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

Proposed Rule
LSA Document #04-229

DIGEST

Amends 440 IAC 7.5 to make clearer the intent of the residential rule, to make it consistent throughout, to repeal the \$520 limit on the residential living allowance, and to update references to the 2000 edition of the Life Safety Code. Effective 30 days after filing with the secretary of state.

440 IAC 7.5-1-1	440 IAC 7.5-8-1
440 IAC 7.5-2-1	440 IAC 7.5-8-2
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440 IAC 7.5-3-4	440 IAC 7.5-10-1
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440 IAC 7.5-4-8	440 IAC 7.5-11
440 IAC 7.5-5-1	

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

440 IAC 7.5-1-1 Definitions

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

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

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

(1) "Addiction" means alcoholism or addiction to:

- (A) narcotic or other drugs; or ~~addiction to~~
- (B) gambling.

(2) "Addiction services provider" means an organization certified by the division to provide a structured facility designed for the:

- (A) treatment;
- (B) care; and
- (C) rehabilitation;

of individuals addicted to alcohol or drugs.

(3) "Agency" means:

- (A) a community mental health center certified by the division under 440 IAC 4.1;
- (B) a managed care provider certified by the division under 440 IAC 4.3;
- (C) a residential care provider certified by the division under 440 IAC 6; or
- (D) an addiction services provider with regular certification certified by the division under 440 IAC 4.4-2-3 that administers a residential living facility.

(4) "Alternative family for adults (AFA) program" means a program that serves six (6) or fewer individuals who:

- (A) have a psychiatric disorder or addiction, or both; and ~~who~~
- (B) reside with an unrelated householder.

(5) "Apartment house²² building" means any building or portion thereof that contains three (3) or more dwelling units and includes

condominiums.

(6) "Case management" means goal oriented activities that locate, facilitate, provide access to, coordinate, or monitor the full range of basic human needs, treatment, and service resources for individual consumers. The term includes, where necessary and appropriate for the consumer, the following:

- (A) Assessment of the consumer.
- (B) Treatment planning.
- (C) Crisis assistance.
- (D) Providing access to and training the consumers to utilize basic community resources.
- (E) Assistance in daily living.
- (F) Assistance for the consumer to obtain services necessary for meeting basic human needs.
- (G) Monitoring of the overall delivery of services.
- (H) Assistance in obtaining the following:
 - (i) Rehabilitation services and vocational opportunities.
 - (ii) Respite care.
 - (iii) Transportation.
 - (iv) Education services.
 - (v) Health supplies and prescriptions.

(7) "Case manager" means an individual who provides case management activities.

(8) "Community mental health center" or "**CMHC**" means a mental health facility that the division has certified as fulfilling the statutory and regulatory requirements to be a community mental health center.

(9) "~~Congregate living facility~~ **residence**" means a ~~supervised group living facility, a sub-acute living facility, a transitional living facility, or a semi-independent residential living facility for up to fifteen (15) individuals~~ that is located in any building or portion thereof that contains facilities for living, sleeping, and sanitation, and includes facilities for eating and cooking, for occupancy by other than a family.

(10) "Consumer" ~~is~~ **means** an individual with a psychiatric disorder or addiction, or both.

(11) "Continuum of care" means a range of required services provided by a community mental health center or a managed care provider. The term includes the following:

- (A) Individualized treatment planning to increase consumer coping skills and symptom management, which may include any combination of services listed under this section.
- (B) Twenty-four (24) hour a day crisis intervention.
- (C) Case management to fulfill individual consumer needs, including assertive case management when indicated.
- (D) Outpatient services, including the following:
 - (i) Intensive outpatient services.
 - (ii) Substance abuse services.
 - (iii) Counseling.
 - (iv) Treatment.
- (E) Acute stabilization services, including detoxification services.
- (F) Residential services.
- (G) Day treatment.
- (H) Family support services.
- (I) Medication evaluation and monitoring.
- (J) Services to prevent unnecessary and inappropriate treatment and hospitalization and the deprivation of a person's liberty.

(12) "Crisis intervention" means services in response to a psychiatric disorder or addiction emergency, either provided directly by the provider or made available by arrangement with a medical facility or an individual physician licensed under Indiana law.

(13) "Division" means the Indiana division of mental health and addiction or its duly authorized agent.

(14) "Dwelling unit" means ~~any building or portion thereof that contains a single unit providing complete, independent living facilities for one (1) or more persons~~, including **permanent** provisions for:

- (A) living;**
- (B) sleeping;**
- (C) eating;**
- (D) cooking; and**
- (E) sanitation. for not more than one (1) family.**

(15) "Evacuation capability" means the ability of the occupants, residents, and staff, as a group, to evacuate the building. Evacuation capability is classified as follows:

- (A) Prompt evacuation capability is equivalent to the capability of the general population when applying the requirements of this

article.

(B) Slow evacuation is the capability of the group to evacuate the building in a timely manner, with some of the residents requiring assistance from the staff.

(C) Impractical evacuation capability occurs when the group, even with staff assistance, cannot reliably evacuate the building in a timely manner.

The evacuation capability of the residents and staff is a function of both the ability of the residents to evacuate and the assistance provided by the staff. Evacuation capability in all cases is based on the time of day or night when evacuation would be most difficult, that is, sleeping residents, loss of power, severe weather, or fewer staff present.

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

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

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

~~(18)~~ **(19) "Household member" means any person living in the same physical residence as a consumer living in a residential living facility licensed or certified under this rule.**

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

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

(21) "Legal representative" means:

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

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

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

(D) the resident's parent, adult sibling, adult child, or spouse who is acting as the resident's health care representative under IC 16-36-1 when:

(i) no formal appointment of a health care representative has been made; and

(ii) the resident is unable to make health care decisions.

(22) "Managed care provider" or "**MCP**" means an organization:

(A) that:

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

(ii) provides addiction services; or

(iii) provides children's mental health services;

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

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

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

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

(iii) A political subdivision of another state.

(iv) A hospital owned or operated by:

(AA) a unit of government; or

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

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

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

(vii) A university or college.

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

(A) Mental retardation.

(B) A developmental disability.

(C) Alcoholism.

(D) Addiction to narcotic or other drugs.

(E) Addiction to gambling.

(24) "Representative payee" means a person appointed by **the United States**:

(A) ~~the United States~~ Social Security Administration;

(B) ~~the United States~~ Office of Personnel Management;

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

(D) ~~the United States~~ Railroad Retirement Board;

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

(25) "Resident" means an individual who is living in a residential living facility.

~~(26)~~ **"Resident living allowance" is a sum of money paid to a consumer when that consumer's personal resources are not adequate to maintain the consumer in a therapeutic living environment.**

~~(27)~~ **(26)** "Residential care provider" or "**RCP**" means a provider of residential care that has been certified by the division as one (1) of the following:

- (A) A community mental health center.
- (B) A managed care provider.
- (C) A residential care provider.
- (D) An addiction services provider with regular certification.

~~(28)~~ **(27)** "Residential director" means an individual whose primary responsibility is to administer and operate the residential facility.

~~(29)~~ **(28)** "Residential living facility" means:

- (A) a sub-acute stabilization facility;
- (B) a supervised group living facility;
- (C) a transitional residential services facility;
- (D) a semi-independent living facility defined under IC 12-22-2-3; and
- (E) alternative family homes operated solely by resident householders under this rule.

~~(30)~~ **(29)** "Residential staff" or "staff" means all individuals who the agency employs or with whom the agency contracts to provide direct services to the residents in the residential living facility.

(30) "Resident living allowance" is a sum of money paid to a consumer when that consumer's personal resources are not adequate to maintain the consumer in a therapeutic living environment.

(31) "Respite care" means temporary residential care to provide:

- (A) relief for a caregiver; or
- (B) transition during a stressful situation.

(32) "Semi-independent living facility" or "**SILP**" means a facility:

- (A) that is not licensed by another state agency and serves six (6) or fewer individuals with a psychiatric disorder or an addiction, or both, per residence who require only limited supervision; and
- (B) in which the agency or its subcontractor:
 - (i) provides a resident living allowance to the resident; or
 - (ii) owns, leases, or manages the residence.

(33) "Sub-acute stabilization facility" or "**SUB ACUTE**" means a twenty-four (24) hour facility for the treatment of psychiatric disorders or addictions, and ~~which that~~ is more restrictive than a supervised group living facility and less restrictive than an inpatient facility.

(34) "Supervised group living facility" or "**SGL**" means a residential facility that provides a therapeutic environment in a home-like setting to persons with a psychiatric disorder or addiction who need the benefits of a group living arrangement as post-psychiatric hospitalization intervention or as an alternative to hospitalization.

(35) "Therapeutic living environment" means a living environment:

- (A) in which the staff and other residents contribute; ~~to the habilitation and rehabilitation of the resident;~~ and
- (B) that presents no physical or social impediments;

to the habilitation and rehabilitation of the resident.

(36) "Transitional residential facility" or "**TRS**" means a twenty-four (24) hour per day service that provides food, shelter, and other support services to individuals with a psychiatric disorder or addiction who are in need of a short term supportive residential environment.

(37) "Treatment team" minimally consists of the following:

- (A) The resident.
- (B) The resident's case manager.
- (C) The appropriate staff of the residential facility.
- (D) Persons from other agencies who design and provide a direct treatment service for the resident.
- (E) If the resident has a legal representative, the team shall include the legal representative.

(Division of Mental Health and Addiction; 440 IAC 7.5-1-1; filed Jun 10, 2002, 2:25 p.m.: 25 IR 3127)

SECTION 2. 440 IAC 7.5-2-1 IS AMENDED TO READ AS FOLLOWS:

440 IAC 7.5-2-1 General overview

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

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

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

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

***Applies only to sub-acute stabilization facilities that meet the fire prevention and building safety commission requirements for an I-3 occupancy as adopted by reference under 675 IAC 13-2.4-1(a).**

Applies to both seriously mentally ill adults and persons with chronic addiction. (Division of Mental Health and Addiction; 440 IAC 7.5-2-1; filed Jun 10, 2002, 2:25 p.m.: 25 IR 3129)

SECTION 3. 440 IAC 7.5-2-8 IS AMENDED TO READ AS FOLLOWS:

440 IAC 7.5-2-8 Resident health and treatment

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

Affected: IC 12-22-2

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

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

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

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

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

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

(1) The resident has had a physical examination:

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

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

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

(c) The agency must assist the resident to obtain medical and dental care **as follows:**

(1) The facility shall have a written plan that outlines the procedures used to access and treat:

(A) dental;

(B) pharmacological;

(C) optometric; ~~audiological;~~

(D) **auditory;**

(E) psychiatric; and

(F) general medical;

care needs of residents, including at least an annual physical and dental exam.

(2) The plan shall include the following:

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

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

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

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

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

(e) Each resident shall be instructed in how to access physical emergency services and the agency's clinical emergency services.

(Division of Mental Health and Addiction; 440 IAC 7.5-2-8; filed Jun 10, 2002, 2:25 p.m.: 25 IR 3133)

SECTION 4. 440 IAC 7.5-2-12 IS AMENDED TO READ AS FOLLOWS:

440 IAC 7.5-2-12 Physical requirements

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

Affected: IC 12-22-2-3

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

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

(A) Loose or broken window glass.

(B) Loose or cracked floor coverings or ceilings.

(C) Holes in the walls.

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

(3) The resident's bedroom shall have at least one (1) window capable of being fully opened for escape and rescue purposes and proper ventilation **unless it is part of a sub-acute facility that meets the fire prevention and building safety commission requirements for an I-3 occupancy as adopted by reference under 675 IAC 13-2.4-1(a).**

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

cleanliness of the residence.

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

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

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

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

(f) The division shall not grant a waiver unless the:

- (1) illumination;
- (2) ventilation;
- (3) temperature; and
- (4) humidity control;

provide the same level of comfort as rooms not requiring a waiver, and if the room is below grade, or an attic or other area originally intended for storage, at least one (1) direct exit to the outside must be provided.

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

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

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

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

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

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

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

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

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

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

(p) The facility shall ensure that arrangements are made to allow residents to launder personal items and linens at least weekly. If laundry is done on the premises, equipment must be kept in working order. (*Division of Mental Health and Addiction; 440 IAC 7.5-2-12; filed Jun 10, 2002, 2:25 p.m.: 25 IR 3134*)

SECTION 5. 440 IAC 7.5-2-13 IS AMENDED TO READ AS FOLLOWS:

440 IAC 7.5-2-13 Safety requirements

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

Affected: IC 12-22-2

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

(b) The policies and procedures regarding resident and staff safety must be:

- (1) given to all personnel and residents; and ~~be~~
- (2) made available to others on request.

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

- (1) There shall be an Underwriter's Laboratories approved battery-operated smoke detector in good working order on each floor of a residence and in each bedroom unless another type of alarm or detector has been installed by the landlord to comply with a local ordinance.
- (2) In the case of the visually impaired resident, the residence shall be equipped with audible life safety devices.
- (3) In the case of the hearing impaired resident, the residence shall be equipped with visual life safety devices.
- (4) A five (5) pound ABC multipurpose type extinguisher, or the equivalent, shall be located on each floor of the facility.
- (5) In a sub-acute facility, a supervised group living facility, or a transitional residential facility, at least one (1) ten (10) pound ABC multipurpose type extinguisher shall be located in the kitchen.

(d) All:

- (1) sprinkler systems;
- (2) fire hydrants;
- (3) standpipe systems;
- (4) fire alarm systems;
- (5) portable fire extinguishers;
- (6) smoke and heat detectors; and
- (7) other fire protective or extinguishing systems or appliances;

shall be maintained in an operative condition at all times and shall be replaced or repaired where defective.

(e) Each resident, householder, and staff member shall be trained in procedures to be followed in the event of:

- (1) tornado;
- (2) fire;
- (3) gas leak; and
- (4) other threats to life safety.

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

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

- (1) Fire protection.
- (2) Building construction and safety.
- (3) Sanitation.

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

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

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

(k) **The following are the requirements** for all facilities, except sub-acute facilities ~~no door in the required path of egress shall be locked, latched, chained, bolted, barred, or otherwise rendered unusable.~~

(+) ~~A sub-acute facility may be a locked or secure facility; if the facility meets the following requirements:~~

(1) All locking devices and other fire safety devices shall comply with the rules of that meet the fire prevention and building safety commission requirements for an I-3 occupancy as adopted by reference under 675 IAC 13-2.4-1(a):

(2) (1) Exit doors shall be openable from the inside without the use of a key or any special knowledge or effort.

(2) No door in the required path of egress shall be:

(A) locked;

(B) chained;

(C) bolted;

(D) barred;

(E) latched; or

(F) otherwise rendered unusable.

(3) All locking devices shall be of a type approved by in compliance with the rules of the fire prevention and building safety commission.

(l) A sub-acute facility meeting the fire prevention and building safety commission requirements for an I-3 occupancy as adopted by reference under 675 IAC 13-2.4-1(a) may be a locked or secure facility.

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

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

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

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

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

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

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

(t) Fireplace safety requirements shall be as follows:

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

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

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

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

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

(v) The gas and electric shutoffs shall be labeled and easily accessible in case of emergency. *(Division of Mental Health and Addiction; 440 IAC 7.5-2-13; filed Jun 10, 2002, 2:25 p.m.: 25 IR 3135)*

SECTION 6. 440 IAC 7.5-3-3 IS AMENDED TO READ AS FOLLOWS:

440 IAC 7.5-3-3 Resident living allowance

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

Affected: IC 12-22-2-3

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

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

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

~~(2) this subsection.~~ A resident is eligible to receive a resident living allowance if **the:**

~~(A) the (1) resident's income, less the income incentive, is less than two hundred percent (200%) of the federal poverty guideline;~~

~~(B) the (2) resident has no more than one thousand five hundred dollars (\$1,500) in liquid assets;~~

~~(C) the (3) resident's other personal resources are inadequate to maintain the resident in a therapeutic living environment; and~~

~~(D) the (4) allowance is authorized by the individual treatment plan.~~

(c) The agency may disburse a resident living allowance on behalf of the resident in compliance with requirements of a representative payee. (*Division of Mental Health and Addiction; 440 IAC 7.5-3-3; filed Jun 10, 2002, 2:25 p.m.: 25 IR 3137*)

SECTION 7. 440 IAC 7.5-3-4 IS AMENDED TO READ AS FOLLOWS:

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

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

Affected: IC 12-22-2-3

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

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

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

(*Division of Mental Health and Addiction; 440 IAC 7.5-3-4; filed Jun 10, 2002, 2:25 p.m.: 25 IR 3137*)

SECTION 8. 440 IAC 7.5-3-7 IS AMENDED TO READ AS FOLLOWS:

440 IAC 7.5-3-7 Allowable expenses

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

Affected: IC 12-22-2-3

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

(1) Rent for the certified residence.

(2) Utilities.

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

(4) Household expenses, including the following:

(A) Food.

(B) Meals eaten out.

(C) Household cleaning supplies.

(D) Laundry supplies.

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

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

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

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

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

(B) cannot be paid for through:

(i) Medicaid;

(ii) Medicare;

(iii) private health insurance; or

(iv) other resources.

(9) Personal care expenses, including:

(A) clothing;

(B) hair care;

(C) personal hygiene supplies; and

(D) other items that are essential to the resident's participation in the program.

(10) Current psychiatric, rehabilitative, or ~~habilitative~~ **habilitation** services, including residential supervision and case

management, specified in the individualized treatment plan.

(11) Startup costs, including residence and utility deposits or purchase of basic furnishings specified in this article.

(12) Court ordered child support payments may be included upon demonstration to the agency of the nature and amount of the payment.

(13) Monthly deposit in an emergency fund.

(b) For rent, utilities, and telephone, the individual's share shall be determined by equitably prorating monthly rent among all occupants, excluding the minor dependents of those occupants who are also living in the residence. (*Division of Mental Health and Addiction; 440 IAC 7.5-3-7; filed Jun 10, 2002, 2:25 p.m.: 25 IR 3138*)

SECTION 9. 440 IAC 7.5-4-7 IS AMENDED TO READ AS FOLLOWS:

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

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

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

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

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

(c) The director of the division may waive the resident limitations for a sub-acute stabilization facility **certified before January 1, 2003**.

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

(1) A crisis care or respite care facility:

(A) that serves people in need of short term respite care or short term crisis care; and

(B) the length of stay shall not exceed forty-five (45) days.

(2) Rehabilitative facility:

(A) that serves people who have a need for treatment of psychiatric disorders or addictions; and

(B) the length of stay in a rehabilitative facility shall not exceed one (1) year. The division director may waive the one (1) year limitation **when evidence is presented that a less restrictive setting is inappropriate**.

(e) A sub-acute facility may be:

(1) a house; ~~or~~

(2) ~~a congregate living facility; residence; or~~

(3) **an I-3 occupancy as adopted by reference under 675 IAC 13-2.4-1(a)**.

(*Division of Mental Health and Addiction; 440 IAC 7.5-4-7; filed Jun 10, 2002, 2:25 p.m.: 25 IR 3140*)

SECTION 10. 440 IAC 7.5-4-8 IS AMENDED TO READ AS FOLLOWS:

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

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

Affected: IC 12-21-2-3

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

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

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

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

(e) A supervised group living facility may be an apartment, a house, or a congregate ~~facility~~ **residence**.

(f) No supervised group living facility shall be located in or connected to buildings that have any other use or occupancy. *(Division of Mental Health and Addiction; 440 IAC 7.5-4-8; filed Jun 10, 2002, 2:25 p.m.: 25 IR 3140)*

SECTION 11. 440 IAC 7.5-5-1 IS AMENDED TO READ AS FOLLOWS:

440 IAC 7.5-5-1 Transitional residential facility

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

Affected: IC 12-21-2-3

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

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

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

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

- (A) a community mental health center;
- (B) a certified residential care provider;
- (C) a managed care provider; or
- (D) an addiction services provider with regular certification.

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

(c) In order for the limitation to be waived, the transitional residential facility must be accredited by an accrediting agency approved by the division **and must have been certified prior to January 1, 2003**.

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

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

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

(g) A transitional residential facility shall have evidence of compliance with local health and safety codes. *(Division of Mental Health and Addiction; 440 IAC 7.5-5-1; filed Jun 10, 2002, 2:25 p.m.: 25 IR 3140)*

SECTION 12. 440 IAC 7.5-8-1 IS AMENDED TO READ AS FOLLOWS:

440 IAC 7.5-8-1 Scope

Authority: IC 12-21-2-3

Affected: IC 12-22-2

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

(1) the Indiana building code under the provisions of 675 IAC 13 in effect at the time of the initial:

- (A) application for licensure with the division; or ~~at the time of the initial~~
- (B) certification by the agency;

whichever is later; or

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

(Division of Mental Health and Addiction; 440 IAC 7.5-8-1; filed Jun 10, 2002, 2:25 p.m.: 25 IR 3144)

SECTION 13. 440 IAC 7.5-8-2 IS AMENDED TO READ AS FOLLOWS:

440 IAC 7.5-8-2 Application

Authority: IC 12-21-2-3

Affected: IC 12-22-2

Sec. 2. (a) The **agency shall determine the** level of evacuation capabilities of the residents as a group by the procedures described in Appendix F of the National Fire Protection Association (**NFPA**) 101, Life Safety Code, ~~1985~~ **2000** Edition. ~~shall be determined for persons with a psychiatric disorder or addiction by the agency:~~

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

- (1) Prompt.
- (2) Slow.
- (3) Impractical.

(Division of Mental Health and Addiction; 440 IAC 7.5-8-2; filed Jun 10, 2002, 2:25 p.m.: 25 IR 3144)

SECTION 14. 440 IAC 7.5-8-3 IS AMENDED TO READ AS FOLLOWS:

440 IAC 7.5-8-3 Adoption by reference

Authority: IC 12-21-2-3

Affected: IC 12-22-2

Sec. 3. (a) ~~Those certain documents being~~ **The document** titled the NFPA 101, Appendix F of the Life Safety Code, ~~1985~~ **2000** Edition published by the National Fire Protection Association, Batterymarch Park, Quincy, Massachusetts 02269, and as listed in this article, ~~are is~~ hereby adopted by reference, subject to the listed amendments, and made part of this article as if fully set out herein.

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

(c) Publications referenced within the ~~documents~~ **document** adopted in subsection (a), unless specifically adopted by reference in this article, are deemed to be accepted practice and supplementary to ~~these documents:~~ **this document.** *(Division of Mental Health and Addiction; 440 IAC 7.5-8-3; filed Jun 10, 2002, 2:25 p.m.: 25 IR 3144)*

SECTION 15. 440 IAC 7.5-9-1 IS AMENDED TO READ AS FOLLOWS:

440 IAC 7.5-9-1 Scope

Authority: IC 12-21-2-3

Affected: IC 12-22-2

Sec. 1. (a) All one (1) and two (2) family dwellings licensed under 431 IAC 2.1 prior to January 18, 1996, shall:

- (1) achieve a classification of prompt evacuation capability, as defined in 440 IAC 7.5-1, for one (1) and two (2) family dwellings for persons with a psychiatric disorder or addicted individuals; and
- (2) comply with the Indiana one (1) and two (2) family dwelling code under the rules of the fire prevention and building safety commission or its predecessors.

(b) All one (1) and two (2) family dwellings licensed under 431 IAC 2.1, **which was repealed in 2002**, or under 440 IAC 7.5 after January 18, 1996, shall:

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

(2) comply with:

(A) the Indiana one (1) and two (2) family dwelling code under the provisions of 675 IAC 14, which is in effect at the time of **the** initial:

(i) application for licensure with the division; or **at the time of the initial**

(ii) certification by the agency;

whichever is later; or

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

(Division of Mental Health and Addiction; 440 IAC 7.5-9-1; filed Jun 10, 2002, 2:25 p.m.: 25 IR 3144)

SECTION 16. 440 IAC 7.5-9-2 IS AMENDED TO READ AS FOLLOWS:

440 IAC 7.5-9-2 Application

Authority: IC 12-21-2-3

Affected: IC 12-22-2

Sec. 2. (a) The **agency shall determine the** level of evacuation capabilities of the residents as a group by the procedures described in Appendix F of the National Fire Protection Association (**NFPA**) 101, Life Safety Code, ~~1985 2000~~ Edition. ~~shall be determined by the agency.~~

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

- (1) Prompt.
- (2) Slow.
- (3) Impractical.

(Division of Mental Health and Addiction; 440 IAC 7.5-9-2; filed Jun 10, 2002, 2:25 p.m.: 25 IR 3145)

SECTION 17. 440 IAC 7.5-9-3 IS AMENDED TO READ AS FOLLOWS:

440 IAC 7.5-9-3 Adoption by reference

Authority: IC 12-21-2-3

Affected: IC 12-22-2

Sec. 3. (a) The document titled the NFPA 101, Appendix F of the Life Safety Code, ~~1985 2000~~ Edition, published by the National Fire Protection Association, Batterymarch Park, Quincy, Massachusetts 02269, and as listed in this article, ~~are is~~ hereby adopted by reference, subject to the listed amendments, and made part of this article as if fully set out herein.

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

(c) Publications referenced within the ~~documents document~~ adopted in subsection (a), unless specifically adopted by reference in this article, are deemed to be accepted practice and supplementary to ~~these documents: the document.~~ *(Division of Mental Health and Addiction; 440 IAC 7.5-9-3; filed Jun 10, 2002, 2:25 p.m.: 25 IR 3145)*

SECTION 18. 440 IAC 7.5-10-1 IS AMENDED TO READ AS FOLLOWS:

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

440 IAC 7.5-10-1 Scope

Authority: IC 12-21-2-3

Affected: IC 12-22-2

Sec. 1. (a) Congregate ~~living facilities~~ **residences** that are certified as sub-acute facilities may be located in or connected to buildings that have another use or occupancy.

(b) All congregated ~~living facilities~~ **residences** shall achieve a classification of prompt evacuation capability, **as defined in this article**, and shall comply with the:

(1) rules of the fire prevention and building safety commission that apply to a congregate residence under the provisions of 675 IAC 13 that are in effect at the time of **the initial:**

(A) application for licensure with the division; or ~~at the time of the initial~~

(B) certification by the agency;

whichever is later; **or**

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

(Division of Mental Health and Addiction; 440 IAC 7.5-10-1; filed Jun 10, 2002, 2:25 p.m.: 25 IR 3145)

SECTION 19. 440 IAC 7.5-10-2 IS AMENDED TO READ AS FOLLOWS:

440 IAC 7.5-10-2 Application

Authority: IC 12-21-2-3

Affected: IC 12-22-2

Sec. 2. (a) The agency shall determine the level of evacuation capabilities of the residents as a group by the procedures described in Appendix F of the National Fire Protection Association (NFPA) 101, Life Safety Code, ~~1985~~ 2000 Edition.

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

- (1) Prompt.
- (2) Slow.
- (3) Impractical.

(Division of Mental Health and Addiction; 440 IAC 7.5-10-2; filed Jun 10, 2002, 2:25 p.m.: 25 IR 3145)

SECTION 20. 440 IAC 7.5-10-3 IS ADDED TO READ AS FOLLOWS:

440 IAC 7.5-10-3 Adoption by reference

Authority: IC 12-21-2-3

Affected: IC 12-22-2

Sec. 3. (a) The document titled the NFPA 101, Appendix F of the Life Safety Code, 2000 Edition, published by the National Fire Protection Association, Batterymarch Park, Quincy, Massachusetts 02269, and as listed in this article, is hereby adopted by reference, subject to the listed amendments, and made part of this article as if fully set out herein.

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

(c) Publications referenced within the document adopted in subsection (a), unless specifically adopted by reference in this article, are deemed to be accepted practice and supplementary to the document. *(Division of Mental Health and Addiction; 440 IAC 7.5-10-3)*

SECTION 21. 440 IAC 7.5-11 IS ADDED TO READ AS FOLLOWS:

Rule 11. Fire and Life Safety Standards for Secure or Locked Sub-Acute Facilities for Persons with a Psychiatric Disorder or an Addiction That Meet the Fire Prevention and Building Safety Commission Requirements for an I-3 Occupancy

440 IAC 7.5-11-1 Scope

Authority: IC 12-21-2-3

Affected: IC 12-22-2

Sec. 1. (a) A secure or locked sub-acute facility shall comply with the rules of the fire prevention and building safety commission that apply to an I-3 occupancy under the provisions of 675 IAC 13 that are in effect on the date the plans and specifications were filed with the office of the state building commissioner and may as follows:

- (1) Be located in or connected to a building that has another use or occupancy.
- (2) Be a locked or secure facility.
- (3) Comply with the Indiana building rehabilitation standard, 675 IAC 12-8, for the rehabilitation of older structures.

(b) A secure or locked sub-acute facility that meets the fire prevention and building safety commission requirements for an I-3 occupancy as adopted by reference under 675 IAC 13-2.4-1(a) shall achieve a classification of prompt evacuation capability, as defined in this article. *(Division of Mental Health and Addiction; 440 IAC 7.5-11-1)*

440 IAC 7.5-11-2 Application

Authority: IC 12-21-2-3

Affected: IC 12-22-2

Sec. 2. (a) The agency shall determine the level of evacuation capabilities of the residents as a group by the procedures described in Appendix F of the National Fire Protection Association (NFPA) 101, Life Safety Code, 2000 Edition.

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

(1) Prompt.

(2) Slow.

(3) Impractical.

(Division of Mental Health and Addiction; 440 IAC 7.5-11-2)

440 IAC 7.5-11-3 Adoption by reference

Authority: IC 12-21-2-3

Affected: IC 12-22-2

Sec. 3. (a) The document titled the NFPA 101, Appendix F of the Life Safety Code, 2000 Edition published by the National Fire Protection Association, Batterymarch Park, Quincy, Massachusetts 02269, and as listed in this article, is hereby adopted by reference, subject to the listed amendments, and made part of this article as if fully set out herein.

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

(c) Publications referenced within the document adopted in subsection (a), unless specifically adopted by reference in this article, are deemed to be accepted practice and supplementary to the document. *(Division of Mental Health and Addiction; 440 IAC 7.5-11-3)*

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on December 15, 2004 at 9:00 a.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room D, Indianapolis, Indiana the Division of Mental Health and Addiction will hold a public hearing on proposed amendments to 440 IAC 7.5 to make clearer the intent of the residential rule, to make it consistent throughout, to repeal the \$520 limit on the residential living allowance, and to update references to the 2000 edition of the Life Safety Code. Copies of these rules are now on file at the Indiana Government Center-South, 402 West Washington Street, Room W451 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Suzanne Clifford
Director
Division of Mental Health and Addiction