

(NOTE: Rule 4 of LSA Document #83-154(F) was disapproved by the Attorney General—see Attorney General's action letter dated April 27, 1984 in the June 1, 1984 issue of the Indiana Register at 7 IR 1606. See printed version of Rule 4, LSA Document #83-154(F) at 7 IR 1488.)

Rule 5. Residential Care Facilities

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; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA)

410 IAC 16.2-5-1 Applicability

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

Affected: IC 16-28-2

Sec. 1. This rule applies to all residential care facilities licensed under IC 16-28-2. *(Indiana State Department of Health; 410 IAC 16.2-5-1; filed May 2, 1984, 2:50 p.m.: 7 IR 1497; filed Jan 10, 1997, 4:00 p.m.: 20 IR 1560, eff Apr 1, 1997; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA)*

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

(c) The director may issue a health facility license for a new facility upon receipt, review, and approval of the following requirements:

(1) The applicant shall submit a license application on the prescribed form in accordance with IC 16-28-2-2. The applicant shall identify direct and indirect ownership interests of five percent (5%) or more and of officers, directors, and partners.

(2) The applicant shall submit the appropriate license fee.

(3) Prior to the start of construction, detailed architectural and operational plans shall be submitted 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.

(4) The director shall be notified of the design release from the department of fire and building services.

(5) The director shall be provided with written notification that construction of the building is substantially complete.

(6) The applicant shall submit to the director the following:

(A) Corporate or partnership structure.

(B) A complete list of facilities previously and currently owned or operated by the officers, directors, agents, and managing employees.

(C) A copy of agreements and contracts.

(D) If registration is required by the secretary of state, a copy of the registration.

(E) A staffing plan to include the number, educational level, and personal health of employees.

(F) A disaster plan.

(7) The applicant shall submit information and supporting documents required by the director documenting that the facility will be operated in reasonable compliance with this article and applicable statutes.

(8) The applicant shall submit 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).

(9) The applicant shall submit information verified by the appropriate building official that the building is in reasonable compliance with the building rules of the fire prevention and building safety commission (675 IAC).

(10) The facility shall meet the environmental and physical standards of section 1.6 of this rule.

(11) The applicant shall submit an independent verification of assets and liabilities demonstrating working capital adequate to operate the facility. The verification shall be performed by a certified public accountant. The verification shall be submitted to the director on a form approved by the department. The verification shall be accompanied by documents required by the application form and other documents or information as required by the department to evidence adequate working capital to operate the facility.

(d) The director may issue a health facility license for an existing facility that proposes a change from a previously approved plan review upon receipt, review, and approval of the following requirements:

(1) The applicant shall submit the appropriate licensure fee.

(2) Prior to the start of construction, detailed architectural and operational plans shall be submitted 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.

- (3) The director shall be notified of the design release from the department of fire and building services.
- (4) The director shall be provided with written notification that construction of the building is substantially complete.
- (5) The applicant shall submit information and supporting documents required by the director that the facility will be operated in reasonable compliance with this article and applicable statutes.
- (6) The applicant shall submit 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).
- (7) Information verified by the appropriate building official that the building is in reasonable compliance with the building rules of the fire prevention and building safety commission (675 IAC).
- (e) The director may issue a health facility license for an existing facility that proposes a change in beds upon receipt, review, and approval of the following requirements:
 - (1) The applicant shall submit the appropriate license fee.
 - (2) The facility shall meet the environmental and physical standards of section 1.6 of this rule.
 - (3) The applicant shall submit 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).
- (f) The director may issue a health facility license for a facility that has changed ownership upon receipt, review, and approval of the following requirements:
 - (1) The applicant shall submit a license application on the prescribed form in accordance with IC 16-28-2-2. The applicant shall identify direct and indirect ownership interests of five percent (5%) or more and of officers, directors, and partners.
 - (2) The applicant shall submit the appropriate license fee.
 - (3) The applicant shall submit information and supporting documents required by the director documenting that the facility will be operated in reasonable compliance with this article and applicable statutes.
 - (4) The applicant shall submit to the director the following:
 - (A) Corporate or partnership structure.
 - (B) A complete list of facilities previously or currently owned or operated by the officers, directors, agents, and managing employees.
 - (C) A copy of agreements and contracts.
 - (D) If registration is required by the secretary of state, a copy of the registration.
 - (E) A staffing plan to include the number, educational level, and personal health of employees.
 - (F) A disaster plan.
 - (5) An applicant for a license shall submit an independent verification of assets and liabilities demonstrating working capital adequate to operate the facility. The verification shall be performed by a certified public accountant. The verification shall be submitted to the director on a form approved by the department. The verification shall be accompanied by documents required by the application form and other documents or information as required by the department to evidence adequate working capital to operate the facility.
- (g) 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).
 - (h) For the renewal of a license, the director may issue a full license for any period up to one (1) year, issue a probationary license, or deny a license application upon receipt and review of the following requirements:
 - (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. The applicant shall identify direct or indirect ownership interests of five percent (5%) or more and of officers, directors, and partners.
 - (2) The applicant shall submit the appropriate license fee.
 - (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).
 - (i) 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.
 - (j) Any change in direct or indirect corporate ownership of five percent (5%) or more that occurs during the licensure period shall be reported to the director, in writing, at the time of the change. The facility must also provide written notice at the time the change occurs in the officers, directors, agents, or managing employees, or the corporation, association, or other company

responsible for the management of the facility.

(k) 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.

(l) 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.

(m) The classification of rules into the categories that are stated at the end of each section of 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 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 commissioner may also impose revocation by the director of the facility's license or issuance of a probationary license.

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

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

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

or both. 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 five thousand dollars (\$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 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 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.

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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 12-10-5.5; 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 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.

(c) Residents have the right to exercise any or all of the enumerated rights without:

- (1) restraint;
- (2) interference;
- (3) coercion;
- (4) discrimination; or
- (5) 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.

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

(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 an as needed basis).
- (4) Information on related charges, 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.

(6) If the facility is required to submit an Alzheimer's and dementia special care unit disclosure form under IC 12-10-5.5, a copy of the completed Alzheimer's and dementia special care unit disclosure form.

(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 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 or service provider, or both, 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) 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 a refusal under subdivision (4) and have such data recorded in his or her clinical record if treatment or medication is administered by the facility.
- (6) Be afforded confidentiality of treatment.
- (7) Participate or refuse to participate in experimental research. There must be written acknowledgement 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 or residential care assistance programs, or both, 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.

(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, residents' 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 or family council, or both;
 - (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, any plan of correction in effect with respect to the facility, and any subsequent surveys.

(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 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.

- (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 the transfer is necessary for:

(A) medical reasons as judged by the attending physician; or

(B) 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) days' 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:

- (A) the administrator or his or her designee;
- (B) the resident;
- (C) the resident's legal representative; and
- (D) 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.

(s) Residents have the right to 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.

(t) Residents have the right to manage their personal affairs and funds. 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 manage the resident's funds, the facility must:

- (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;
- (3) provide for a separation of resident and facility funds;
- (4) return to the resident, 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.

(u) Residents have the right to be free from any physical 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:

- (1) sexual abuse;
- (2) physical abuse;
- (3) mental abuse;
- (4) corporal punishment;
- (5) neglect; and
- (6) involuntary seclusion.

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

(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 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 five (5) working days, at the resident's expense.

(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.

(z) Residents have the right to:

- (1) refuse to perform services for the facility;
- (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.

(cc) Residents have the right to choose with whom they associate. The facility shall provide reasonable visiting hours, which should include at least twelve (12) hours a day, and the hours shall be made available to each resident. Policies shall also provide for emergency visitation at other hours. The facility shall not restrict visits from the resident's legal representative or spiritual advisor, except at the request of 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.

(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.

(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 the facility.

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

- (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; filed Jul 22, 2004, 10:05 a.m.: 27 IR 3997; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA)

410 IAC 16.2-5-1.3 Administration and management

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

Affected: IC 12-10-5.5; IC 16-28-5-1; IC 25-19-1-5

Sec. 1.3. (a) The licensee:

- (1) is responsible for compliance with all applicable laws; and
- (2) has full authority and responsibility for the:
 - (A) organization;
 - (B) management;
 - (C) operation; and
 - (D) 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 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:
 - (1) appoint an administrator with either a:
 - (A) comprehensive care facility administrator license as required by IC 25-19-1-5(c); or
 - (B) residential care facility administrator license as required by IC 25-19-1-5(d); and
 - (2) delegate to that administrator the authority to organize and implement the day-to-day operations of the facility.
 - (d) The licensee shall notify the director:
 - (1) within three (3) working days of a vacancy in the administrator's position; and
 - (2) of the name and license number of the replacement administrator.

(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):

- (1) health facility; or
- (2) hospital-based long-term care unit;

at a time.

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

(g) The administrator is responsible for the overall management of the facility. The responsibilities of the administrator shall include, but are not limited to, the following:

- (1) Informing the division within twenty-four (24) hours of becoming aware of an unusual occurrence that directly threatens the welfare, safety, or health of 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:
 - (A) epidemic outbreaks;
 - (B) poisonings;

- (C) fires; or
- (D) major accidents.

If the division cannot be reached, a call shall be made to the emergency telephone number 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 requested by the 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 the facility maintains, on the premises, an accurate record of actual time worked that indicates the:

- (A) employee's full name; and
- (B) dates and hours worked during the past twelve (12) months.

(5) Posting the results of the most recent annual survey of the facility conducted by state surveyors, 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) 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.

(h) The facility shall establish and implement a written policy manual to ensure that resident care and facility objectives are attained, to include the following:

- (1) The range of services offered.
- (2) Residents' rights.
- (3) Personnel administration.
- (4) Facility operations.

The policies shall be made available to residents upon request.

(i) The facility must maintain a written fire and disaster preparedness plan to assure continuity of care of residents in cases of emergency as follows:

(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 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.

(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.

(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 following:

- (1) The responsibilities of both the facility and the outside resource.
- (2) The qualifications of the outside resource staff.
- (3) A description of the type of services to be provided, including action taken and reports of findings.
- (4) The duration of the agreement.

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

(1) In facilities that are required under IC 12-10-5.5 to submit an Alzheimer's and dementia special care unit disclosure form, the facility must designate a director for the Alzheimer's and dementia special care unit. The director shall have an earned degree from an educational institution in a health care, mental health, or social service profession or be a licensed health facility administrator. The director shall have a minimum of one (1) year work experience with dementia or Alzheimer's residents, or both, within the past five (5) years. Persons serving as a director for an existing Alzheimer's and dementia special care unit at the time of adoption of this rule are exempt from the degree and experience requirements. The director shall have a minimum of twelve (12) hours of dementia-specific training within three (3) months of initial employment as the director of the Alzheimer's and dementia special care unit and six (6) hours annually thereafter to:

- (1) meet the needs or preferences, or both, of cognitively impaired residents; and
 - (2) gain understanding of the current standards of care for residents with dementia.
- (m) The director of the Alzheimer's and dementia special care unit shall do the following:
- (1) Oversee the operation of the unit.

- (2) Ensure that:
- (A) personnel assigned to the unit receive required in-service training; and
 - (B) care provided to Alzheimer's and dementia care unit residents is consistent with:
 - (i) in-service training;
 - (ii) current Alzheimer's and dementia care practices; and
 - (iii) regulatory standards.
- (n) For purposes of IC 16-28-5-1, a breach of:
- (1) subsection (a), (g), or (m) is a deficiency;
 - (2) subsection (b), (c), (d), (e), (f), (h), (i), (j), or (l) is a noncompliance; and
 - (3) subsection (k) 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; filed Jul 22, 2004, 10:05 a.m.: 27 IR 4002; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA; filed Jul 31, 2008, 4:24 p.m.: 20080827-IR-410070657FRA)

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. 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) 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 or administration of medication, or both, 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 or administration of medication, or both, shall have at least one (1) additional nursing staff person awake and on duty at all times for every additional fifty (50) residents. 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.

(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 all employees shall include the following:

- (1) Instructions on the needs of the specialized populations:

- (A) aged;
- (B) developmentally disabled;
- (C) mentally ill;
- (D) dementia; or
- (E) children;

served in the facility.

- (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) Review of ethical considerations and confidentiality in resident care and records.

(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.

(6) Documentation of the orientation in the employee's personnel record by the person supervising the orientation.

(e) There shall be an organized inservice education and training program planned in advance for all personnel in all departments at least annually. Training shall include, but is not limited to, residents' rights, prevention and control of infection, fire prevention, safety, accident prevention, the needs of specialized populations served, medication administration, and nursing care, when appropriate, as follows:

(1) The frequency and content of inservice 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 inservice per calendar year and four (4) hours of inservice per calendar year for nonnursing personnel.

(2) In addition to the above required inservice hours, staff who have contact with 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 or preferences, or both, of cognitively impaired residents effectively and to gain understanding of the current standards of care for residents with dementia.

(3) Inservice records shall be maintained and shall indicate the following:

(A) The time, date, and location.

(B) The name of the instructor.

(C) The title of the instructor.

(D) The names of the participants.

(E) The program content of inservice.

The employee will acknowledge attendance by written signature.

(f) A health screen shall be required for each employee of a facility prior to resident contact. The 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 reports of all employment-related health 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.

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

(1) The name and address of the employee.

(2) Social Security number.

(3) Date of beginning employment.

(4) Past employment, experience, and education, if applicable.

(5) Professional licensure or registration number or dining assistant certificate or letter of completion, 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 acknowledgement of orientation to residents' rights.

(9) Performance evaluations in accordance with facility policy.

(10) Date and reason for separation.

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

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

(1) subsection (b), (c), or (g) is a deficiency;

(2) subsection (a), (d), (e), or (f) is a noncompliance; and

(3) subsection (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; filed Jul 22, 2004, 10:05 a.m.: 27 IR 4003; filed Aug 11, 2004, 11:00 a.m.: 28 IR 193; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-41007014IRFA)

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) 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) 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) The facility shall not have more residents than the number for which it is licensed, except in the case of emergency when temporary permission may be granted by the director.

(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.

(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, 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.

(f) The facility shall have a pest control program in operation in compliance with 410 IAC 7-24.

(g) Each facility shall have a policy concerning pets.

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

(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.

(j) The facility shall observe safety precautions when oxygen is stored or administered in the facility. Residents on oxygen shall be instructed in safety measures concerning storage and administration of oxygen.

(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 7-24.

(l) The facility shall have an effective garbage and waste disposal program in accordance with 410 IAC 7-24. Provision shall be made for the safe and sanitary disposal of solid waste, including dressings, needles, syringes, and similar items.

(m) The facility's food supplies shall meet the standards of 410 IAC 7-24.

(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.

(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 (g) or (h) is a noncompliance; and

(3) subsection (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; errata filed Jan 21, 2005, 10:32 a.m.: 28 IR 1695; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA)

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) The facility shall make provisions for the handicapped as required by state or federal codes.

(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.

(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.

(d) The facility shall 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.

(e) Sewage shall be discharged into 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 approved on-site wastewater system in accordance with 410 IAC 6-10.

(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.

(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) 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) The facility shall house residents only in areas approved by the director for housing and given a fire clearance by the state fire marshal. The facility shall:

- (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) 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

- (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

(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) 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) The facility shall have a nourishment 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) 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) 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.

(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.

(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.

(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.

(o) Each facility shall have an adequate kitchen that complies with 410 IAC 7-24.

(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.

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

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

(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.

(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 (g), (h), (i), (j), (l), (m), or (n) is a noncompliance; and

(3) subsection (p) or (r) 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; errata filed Jan 21, 2005, 10:32 a.m.: 28 IR 1695; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA)

410 IAC 16.2-5-1.7 Physical plant standards after July 1, 1984 (Repealed)

Sec. 1.7. *(Repealed by Indiana State Department of Health; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1936, eff Mar 1, 2003)*

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 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 evaluation. Subsequent 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 evaluation shall be delineated in the facility policy manual, but at a minimum the needs assessment shall include an evaluation of the following:

- (1) The resident's physical, cognitive, and mental status.
- (2) The resident's independence in the activities of daily living.
- (3) The resident's weight taken on admission and semiannually thereafter.
- (4) If applicable, the resident's ability to self-administer medications.
- (d) The evaluation shall be documented in writing and kept in the facility.

(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:
 - (A) scope;
 - (B) frequency;
 - (C) need; and
 - (D) 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 or the provision of residential nursing services, or both, is needed, a licensed nurse shall be involved in identification and documentation of the services to be provided.

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

- (1) subsection (a), (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; filed Jul 22, 2004, 10:05 a.m.: 27 IR 4005; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA)

410 IAC 16.2-5-3 Medical and dental services (Repealed)

Sec. 3. *(Repealed by Indiana State Department of Health; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1936, eff Mar 1, 2003)*

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) Each resident shall have a primary care physician selected by the resident.

(b) Each resident may have a dentist selected by the resident.

(c) Each facility shall choose whether or not it administers medication or provides residential nursing care, or both. These

policies shall be delineated in the facility policy manual and clearly stated in the admission agreement.

(d) Personal care, and assistance with activities of daily living, shall be provided based upon individual needs and preferences.

(e) The administration of medications and the provision of residential nursing care shall be as ordered by the 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.

(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 that indicate the:

(A) time;

(B) name of medication or treatment;

(C) dosage (if applicable); and

(D) name or initials of the person administering the drug or treatment.

(4) Preparation of doses for more than one (1) scheduled administration is not permitted.

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

(6) PRN medications may be administered by a qualified medication 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.

(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.

(f) The facility shall have available on the premises or on call the services of a licensed nurse at all times.

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

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

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

(3) subsection (e)(4) is a noncompliance; and

(4) subsection (c) 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; filed Jul 22, 2004, 10:05 a.m.: 27 IR 4006; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA)

410 IAC 16.2-5-5 Food and nutrition services (Repealed)

Sec. 5. (Repealed by Indiana State Department of Health; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1936, eff Mar 1, 2003)

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 dietician.

(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 7-24.

(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; errata filed Jan 21, 2005, 10:32 a.m.: 28 IR 1695; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA)

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) Residents who self-medicate may keep and use prescription and nonprescription medications in 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.

(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;

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

(C) provide consultation on methods and procedures of ordering, storing, administering, and disposing of drugs as well as medication record keeping;

(D) report, in writing, to the administrator 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) The medication review, recommendations, and notification of the physician, if necessary, shall be documented in accordance with the facility's policy.

(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.

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

(A) Resident's full name.

(B) Physician's name.

- (C) Prescription number.
- (D) Name and strength of the drug.
- (E) Directions for use.
- (F) Date of issue and expiration date (when applicable).
- (G) Name and address of the pharmacy that filled the prescription.

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

(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.

(e) Medicine or treatment cabinets or rooms shall be appropriately locked at all times except when authorized personnel are present. All Schedule II drugs 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.

(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.

(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 documented in the resident's clinical record and shall include the following information:

- (1) The name of the resident.
- (2) The name and strength of the drug.
- (3) The prescription number.
- (4) The reason for disposal.
- (5) The amount disposed of.
- (6) The method of disposition.
- (7) The date of the disposal.
- (8) The signature of the 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 (c)(2), (c)(4), (c)(5), (c)(6), (d), or (e) is a deficiency; and
 - (2) subsection (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; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA)

410 IAC 16.2-5-7 Activities programs (Repealed)

Sec. 7. (Repealed by Indiana State Department of Health; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1936, eff Mar 1, 2003)

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; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA)

410 IAC 16.2-5-8 Clinical records (Repealed)

Sec. 8. *(Repealed by Indiana State Department of Health; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1936, eff Mar 1, 2003)*

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; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA)

410 IAC 16.2-5-9 Facility equipment (Repealed)

Sec. 9. *(Repealed by Indiana State Department of Health; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1936, eff Mar 1, 2003)*

410 IAC 16.2-5-10 Staffing (Repealed)

Sec. 10. *(Repealed by Indiana State Department of Health; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1936, eff Mar 1, 2003)*

410 IAC 16.2-5-11 Mental illness screening (Repealed)

Sec. 11. *(Repealed by Indiana State Department of Health; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1936, eff Mar 1, 2003)*

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; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA)

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; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA)

410 IAC 16.2-5-13 Dining assistants

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

Affected: IC 16-28-5-1; IC 16-28-13-3; IC 25-23-1-1

Sec. 13. (a) Each dining assistant shall successfully complete a sixteen (16) hour training program for dining assistants that has been approved by the department.

(b) A dining assistant training program must obtain approval from the department prior to providing instruction to individuals.

(c) The facility shall do the following:

(1) Ensure that resident selection for dining assistance is based on the charge nurse's assessment and the resident's most recent assessment and plan of care.

(2) Not allow the dining assistant to assist more than two (2) residents at any one (1) time.

(3) Ensure the dining assistant is oriented to the following:

- (A) The resident's diet, likes, and dislikes.

- (B) Feeding techniques appropriate to the individual resident.
- (4) Document the use of a dining assistant on the resident's care plan and review at each care plan conference.
- (5) Check the nurse aide registry prior to training an individual as a dining assistant.
- (6) Use only individuals as dining assistants who have successfully completed a department-approved training program for dining assistants.
- (d) The scope of practice for dining assistants is as follows:
 - (1) A dining assistant shall work under the supervision of a licensed nurse who is on the unit or floor where the dining assistance is furnished and is immediately available to provide assistance as needed.
 - (2) In an emergency, a dining assistant shall call the supervising nurse using the resident call system or any other method available.
 - (3) A dining assistant shall assist only residents who do not have complicated eating problems, which include, but are not limited to, the following:
 - (A) Difficulty swallowing.
 - (B) Recurrent lung aspirations.
 - (C) Tube or parenteral/IV feedings.
- (e) The dining assistant training program shall consist of, but is not limited to, the following:
 - (1) Eight (8) hours of classroom instruction prior to any direct contact with a resident that includes the following:
 - (A) Feeding techniques.
 - (B) Regular and special diets.
 - (C) Reporting food and fluid intake.
 - (D) Assistance with feeding and hydration.
 - (E) Communication and interpersonal skills.
 - (F) Infection control.
 - (G) Safety/emergency procedures including the Heimlich maneuver.
 - (H) Promoting residents' independence.
 - (I) Abuse, neglect, and misappropriation of property.
 - (J) Nutrition and hydration.
 - (K) Recognizing changes in residents that are inconsistent with their normal behavior and the importance of reporting these changes to the supervising nurse.
 - (L) Mental health and social service needs including how to respond to a resident's behavior.
 - (M) Residents' rights including the following:
 - (i) Privacy.
 - (ii) Confidentiality.
 - (iii) Promoting residents' right to make personal choices to accommodate their needs.
 - (iv) Maintaining care and security of residents' personal possessions.
 - (v) Dignity.
 - (2) Eight (8) hours of clinical instruction that consists of, but is not limited to, the following:
 - (A) Feeding techniques.
 - (B) Assistance with eating and hydration.
- (f) The dining assistant training program and training facility, if applicable, must ensure that clinical instruction provides for the direct supervision of the dining assistant by a licensed nurse.
- (g) Each training program shall have a qualified instructor responsible for program oversight who at a minimum:
 - (1) possesses a valid Indiana registered nurse license under IC 25-23-1-1;
 - (2) possesses two (2) years of licensed nursing experience, of which at least one (1) year of experience is in the provision of long term care services; and
 - (3) completed a department-approved training program.
- (h) An approved program director of a department nurse aide training program constitutes a qualified instructor under subsection (g) and may conduct dining assistant training without additional training.
 - (i) Dining assistant training may only be provided by:
 - (1) a registered nurse;
 - (2) a licensed practical nurse;

- (3) a qualified dietician;
- (4) an occupational therapist; or
- (5) a speech-language pathologist.

Certified nurse aide and qualified medication aide personnel shall not participate in or provide any dining assistant training.

(j) In order to issue a certificate or letter of completion to the dining assistant, the dining assistant training program shall ensure that the dining assistant demonstrates competency in all areas of instruction using a checklist approved by the department.

(k) Each approved program shall maintain a student file that:

- (1) is retained for a minimum of three (3) years; and
- (2) contains:

(A) individualized documentation of the:

- (i) classroom training that includes dates of attendance and areas of instruction; and
- (ii) clinical instruction that includes dates of attendance and areas of instruction including procedures and activities completed during the clinical experience; and

(B) a copy of the certificate or letter confirming successful completion of the dining assistant training program, which shall be signed and dated by the instructor and bear the name and address of the training program.

(l) The department may revoke an approved dining assistant training program if evidence exists that the program has not been administered in accordance with this section.

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

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

(Indiana State Department of Health; 410 IAC 16.2-5-13; filed Aug 11, 2004, 11:00 a.m.: 28 IR 194; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA)

Rule 6. Health Care Facilities for Children

410 IAC 16.2-6-1 Applicability of rule

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

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

Sec. 1. This rule applies to facilities that care for children licensed under IC 16-28-2. *(Indiana State Department of Health; 410 IAC 16.2-6-1; filed May 2, 1984, 2:50 p.m.: 7 IR 1498; filed Jan 10, 1997, 4:00 p.m.: 20 IR 1584, eff Apr 1, 1997; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA)*

410 IAC 16.2-6-2 Medical and dental services

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

Affected: IC 16-28-5-1

Sec. 2. (a) A complete physical, including an acceptable skin test for tuberculosis, a dental examination, and an evaluation of the child's medical and physical capabilities, shall be completed on the day of admission or not earlier than thirty (30) days prior to admission.

(b) Upon admission, written evidence shall indicate completion of an immunization series for diphtheria, tetanus, rubella, whooping cough, measles, and polio. The age of the child or the written order by the attending physician, contraindicating a new immunization, may alter the series. A planned program for booster immunization shall be maintained for each resident.

(c) For purposes of IC 16-28-5-1, a breach of subsection (a) or (b) is a noncompliance. *(Indiana State Department of Health; 410 IAC 16.2-6-2; filed May 2, 1984, 2:50 p.m.: 7 IR 1499; filed Jan 10, 1997, 4:00 p.m.: 20 IR 1585, eff Apr 1, 1997; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA)*

410 IAC 16.2-6-3 Nursing services

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

Affected: IC 16-28-5-1