shall handle, store, process, and transport clean linen in a safe and sanitary manner as follows:

(1) Clean linen shall be stored, handled, and transported in a way that prevents contamination. Personnel handling clean or soiled linen shall hold it in such a manner to prevent contamination of the linen or the employee.

(2) Clean linen from a commercial laundry shall be delivered to a designated clean area in a manner that prevents contamination.

(3) Linens shall be maintained in good repair.

(4) The supply of clean linens, washcloths, and towels shall be sufficient to meet the needs of each resident. The use of common towels, washcloths, or toilet articles is prohibited.

(l) Each ~~(i)~~ **The** facility shall handle, store, process, and transport **clean and** soiled linen in a **safe and sanitary** manner that will prevent the spread of infection. ~~as follows:~~

(1) Soiled linen shall be sorted by methods affording protection from contamination.

(2) Soiled linens shall be stored and transported in a closed container that does not permit contamination of corridors and precludes contamination of clean linen.

(3) When laundry chutes are used to transport soiled linens, the chutes shall be maintained in a clean and sanitary state.

(m) Each facility shall handle, store, process, and transport resident clothing in a clean and orderly manner. If the resident's clothing is laundered by the facility, the facility shall identify the clothing in a suitable manner. The facility is only responsible for marking that clothing that is recorded on the resident's inventory sheet.

(n) Each ~~(j)~~ **The** facility shall observe safety precautions when oxygen is stored or administered ~~as follows:~~ **in the facility.**

(1) Oxygen containers shall be suitably anchored to the bed, floor, wall, or carrier to prevent the containers from tipping over.

(2) Oxygen containers when not in use shall be stored in an unheated room vented to the outside or in an outside secured area. Building code standards shall apply.

(3) "Oxygen-No Smoking" signs shall be posted on the outside of the door and the inside of the door of a resident room in which oxygen is being administered.

**Residents on oxygen shall be instructed in safety measures concerning storage and administration of oxygen.**

(o) Each ~~(k)~~ **The** facility shall keep all kitchens, kitchen areas, **common dining areas**, equipment, and utensils clean, free from litter and rubbish, and maintained in good repair in accordance with ~~410 IAC 7-15.1:~~ **410 IAC 7-20.**

(p) Each ~~(l)~~ **The** facility shall have an effective garbage and waste disposal program in accordance with ~~410 IAC 7-15.1:~~ **410 IAC 7-20.** Provision shall be made for the safe and sanitary disposal of solid waste, including dressings, needles, syringes, and similar items.

(q) Each ~~(m)~~ **The** facility's food supplies shall meet the standards of ~~410 IAC 7-15.1:~~ **as follows:**

(1) At least a twenty-four (24) hour supply of perishable food and a three (3) day supply of staple food shall be maintained on the premises to meet the planned menu.

(2) The three (3) day supply of staple foods shall include a variety of canned or processed foods from each of the four (4) basic food groups for serving meals to the residents for a minimum of three (3) days in the event of an emergency or disaster.

(3) Invoices for the preceding three (3) months, showing the amount and kind of food purchased, shall be made available to division staff upon request.

**410 IAC 7-20.**

(n) **The facility shall develop, adopt, and implement written policies and procedures on cleaning, disinfecting, and sterilizing equipment used by more than one (1) person in a common area.**

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

(1) subsection ~~(a), (b), (d), (e), (f), (i), (j), (k), (l), (m),~~ or (n) is a deficiency;

(2) subsection ~~(a), (b), (c), (f), (g) or (h) (j), (k), (l), (m), (o), (p), or (q)~~ is a noncompliance; and

(3) subsection ~~(d)~~ or ~~(i)~~ (c) is a nonconformance.  
(Indiana State Department of Health; 410 IAC 16.2-5-1.5; filed Jan 10, 1997, 4:00 p.m.: 20 IR 1569, eff Apr 1, 1997; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1923, eff Mar 1, 2003)

SECTION 8. 410 IAC 16.2-5-1.6 IS AMENDED TO READ AS FOLLOWS:

**410 IAC 16.2-5-1.6 Physical plant standards**

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

**Affected:** IC 16-28-2; IC 16-28-5-1

Sec. 1.6. ~~(a) This section applies to residential facilities licensed under IC 16-28-2.~~

~~(b) Each~~ **(a) The** facility shall make provisions for the handicapped as required by state or federal codes.

~~(c) Each~~ **(b) The** facility shall have adequate plumbing, heating, and ventilating systems as governed by applicable rules of the fire prevention and building safety commission (675 IAC). Plumbing, heating, and ventilating systems shall be maintained in normal operating condition and utilized as necessary to provide comfortable temperatures in all areas.

~~(d) After July 1, 1987;~~ **(c) Each** facility shall have an adequate air conditioning system, as governed by applicable rules of the fire prevention and building safety commission (675 IAC). The air conditioning system shall be maintained in normal operating condition and utilized as necessary to provide comfortable temperatures in all resident and public areas.

~~(e) Each~~ **(d) The** facility shall ~~use an approved public water supply if available. Water service shall be adequate, brought into the building and installed in compliance with state and local requirements, and free of cross connections. be supplied with safe, potable water, under pressure, from a source approved by the Indiana department of environmental management.~~ If a private water supply is used, the facility shall comply with appropriate laws and rules.

~~(f) (e) Sewage shall be discharged into an approved a public sewerage system in accordance with the laws and rules of the Indiana water pollution control board, where a system is available. Otherwise, sewage shall be collected, treated, and disposed of in an independent approved on-site wastewater system that complies with appropriate laws and rules. in accordance with 410 IAC 6-10.~~

~~(g) Each~~ **(f) The** facility shall have, for each room used for dining, living, or sleeping purposes, light and ventilation by means of outside windows with an area equal to one-tenth ( $\frac{1}{10}$ ) of the total floor area of such rooms. ~~up to~~

**(g) The following standards apply to resident rooms:**

**(1) Each room shall have at least eighty (80) square feet per bed for rooms occupied by more than one (1) person and one hundred (100) square feet for single occupancy.**

**(2) A facility initially licensed prior to January 1, 1964, must provide not less than sixty (60) square feet per bed in multiple occupancy rooms.**

**(3) A facility initially licensed after January 1, 1964, must have at least seventy (70) square feet of usable floor area for each bed.**

**(4) Any facility that provides an increase in bed capacity, with plans approved after December 19, 1977, must provide eighty (80) square feet of usable floor area per bed.**

**(5) For facilities and additions to facilities for which construction plans are submitted for approval after July 1, 1984, resident rooms shall not contain more than four (4) residents' beds per room.**

**(h) Each The** facility shall have natural lighting augmented by artificial illumination, when necessary, to provide light intensity and to avoid glare and reflective surfaces that produce discomfort and as indicated in the following table:

Minimum Average Area	Foot-Candles
Corridors and interior ramp	15
Stairways and landing	20
Recreation area	40



Dining area	20
Resident care room	20
Nurses' station	40
Nurses' desk for charts and records	60
Medicine cabinet	75
Utility room	15
Janitor's closet	15
Reading and bed lamps	20
Toilet and bathing facilities	20
Food preparation surfaces and utensil washing facilities	70

(i) ~~Each~~ **The** facility shall house residents only in areas approved by the director for ~~resident~~ housing and given a fire clearance by the state fire marshal. ~~Each~~ **The** facility ~~must comply with the following:~~ **shall:**

(1) Five (5) resident beds per room shall be the maximum bedroom capacity.

(2) A facility initially licensed prior to January 1, 1964, must provide not less than sixty (60) square feet per bed in multiple occupancy rooms. A facility initially licensed after January 1, 1964, must have at least seventy (70) square feet of usable floor area for each bed. Any facility that provides an increase in bed capacity, with plans approved after December 19, 1977, must provide eighty (80) square feet of usable floor area per bed.

(3) Any room utilized for single occupancy must be at least eight (8) feet by ten (10) feet in size with a minimum ceiling height of eight (8) feet. A new facility, plans for which were approved after December 19, 1977, must contain a minimum of one hundred (100) square feet of usable floor space per room for single occupancy.

(4) Each bed shall have an access aisle not less than three (3) feet wide leading to it. Bed arrangement in a multi-occupancy room shall provide at least three (3) feet between beds. If an access aisle is used as a means of egress, it shall not be less than four (4) feet wide.

(5) Basement rooms shall not be used to house residents. For new construction, plans for which were approved after December 19, 1977, rooms below grade level may be used for resident occupancy if the floor of such a room is not more than three (3) feet below ground level.

(6) The resident shall have the following:

(A) A bed:

(i) of proper size and height for the convenience of the resident;

(ii) with a clean and comfortable mattress; and

(iii) with bedding appropriate to the weather, climate, and the comfort of the resident.

A resident may choose his or her own furniture in compliance with the facility's policy manual.

(B) The bed linen, consisting of at least two (2) sheets, a pillowcase for each pillow, and a mattress pad, if required, shall be changed as necessary but not less than once a week.

(C) A blanket and/or bedspread shall be provided and shall be changed as necessary, although a bedspread is not required for a bedfast resident.

(D) Additional clean pillows shall be available for the positioning and comfort of residents.

(7) Each individual resident shall be provided with a complete bedside unit; however, the resident may choose not to use this bedside unit. This unit shall include, but is not limited to, the following:

(A) Bedside cabinet or table with hard surface and washable top.

(B) Private closet space.

(C) Cushioned comfortable chair.

(D) Reading or bed lamp.

(E) If the resident is bedfast, an adjustable over-the-bed table or other suitable device.

(8) Cubicle curtains or screens are not required in a licensed residential facility or in the residential distinct part of a facility; but cubicle curtains or screens must be provided if requested by a resident.

(9) Each facility shall provide an adequate method by which each resident may summon a staff person at any time.

(10) Each resident bedroom shall have a door that swings into the room and opens directly into the corridor or common living area.

(11) Each resident room shall be labeled with a raised or indented number (if approved prior to 1974) or letter, or combination of both.

(12) A resident shall not be housed in such a manner as to require passage through the room of another resident. Bedrooms shall not be used as a thoroughfare.

(13) Hallways and corridors shall not be used as sleeping rooms; use for other purposes may not violate fire codes.

(1) Have a floor at or above grade level. A facility whose plans were approved before the effective date of this rule may use rooms below ground level for resident occupancy if the floors are not more than three (3) feet below ground level.

(2) Provide each resident the following items upon request at the time of admission:

(A) A bed:

(i) of appropriate size and height for the resident;

(ii) with a clean and comfortable mattress; and

(iii) with comfortable bedding appropriate to the temperature of the facility.

(B) A bedside cabinet or table with a hard surface and washable top.

(C) A cushioned comfortable chair.

(D) A bedside lamp.

(E) If the resident is bedfast, an adjustable over-the-bed table or other suitable device.

(3) Provide cubicle curtains or screens if requested by a resident in a shared room.

(4) Provide a method by which each resident may summon a staff person at any time.

(5) Equip each resident unit with a door that swings into the room and opens directly into the corridor or common living area.

(6) Not house a resident in such a manner as to require passage through the room of another resident. Bedrooms shall not be used as a thoroughfare.

(7) Individual closet space. For facilities and additions to facilities for which construction plans are submitted for approval after July 1, 1984, each resident room shall have clothing storage that includes a closet at least two (2) feet wide and two (2) feet deep, equipped with an easily opened door and a closet rod at least eighteen (18) inches long of adjustable height to provide access by residents in wheelchairs.

(j) Each facility shall have adequate toilet and bathing facilities as follows: The following standards apply to toilet, lavatory, and tub or showers:

(1) For facilities initially licensed after (effective date), each unit shall have a private toilet, lavatory, and tub or shower.

(2) For facilities for which plans were approved prior to April 1, 1997, the following criteria is *[sic., are]* applicable:

(†) (A) Bathing facilities for residents not served by bathing facilities in their rooms shall be provided as follows:

Residents	Bathtubs or Showers
3 to 22	1
23 to 37	2
38 to 52	3
53 to 67	4
68 to 82	5
83 to 97	6

Portable bathing units may be substituted for one (†) or more of the permanent fixtures with prior approval of the director.

(B) A central bathing tub shall be available.

(‡) (C) Central bathing and toilet facilities shall be partitioned or curtained for privacy.

(‡) (D) Toilets, bath, and shower compartments shall be separated from rooms by solid walls or partitions that extend from the floor to the ceiling.

(‡) (E) Toilet facilities shall be provided as follows:

Residents of the Same Sex	Toilets	Open-Front Lavatories
3 to 18	1	1
19 to 30	2	2
31 to 42	3	3
43 to 54	4	4
55 to 66	5	5
67 to 78	6	6

(5) Rubber mats or other suitable safety measures shall be used in bathing facilities. Grab bars shall be installed within easy reach of the bather. Additional adaptive equipment for the multi-handicapped shall be provided as needed.

(6) Hot water temperature for all bathing and hand washing facilities shall be controlled by an automatic control valve. Water temperature at point of use must be maintained between one hundred degrees Fahrenheit (100°F) and one hundred twenty degrees

Fahrenheit (120°F):

(7) The use of common towels, washcloths, or toilet articles is prohibited. Each facility shall maintain towels and washcloths in a satisfactory condition for each resident. Individual towel bars shall be provided in the resident's room.

(3) For facilities and additions to facilities for which construction plans are submitted for approval after July 1, 1984, at least one (1) toilet and lavatory shall be provided for each eight (8) residents as follows:

(A) Toilet rooms adjacent to resident bedrooms shall serve no more than two (2) resident rooms or more than eight (8) beds.

(B) The toilet room shall contain a toilet, lavatory, liquid soap, and disposable towel dispenser.

(C) Each resident shall have access to a toilet and lavatory without entering a common corridor area.

(D) For facility with common toilet facilities, at least one (1) toilet and one (1) lavatory for each gender on each floor utilized by residents.

(E) All bathing and shower rooms shall have mechanical ventilation.

(k) Each facility shall have a nurses' station in a convenient location in the nursing area. The nurses' station shall be equipped with the following:

(1) A desk.

(2) A chair.

(3) Records storage.

(4) A bookshelf for references.

(5) A bulletin board.

(6) A telephone for staff use.

Hot water temperature for all bathing and hand washing facilities shall be controlled by an automatic control valve. Water temperature at point of use must be maintained between one hundred (100) degrees Fahrenheit and one hundred twenty (120) degrees Fahrenheit.

(l) ~~Each~~ The facility shall have a nourishment ~~pantry~~ or station for supplemental food service **separate from the resident's unit.**

(m) Ice shall be **readily** available **to residents** at all times in the facility.

(n) Each facility that administers medication to residents shall provide a medicine station for convenient and prompt twenty-four (24) hour distribution of medicine to residents as follows:

(1) The medicine preparation room shall be under the visual control of the nursing staff; be located adjacent to the nurses' station; and contain a well-lighted work counter, refrigerator, and locked storage for biochemicals and drugs.

(2) The medication preparation room shall have provision of water for hand washing and for medication administration.

(3) If medicine dispensing carts are used, a specific space shall be provided in the nurses' station, medication room, or an alcove or other space under direct control of the nursing staff. The nurses' station shall have provision for hand washing and water for medication purposes.

(4) The medicine room shall be clean, orderly, and used for the storage of drugs, nursing supplies, and first aid supplies.

(o) Each facility shall have equipment storage rooms for storage of equipment such as wheelchairs, walkers, or bed rails; so as not to interfere with the operation of any department or be inconvenient for residents or personnel. A hallway shall not be used for the storage of equipment.

~~(p)~~ **(n)** The facility shall have living areas with sufficient space to accommodate the dining, activity, and lounge needs of the residents and to prevent the interference of one (1) function with another as follows:

(1) In a facility licensed prior to June 1970, the lounge area, which may also be used for dining, shall be a minimum of ten (10) square feet per bed.

(2) In a facility licensed since June 1970, total dining, activity, and lounge area shall be at least twenty (20) square feet per bed.

~~(3)~~ **(1)** Dining, lounge, and activity areas shall be:

(A) readily accessible to wheelchair and ambulatory residents; and

(B) sufficient in size to accommodate necessary equipment and to permit unobstructed movement of wheelchairs, residents, and personnel responsible for assisting, instructing, or supervising residents.

~~(4)~~ **(2)** Dining tables of the appropriate height shall be provided to assure access to meals and comfort for residents seated in wheelchairs, geriatric chairs, and regular dining chairs. ~~Facilities having continuing deficiencies in the service of resident meals~~

directly attributable to inadequacies in the size of the dining room or dining areas shall submit a special plan of correction detailing how meal service will be changed to meet the residents' needs.

(5) (3) A comfortably furnished resident living and lounge area shall be provided on each resident occupied floor of a multi-story building. This lounge may be furnished and maintained to accommodate activity and dining functions.

(6) The provision of an activity area shall be based on the level of care of the residents housed in the facility. The facility shall provide the following:

(A) Equipment and supplies for independent and group activities and for residents having special needs.

(B) Space to store recreational equipment and supplies for the activities program within or convenient to the area.

(C) Locked storage for potentially dangerous items such as scissors, knives, razor blades, or toxic materials.

(D) In a facility for which plans were approved after December 19, 1977, a restroom large enough to accommodate a wheelchair and equipped with grab bars located near the activity area.

(4) An area for resident activities. In a facility for which plans were approved after December 19, 1977, a restroom large enough to accommodate a wheelchair and equipped with grab bars located near the activity room shall be provided.

(5) For facilities and additions to facilities for which construction plans are submitted for approval after July 1, 1984, the total area for resident dining, activities, and lounge purposes shall not be less than thirty (30) square feet per bed.

(q) (o) Each facility shall have an adequate kitchen that complies with 410 IAC 7-15.1 as follows:

(1) The kitchen shall be properly located for efficient food service and be large enough to accommodate the equipment and personnel needed to prepare and serve the number of meals required.

(2) Available storage space in a room adjacent to or convenient to the kitchen shall be provided for at least a three (3) day supply of staple food both for normal and emergency needs.

(3) A supervisory work area, not necessarily in the kitchen, but including space for at least one (1) desk, chair, bookshelf, and filing cabinet, shall be provided.

(4) Facilities having continuing food service deficiencies that are directly attributable to inadequacies in the size of the kitchen, food storage area, food preparation or dish washing area or to inadequacies in furnishings, equipment or arrangement will require a special plan of correction. The plan of correction shall be prepared by a person having knowledge in the design of food service operations, such as a registered dietitian, food facilities consultant, or licensed architect or registered engineer.

(5) This rule does not preclude the development of alternate food preparation and service systems. If a facility wishes to implement an alternate system, a written proposal and plan of operation shall be submitted to the director for review and approval.

#### 410 IAC 7-20.

(r) Each (p) The facility shall have a janitor's closet conveniently located on each resident occupied floor of the facility. The janitor's closet shall contain a sink or floor receptacle and storage for cleaning supplies. The door to the janitor's closet shall be equipped with a lock and shall be locked when hazardous materials are stored in the closet.

(s) Each (q) The facility shall have laundry services either in-house or with a commercial laundry by contract as follows:

(1) If a facility operates its own laundry, the laundry shall be

(A) designed and operated to promote a flow of laundry from the soiled utility area toward the clean utility area to prevent contamination.

(B) adequate in size, well lighted, and ventilated to meet the needs of the facility;

(C) equipped with suitable capacity machines that shall be kept in good repair and maintained in a sanitary condition; and

(D) maintained in a clean and sanitary condition.

(2) If a facility does not maintain a laundry on the premises, a commercial laundry shall be utilized.

(3) Laundry areas shall have, at a minimum, the following:

(A) Separate areas for the storage of clean linen and soiled linen.

(B) Hand washing and toilet facilities maintained at locations convenient for laundry personnel.

(C) Separate linen carts appropriately labeled for soiled or clean linen and constructed of washable materials that shall be laundered or suitably cleaned as needed to maintain sanitation.

(4) (2) Written procedures for handling, storage, transportation, and processing of linens shall be posted in the laundry and shall be implemented.

(t) Each facility that has a beauty or barber shop shall locate it in a separate room in accordance with the facility's policy for hair care. Provisions shall be made for the disinfection of equipment used, such as brushes, combs, or hair rollers. The room shall be equipped with a shampoo sink that is installed and maintained in accordance with applicable plumbing codes.

~~(u)~~ Each facility that provides living quarters for owners, managers, employees, and their families shall provide them in a manner that will not interfere with the privacy, well-being, comfort, and safety of the residents.

**(r)** For facilities and additions to facilities for which construction plans are submitted for approval after July 1, 1984, if the facility provides therapy, the facility shall have a therapy area.

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

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

*(Indiana State Department of Health; 410 IAC 16.2-5-1.6; filed Jan 10, 1997, 4:00 p.m.: 20 IR 1571, 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 2415; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1925, eff Mar 1, 2003)*

SECTION 9. 410 IAC 16.2-5-2 IS AMENDED TO READ AS FOLLOWS:

#### **410 IAC 16.2-5-2 Evaluation**

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

**Affected:** IC 16-28-5-1

Sec. 2. (a) An ~~assessment~~ **evaluation** of the individual needs of each resident shall be initiated prior to admission and shall be updated at least semiannually **and upon a known substantial change in the resident's condition, or more often at the resident's or facility's request. A licensed nurse shall evaluate the nursing needs of the resident.**

(b) The preadmission evaluation (interview) shall provide the baseline information for the initial ~~assessment.~~ **evaluation.** Subsequent ~~assessments~~ **evaluations** shall compare the resident's current status to his **or her** status on admission and shall be used to assure that the care the resident requires is within the range of personal care and supervision provided by a residential care facility.

(c) The scope and content of the ~~assessment~~ **evaluation** shall be delineated in the facility policy manual, but at a minimum the needs assessment shall include an evaluation of the following:

- (1) ~~Each~~ **The** resident's physical and mental ~~ability to manage his own affairs.~~ **status.**
- (2) ~~Each~~ **The** resident's independence in the activities of daily living.
- (3) ~~Each~~ **The** resident's weight taken on admission and semiannually thereafter.
- (4) ~~Each~~ **If applicable, the** resident's height ~~measured on admission.~~ **ability to self-administer medications.**

(d) The ~~assessment~~ **evaluation** shall be documented in writing **and** kept in the facility. ~~and used by the facility personnel in meeting the medical and psychosocial needs of the resident.~~

(e) Following completion of an evaluation, the facility, using appropriately trained staff members, shall identify and document the services to be provided by the facility, as follows:

- (1) The services offered to the individual resident shall be appropriate to the scope, frequency, need, and preference of the resident.
- (2) The services offered shall be reviewed and revised as appropriate and discussed by the resident and facility as needs or desires change. Either the facility or the resident may request a service plan review.
- (3) The agreed upon service plan shall be signed and dated by the resident, and a copy of the service plan shall be given to the resident upon request.
- (4) No identification and documentation of services provided is needed if evaluations subsequent to the initial evaluation indicate no need for a change in services.
- (5) If administration of medications and/or the provision of residential nursing services is needed, a licensed nurse shall be involved in identification and documentation of the services to be provided.

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

- (1) subsection (a), ~~through~~ **(b), or (e) is a deficiency; and**
- (2) **subsection (c) or (d) is a noncompliance.**

*(Indiana State Department of Health; 410 IAC 16.2-5-2; filed May 2, 1984, 2:50 p.m.: 7 IR 1497; filed Jan 10, 1997, 4:00 p.m.: 20 IR 1575, eff Apr 1, 1997; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1929, eff Mar 1, 2003)*

SECTION 10. 410 IAC 16.2-5-4 IS AMENDED TO READ AS FOLLOWS:

**410 IAC 16.2-5-4 Health services**

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

**Affected: IC 16-28-5-1**

Sec. 4. (a) Personal care and supervision shall be provided based upon individual needs as follows:

(1) Each resident shall be assisted in or occasionally given personal care, as needed.

(2) Each resident shall show evidence of good personal hygiene and clean clothing; **have a primary care physician selected by the resident. If desired, the resident may designate a dentist.**

(b) ~~Personnel shall supervise the nutritional status of the residents. Each facility shall choose whether or not it administers medication and/or provides residential nursing care. These policies shall be delineated in the facility policy manual and clearly stated in the admission agreement.~~

(c) ~~Bedside medications and treatments for self-administration shall be permitted with the approval of the resident's attending physician, unless self-administration of medications is contraindicated by the facility's policy. Personal care, and assistance with activities of daily living, shall be provided based upon individual needs and preferences.~~

(d) ~~The administration of drugs medications and treatments, including alcoholic beverages, nutrition concentrates, and therapeutic supplements, the provision of residential nursing care shall be as ordered by the attending resident's physician and shall be supervised by a licensed nurse on the premises or on call as follows:~~

(1) 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 person or persons have been properly qualified in medication administration by a state-approved course except as limited in subdivision (6):~~

(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 in **the individual's** medication and treatment records, ~~including records of oxygen administration;~~ that indicate the time, name of medication or treatment, dosage (if applicable), and name or initials of the person administering the drug or treatment. ~~as follows:~~

(A) ~~Notations shall describe nursing care provided and the reason for and results of all per required need (PRN) treatments and medications administered:~~

(B) ~~The facility may use a separate medication or treatment sheet to record the information and the medication or treatment sheet may be kept separately from the nurses' notes until completed:~~

(C) ~~Completed medication or treatment sheets shall be added to each individual resident's record:~~

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

(5) ~~Preparation 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) ~~(6) PRN medications may be administered by a qualified medication aides (QMAs) aide (QMA) only upon authorization by a licensed nurse or physician. The QMA must receive appropriate authorization for each administration of a PRN medication.~~ 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) ~~(7) 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.~~

(e) ~~If treatment(s) not involving medication are given by facility personnel, the treatment(s) shall be prescribed by the physician and shall be instituted using proper and safe techniques as follows:~~

(1) ~~Treatments not involving medications may be given by nurse aides who have been instructed in the administration of the~~

treatment by licensed nursing personnel. All PRN treatments, not involving medications, may be given only upon authorization by a licensed nurse.

(2) The resident shall be observed for effects of the treatment. Documentation of any undesirable effect shall be contained in the clinical record and the physician shall be notified. Such notification shall be documented in the clinical record.

(3) The person who has administered the treatment shall document such in accordance with subsection (d)(3).

~~(f)~~ (e) The facility shall have available on the premises or on call the services of a licensed nurse at all times. The licensed nurse may, at the request of a resident, provide consultation and advice to residents; review clinical records; and assess the health condition of the residents. If medications are administered by the facility, then the facility shall provide at least ten (10) minutes of licensed nursing care per resident receiving medication during each two (2) week period.

(g) The facility shall develop, adopt, and implement a manual of written policies and procedures on cleaning, disinfecting, and sterilization. All procedures shall be carried out in accordance with the manual, which shall be available for the use of the facility personnel. The manual shall include procedures in the care of utensils, instruments, solutions, dressings, articles, and surfaces, including, but not limited to, the following:

(1) Bedside equipment such as commode pails, wash basins, emesis basins, bedpans, and urinals shall be maintained in a clean condition and disinfected as appropriate. Bedside equipment shall be washed and rinsed and then disinfected daily, if used by the same resident or after each use between residents by one (1) of the following techniques:

(A) Immersion for at least two (2) minutes in clean, hot water at a temperature of at least one hundred seventy degrees Fahrenheit (170°F);

(B) Immersion in a clean solution containing an appropriate disinfecting agent that will provide the equivalent bactericidal effect of a solution containing at least one hundred (100) parts per million of available chlorine as hypochlorite at a temperature between seventy-five degrees Fahrenheit (75°F) and one hundred ten degrees Fahrenheit (110°F) for at least one (1) minute.

(C) Mechanical utensil washing by a machine capable of rendering the bedside equipment clean and disinfecting by means of hot water or chemicals.

(D) Steam operated sterilizer.

(2) Bathing tubs shall be disinfected after each use.

(3) Bedside equipment and eating or drinking utensils shall not be commingled during the disinfection process.

(4) Individualized resident care supply items designed and identified by the manufacturer to be disposable shall not be reused and shall be destroyed.

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

(1) subsection ~~(d)~~ (d)(1), (d)(2), or (d)(5) is an offense;

(2) subsection (a), (c), (d)(3), (d)(6), (d)(7), or (e) is a deficiency;

~~(2)~~ (3) subsection ~~(a)~~; ~~(b)~~; ~~(c)~~; ~~(f)~~; or ~~(g)~~ (d)(4) is a noncompliance; and

(4) subsection (b) is a nonconformance.

*(Indiana State Department of Health; 410 IAC 16.2-5-4; filed May 2, 1984, 2:50 p.m.: 7 IR 1497; filed Jan 10, 1997, 4:00 p.m.: 20 IR 1576, eff Apr 1, 1997; errata filed Apr 10, 1997, 12:15 p.m.: 20 IR 2415; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1929, eff Mar 1, 2003)*

SECTION 11. 410 IAC 16.2-5-5.1 IS ADDED TO READ AS FOLLOWS:

#### **410 IAC 16.2-5-5.1 Food and nutritional services**

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

**Affected:** IC 16-28-5-1

**Sec. 5.1. (a)** The facility shall provide, arrange, or make available three (3) well-planned meals a day, seven (7) days a week that provide a balanced distribution of the daily nutritional requirements.

**(b)** The menu or substitutions, or both, for all meals shall be approved by a registered dietitian.

**(c)** The facility must meet:

**(1)** daily dietary requirements and requests, with consideration of food allergies;

**(2)** reasonable religious, ethnic, and personal preferences; and

(3) the temporary need for meals delivered to the resident's room.

(d) All modified diets shall be prescribed by the attending physician.

(e) All food shall be served at a safe and appropriate temperature.

(f) All food preparation and serving areas (excluding areas in residents' units) are maintained in accordance with state and local sanitation and safe food handling standards, including 410 IAC 7-20.

(g) There shall be an organized food service department directed by a supervisor competent in food service management and knowledgeable in sanitation standards, food handling, food preparation, and meal service.

(1) The supervisor must be one (1) of the following:

(A) A dietitian.

(B) A graduate or student enrolled in and within one (1) year from completing a division approved, minimum ninety (90) hour classroom instruction course that provides classroom instruction in food service supervision who has a minimum of one (1) year of experience in some aspect of institutional food service management.

(C) A graduate of a dietetic technician program approved by the American Dietetic Association.

(D) A graduate of an accredited college or university or within one (1) year of graduating from an accredited college or university with a degree in foods and nutrition or food administration with a minimum of one (1) year of experience in some aspect of food service management.

(E) An individual with training and experience in food service supervision and management.

(2) If the supervisor is not a dietitian, a dietitian shall provide consultant services on the premises at peak periods of operation on a regularly scheduled basis.

(3) Food service staff shall be on duty to ensure proper food preparation, serving, and sanitation.

(h) Diet orders shall be reviewed and revised by the physician as the resident's condition requires.

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

(1) subsection (a), (c), (d), (e), (f), or (h) is a deficiency; and

(2) subsection (b) or (g) is a noncompliance.

*(Indiana State Department of Health; 410 IAC 16.2-5-5.1; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1931, eff Mar 1, 2003)*

SECTION 12. 410 IAC 16.2-5-6 IS AMENDED TO READ AS FOLLOWS:

#### **410 IAC 16.2-5-6 Pharmaceutical services**

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

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

Sec. 6. (a) ~~If the Residents retain and self-administer medications, the facility shall make arrangements to ensure that pharmaceutical services are available to provide residents with prescribed who self-medicate may keep and use prescription and nonprescription medications in accordance with applicable laws of Indiana if requested by the their unit as long as they keep them secured from other residents.~~

(b) The facility shall maintain clear written policies and procedures on medication assistance. The facility shall provide for ongoing training to ensure competence of medication staff.

~~(b)~~ (c) If the facility controls, handles, and administers medications **for a resident**, the facility shall do the following **for that resident**:

(1) Make arrangements to ensure that pharmaceutical services are available to provide residents with prescribed medications in accordance with applicable laws of Indiana.

(2) A consultant pharmacist shall be employed, or under contract, and shall:

~~(A)~~ be responsible for the duties as specified in ~~856 IAC 1-7-7 as follows:~~ **856 IAC 1-7;**

~~(A)~~ **(B)** review the drug handling and storage practices in the facility;

~~(B)~~ **(C)** provide consultation on methods and procedures of ordering, storing, administering, and disposing of drugs as well as



medication record keeping;

~~(C)~~ **(D)** report, in writing, to the administrator ~~and director of nursing or his or her designee~~ any irregularities in dispensing or administration of drugs; **and**

**(E) review the drug regimen of each resident receiving these services at least once every sixty (60) days.**

~~(3) Pharmacy consultation shall be provided to licensed personnel.~~

~~(4) The consultant pharmacist shall provide written reports to the administrator of the frequency, nature, and duration of the visits to the facility.~~

~~(5)~~ **(3)** The medication review, ~~and recommendations, shall be documented as well as the~~ **and** notification of the physician, if necessary, **shall be documented** in accordance with the facility's policy.

~~(6) A facility shall not purchase or store anywhere on the premises any drug for a resident except those prescribed or ordered for the individual resident by the physician and those drugs authorized for the emergency kit.~~

**(4) 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.**

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

~~(d) 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.~~

~~(e) All drugs shall be labeled in compliance with state and federal laws governing prescription dispensing. If the facility receives incorrectly labeled medications, the pharmacy shall be notified immediately. Labeling shall be done as follows:~~

~~(1)~~ **(5)** Labeling of prescription drugs shall include the following:

~~(A) The Resident's full name.~~

~~(B) The Physician's name.~~

~~(C) The Prescription number.~~

~~(D) The Name and strength of the drug.~~

~~(E) Directions for use.~~

~~(F) Date of issue **and**~~

~~(G) An expiration date (when applicable).~~

~~(H) The~~ **(G)** Name and address of the pharmacy that filled the prescription.

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

~~(2) Nursing supplies, such as hydrogen peroxide, sterile water, rubbing alcohol, nonmedicated skin preparations, and emollients, need not comply with subdivision (1); although such supplies must be in the original manufacturer's container with the manufacturer's label intact.~~

~~(3) Therapeutic concentrates, nutritional supplements, and alcoholic beverages shall be labeled in conformance with state and federal food and drug laws. Such items shall be in containers with the original manufacturer's label still intact and legible. Containers of therapeutic concentrates, that is, vitamins or minerals, shall be identified with the resident's name and room number.~~

~~(4) No person other than the dispenser of the drug shall alter any prescription label.~~

~~(5) The labels on all medications shall be clean and legible. If, in the opinion of the consultant pharmacist or licensed nurse, the labels on the medication are illegible, the medication shall either be relabeled by the issuing pharmacy or destroyed. Containers that are cracked, soiled, or without secure closure shall not be used.~~

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

**(A) Resident name.**

**(B) Physician name.**

**(C) Expiration date.**

**(D) Name of drug.**

**(E) Strength.**

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

~~(f)~~ **(e)** Medicine or treatment cabinets or rooms shall be **appropriately** locked at all times except when authorized personnel are present. ~~These cabinets shall also be used as follows:~~

~~(1) The key for the lock of the room or cabinet shall be carried or be accessible to only those persons authorized to handle and administer drugs.~~

~~(2) Drugs shall be stored in a clean and orderly manner in cabinets, drawers, or carts of sufficient size to prevent crowding.~~

~~(3) All Schedule II drugs individually prescribed administered by the facility shall be kept in individual containers under double lock and stored in a substantially constructed box, cabinet, or mobile drug storage unit.~~

~~(4) Bedside medications for self-administration shall be allowed only upon order of the resident's attending physician.~~

~~(5) Only authorized personnel shall handle or administer drugs or other therapy as specified in section 4(d) of this rule.~~

~~(6) Emergency medication shall be stored in a suitable box or cubicle equipped with a seat.~~

~~(g) 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 as follows:~~

~~(1) All unused portions of any properly labeled medications, including controlled substances, shall be released to the discharged resident upon written order of the physician.~~

~~(2) Unopened and unexposed medication may be returned to the issuing pharmacy for credit to the appropriate party.~~

~~(3) 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.~~

**(f) Residents may use the pharmacy of their choice for medications administered by the facility, as long as the pharmacy:**

**(1) complies with the facility policy receiving, packaging, and labeling of pharmaceutical products unless contrary to state and federal laws;**

**(2) provides prescribed service on a prompt and timely basis; and**

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

~~(4) (g) Medications administered by the facility shall be disposed in compliance with appropriate federal, state, and local laws, and disposition of any released, returned, or destroyed medication shall be written~~ **documented** in the resident's clinical record and shall include the following information:

~~(A)~~ **(1)** The name of the resident.

~~(B)~~ **(2)** The name and strength of the drug.

~~(C)~~ **(3)** The prescription number.

~~(D)~~ **(4)** The reason for disposal.

~~(E)~~ **(5)** The amount disposed of.

~~(F)~~ **(6)** The method of disposition.

~~(G)~~ **(7)** The date of the disposal.

~~(H)~~ **(8)** The ~~signatures~~ **signature** of the ~~persons~~ **person** conducting the disposal of the drug.

**(9) The signature of a witness, if any, to the disposal of the drug.**

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

(1) subsection ~~(a)~~, ~~(b)(1)~~, **(c)(2)**, **(c)(4)**, **(c)(5)**, **(c)(6)**, **(d)**, or ~~(f)~~ **(e)** is a deficiency; and

(2) subsection ~~(b)(2)~~, ~~(b)(3)~~, ~~(b)(4)~~, ~~(b)(5)~~, ~~(b)(6)~~, ~~(c)~~, ~~(d)~~, ~~(e)~~, **(a)**, **(b)**, **(c)(1)**, **(c)(3)**, **(f)**, or (g) is a noncompliance.

*(Indiana State Department of Health; 410 IAC 16.2-5-6; filed May 2, 1984, 2:50 p.m.: 7 IR 1498; filed Jan 10, 1997, 4:00 p.m.: 20 IR 1579, eff Apr 1, 1997; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1932, eff Mar 1, 2003)*

SECTION 13. 410 IAC 16.2-5-7.1 IS ADDED TO READ AS FOLLOWS:

#### **410 IAC 16.2-5-7.1 Activities programs**

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

**Affected:** IC 16-28-5-1

**Sec. 7.1. (a) The facility shall provide activities programs appropriate to the abilities and interests of the residents being**

served.

(b) The facility shall provide and/or coordinate scheduled transportation to community-based activities.

(c) An activities director shall be designated and must be one (1) of the following:

- (1) A recreation therapist.
- (2) An occupational therapist or a certified occupational therapy assistant.
- (3) An individual who has satisfactorily completed or will complete within one (1) year an activities director course approved by the division.

(d) After July 1, 1984, any person who has not completed an activities director course approved by the division shall receive consultation until the person has completed such a course. Consultation shall be provided by:

- (1) a recreation therapist;
- (2) an occupational therapist or occupational therapist assistant; or
- (3) a person who has completed a division approved course and has two (2) years of experience.

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

- (1) subsection (a) is a deficiency;
- (2) subsection (c) or (d) is a noncompliance; and
- (3) subsection (b) is a nonconformance.

*(Indiana State Department of Health; 410 IAC 16.2-5-7.1; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1933, eff Mar 1, 2003)*

SECTION 14. 410 IAC 16.2-5-8.1 IS ADDED TO READ AS FOLLOWS:

#### **410 IAC 16.2-5-8.1 Clinical records**

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

**Affected:** IC 16-28-5-1

**Sec. 8.1. (a)** The facility must maintain clinical records on each resident. These records must be maintained under the supervision of an employee of the facility designated with that responsibility. The records must be as follows:

- (1) Complete.
- (2) Accurately documented.
- (3) Readily accessible.
- (4) Systematically organized.

(b) Clinical records must be retained after discharge:

- (1) for a minimum period of one (1) year in the facility and five (5) years total; or
- (2) for a minor, until twenty-one (21) years of age.

(c) The facility must safeguard clinical record information against loss, destruction, or unauthorized use.

(d) The facility must keep confidential all information contained in the resident's records, regardless of the form or storage method of the records, and release such records only as permitted by law.

(e) The clinical record must contain the following:

- (1) Sufficient information to identify the resident.
- (2) A record of the resident's evaluations.
- (3) Services provided.
- (4) Progress notes.

(f) The facility shall have a policy that ensures the staff has sufficient information to meet the residents' needs.

(g) A transfer form shall include the following:

- (1) Identification data.

- (2) Name of the transferring institution.
- (3) Name of the receiving institution and date of transfer.
- (4) Resident's personal property when transferred to an acute care facility.
- (5) Nurses' notes relating to the resident's:
  - (A) functional abilities and physical limitations;
  - (B) nursing care;
  - (C) medications;
  - (D) treatment; and
  - (E) current diet and condition on transfer.
- (6) Diagnosis.
- (7) Date of chest x-ray and skin test for tuberculosis.

(h) Current clinical records shall be completed promptly, and those of discharged residents shall be completed within seventy (70) days of the discharge date.

(i) A current emergency information file shall be immediately accessible for each resident, in case of emergency, that contains the following:

- (1) The resident's name, sex, room or apartment number, phone number, age, or date of birth.
- (2) The resident's hospital preference.
- (3) The name and phone number of any legally authorized representative.
- (4) The name and phone number of the resident's physician of record.
- (5) The name and telephone number of the family members or other persons to be contacted in the event of an emergency or death.
- (6) Information on any known allergies.
- (7) A photograph (for identification of the resident).
- (8) Copy of advance directives, if available.

(j) If a death occurs, information concerning the resident's death shall include the following:

- (1) Notification of the physician, family, responsible person, and legal representative.
- (2) The disposition of the body, personal possessions, and medications.
- (3) A complete and accurate notation of the resident's condition and most recent vital signs and symptoms preceding death.

(k) The facility shall store inactive clinical records in accordance with applicable state and federal laws in a safe and accessible manner. The storage facilities shall provide protection from vermin and unauthorized use.

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

- (1) subsection (a), (c), (d), (e), (f), (g), (i), or (j) is a noncompliance; and
- (2) subsection (b), (h), or (k) is a nonconformance.

*(Indiana State Department of Health; 410 IAC 16.2-5-8.1; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1934, eff Mar 1, 2003)*

SECTION 15. 410 IAC 16.2-5-11.1 IS ADDED TO READ AS FOLLOWS:

**410 IAC 16.2-5-11.1 Mental health screening for individuals who are recipients of Medicaid or federal Supplemental Security Income**

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

**Affected:** IC 12-10-6; IC 16-28-5-1

**Sec. 11.1. (a)** As used in this section, "mental health service provider" means the community mental health center local to the residential care facility.

**(b)** If the individual is a recipient of Medicaid or federal Supplemental Security Income (SSI), the individual needs evaluation provided in section 2(a) of this rule shall include, but not be limited to, the following:

- (1) Screening of the individual for major mental illness, such as a diagnosed major mental illness, is limited to the

following disorders:

- (A) Schizophrenia.
- (B) Schizoaffective disorder.
- (C) Mood (bipolar and major depressive type) disorder.
- (D) Paranoid or delusional disorder.
- (E) Panic or other severe anxiety disorder.
- (F) Somatoform or paranoid disorder.
- (G) Personality disorder.
- (H) Atypical psychosis or other psychotic disorder (not otherwise specified).

(2) Obtaining a history of treatment received by the individual for a major mental illness within the last two (2) years.

(3) Obtaining a history of individual behavior within the last two (2) years that would be considered dangerous to facility residents, the staff, or the individual.

(c) If a person is a recipient of Medicaid or federal SSI and has a major mental illness as defined by the individual needs assessment, the person will be referred to the mental health service provider for a consultation on needed treatment services. All residents who participate in Medicaid or SSI admitted after April 1, 1997, shall have a completed individual needs assessment in their clinical record. All persons admitted after April 1, 1997, shall have the assessment completed prior to the admission, and, if a mental health center consultation is needed, the consultation shall be completed prior to the admission and a copy maintained in the clinical record.

(d) When a state hospital refers a person with a major mental illness, the residential care facility shall request that a copy of the psychosocial and treatment recommendations collaboratively developed between the state hospital and the mental health center be forwarded to the residential care facility so that the residential care facility can determine the degree to which it can provide or arrange for the provision of such service.

(e) The residential care facility shall not admit residents with a major mental illness if:

- (1) the mental health service provider determines that the resident's needs cannot be met; and
- (2) the residential care facility does not have a means to access needed services to carry out the comprehensive care plan.

(f) Each resident with a major mental illness must have a comprehensive care plan that is developed within thirty (30) days after admission to the residential care facility.

(g) The residential care facility, in cooperation with the mental health service providers, shall develop the comprehensive care plan for the resident that includes the following:

- (1) Psychosocial rehabilitation services that are to be provided within the community.
- (2) A comprehensive range of activities to meet multiple levels of need, including the following:
  - (A) Recreational and socialization activities.
  - (B) Social skills.
  - (C) Training, occupational, and work programs.
  - (D) Opportunities for progression into less restrictive and more independent living arrangements.

(h) The residential care facility shall provide or arrange for services to carry out the resident's comprehensive care plan.

(i) The residential care facility shall seek appropriate alternate placement in accordance with 410 IAC 16.2-2-3 if the resident's needs or comprehensive care plan, or both, cannot be met by the residential care facility.

(j) The facility must comply with IC 12-10-6 for those residents eligible for residential care assistance.

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

- (1) subsection (e) is an offense;
- (2) subsection (b), (c), (g), (h), or (i) is a deficiency; and
- (3) subsection (d), (f), or (j) is a noncompliance.

*(Indiana State Department of Health; 410 IAC 16.2-5-11.1; filed Jan 21, 2003, 8:34 a.m.; 26 IR 1935, eff Mar 1, 2003)*

SECTION 16. 410 IAC 16.2-5-12 IS ADDED TO READ AS FOLLOWS:

**410 IAC 16.2-5-12 Infection control**

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

**Affected:** IC 4-21.5; IC 16-28-5-1

**Sec. 12. (a)** The facility must establish and maintain an infection control practice designed to provide a safe, sanitary, and comfortable environment and to help prevent the development and transmission of diseases and infection.

**(b)** The facility must establish an infection control program that includes the following:

- (1)** A system that enables the facility to analyze patterns of known infectious symptoms.
- (2)** Provides orientation and in-service education on infection prevention and control, including universal precautions.
- (3)** Offering health information to residents, including, but not limited to, infection transmission and immunizations.
- (4)** Reporting communicable disease to public health authorities.

**(c)** Each resident shall have a diagnostic chest x-ray completed no more than six (6) months prior to admission.

**(d)** Prior to admission, each resident shall be required to have a health assessment, including history of significant past or present infectious diseases and a statement that the resident shows no evidence of tuberculosis in an infectious stage as verified upon admission and yearly thereafter.

**(e)** In addition, a tuberculin skin test shall be completed within three (3) months prior to admission or upon admission and read at forty-eight (48) to seventy-two (72) hours. The result shall be recorded in millimeters of induration with the date given, date read, and by whom administered and read.

**(f)** For residents 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 within one (1) to three (3) weeks after the first test. The frequency of repeat testing will depend on the risk of infection with tuberculosis.

**(g)** All residents who have a positive reaction to the tuberculin skin test shall be required to have a chest x-ray and other physical and laboratory examinations in order to complete a diagnosis.

**(h)** All skin testing for tuberculosis shall be done using the Mantoux method (5TU, PPD) administered by persons having documentation of training from a department-approved course of instruction in intradermal tuberculin skin testing, reading, and recording.

**(i)** Persons with a documented history of a positive tuberculin skin test, adequate treatment for disease, or preventive therapy for infection shall be exempt from further skin testing. In lieu of a tuberculin skin test, these persons should have an annual risk assessment for the development of symptoms suggestive of tuberculosis, including, but not limited to, cough, fever, night sweats, and weight loss. If symptoms are present, the individual shall be evaluated immediately with a chest x-ray.

**(j)** When the infection control program determines that a resident needs isolation to prevent the spread of infection, the facility must isolate the resident only to the degree needed to isolate the infecting organism.

**(k)** The facility must require staff to wash their hands after each direct resident contact for which hand washing is indicated by accepted professional practice.

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

- (1)** subsection (a) is an offense;
- (2)** subsection (j) or (k) is a deficiency; and
- (3)** subsection (b), (c), (d), (e), (f), (g), (h), or (i) is a noncompliance.

*(Indiana State Department of Health; 410 IAC 16.2-5-12; filed Jan 21, 2003, 8:34 a.m.; 26 IR 1935, eff Mar 1, 2003)*

SECTION 17. THE FOLLOWING ARE REPEALED: 410 IAC 16.2-1-0.5; 410 IAC 16.2-1-1; 410 IAC 16.2-1-2; 410 IAC 16.2-1-2.1; 410 IAC 16.2-1-2.2; 410 IAC 16.2-1-3; 410 IAC 16.2-1-3.5; 410 IAC 16.2-1-5; 410 IAC 16.2-1-6; 410 IAC 16.2-1-6.5; 410 IAC 16.2-1-7; 410 IAC 16.2-1-8; 410 IAC 16.2-1-9; 410 IAC 16.2-1-10.1; 410 IAC 16.2-1-10.2; 410 IAC 16.2-1-11; 410 IAC 16.2-1-12.5; 410 IAC 16.2-1-14; 410 IAC 16.2-1-14.1; 410 IAC 16.2-1-14.2; 410 IAC 16.2-1-15; 410 IAC 16.2-1-15.1; 410 IAC 16.2-1-15.2; 410 IAC 16.2-1-15.3; 410 IAC 16.2-1-16; 410 IAC 16.2-1-17; 410 IAC 16.2-1-18; 410 IAC 16.2-1-18.1; 410 IAC 16.2-1-18.2; 410 IAC 16.2-1-19; 410 IAC 16.2-1-19.1; 410 IAC 16.2-1-20; 410 IAC 16.2-1-21; 410 IAC 16.2-1-22; 410 IAC 16.2-1-22.1; 410 IAC 16.2-1-22.2; 410 IAC 16.2-1-23; 410 IAC 16.2-1-24; 410 IAC 16.2-1-25; 410 IAC 16.2-1-26; 410 IAC 16.2-1-26.1; 410 IAC 16.2-1-27; 410 IAC 16.2-1-27.1; 410 IAC 16.2-1-28; 410 IAC 16.2-1-29; 410 IAC 16.2-1-29.1; 410 IAC 16.2-1-30; 410 IAC 16.2-1-31; 410 IAC 16.2-1-31.1; 410 IAC 16.2-1-32; 410 IAC 16.2-1-32.1; 410 IAC 16.2-1-32.2; 410 IAC 16.2-1-33; 410 IAC 16.2-1-34; 410 IAC 16.2-1-35; 410 IAC 16.2-1-36; 410 IAC 16.2-1-37; 410 IAC 16.2-1-38; 410 IAC 16.2-1-39; 410 IAC 16.2-1-39.1; 410 IAC 16.2-1-41.1; 410 IAC 16.2-1-42; 410 IAC 16.2-1-44; 410 IAC 16.2-1-45; 410 IAC 16.2-1-46; 410 IAC 16.2-1-47; 410 IAC 16.2-1-48; 410 IAC 16.2-5-1.7; 410 IAC 16.2-5-3; 410 IAC 16.2-5-5; 410 IAC 16.2-5-7; 410 IAC 16.2-5-8; 410 IAC 16.2-5-9; 410 IAC 16.2-5-10; 410 IAC 16.2-5-11.

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