

ISDH Long Term Care  
Newsletter Issue # 08-28  
November 7, 2008

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- Roundtable Q & A

## Roundtable Questions and Answers

The Indiana State Department of Health (ISDH) has monthly meetings with representatives of three long term care provider associations - Hoosier Owners and Providers for the Elderly (HOPE), Indiana Association for Homes and Services for the Aged (IAHSA), and Indiana Health Care Association (IHCA). One meeting each quarter is set aside as a "Roundtable" for reviewing provider questions about specific regulatory requirements. These Roundtable Meetings generally occur in February, May, August, and November. At these meetings, each question is reviewed and discussed by participants to clarify any issues. Following the meeting, answers to the questions are reduced to writing and published in the Division of Long Term Care Newsletters.

Previous roundtable questions and answers may be found on the ISDH Web site at <http://www.in.gov/isdh/20511.htm>. Questions and answers from the most recent roundtable meeting are below.

### Questions and Answers ISDH and Provider Meeting August 15, 2008

1. Standing Orders

A facility has a physician practice (of at least 4 physicians serving the facility), who independently drafted, signed and presented to administrative staff a "standing order" applicable only to a resident who is "do not resuscitate" (DNR). The standing order states that when one of the four physicians listed is on call and a resident expires who is DNR:

1. Release the body to the appropriate funeral home.
2. Do not call the on call physician unless there are extenuating circumstances
3. Inform the attending physician during the next available office hours (generally Mon-Fri 8 a.m.-5 p.m.)

State rule states the following: Indiana Administrative Code - 410 IAC 16.2-3.1-50 (Clinical Records)

*(j) If death occurs, information concerning the resident's death shall include the following:*

- (1) Notification of the physician, family, responsible person, and legal

*representative.*

Is this standing order permitted under health care rules and regulations?

**Answer:** Standing orders for notification of a resident's death is not acceptable. 410 IAC 16.2-3.1-5 (a) (2) and F 157 requires immediate notification of family and resident physician of a significant condition change. Death is a condition change requiring the resident's physician to be notified. Informing the physician during the next available office hours could delay the actual notification three days or more if the office is closed for a holiday weekend.

2. F522 - Disclosure of Ownership

F522 states, "The facility must provide written notice to the State agency responsible for licensing the facility at the time of change, if a change occurs in –

(i) Persons with an ownership or control interest

Is there a specific manner in which ISDH would like such ownership changes reported?

**Answer:** 410 IAC 16.2-3.1-2 (j) requires that 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. ISDH requests that this information be placed "in writing" (no format specified) and forwarded to the attention of Miriam Buffington. There will then be a determination made by ISDH as to whether the change is such that it would require the completion of a change of ownership packet.

Apart from ISDH, the facility would also need to consider whether such a change in ownership would substantiate the need to amend the CMS 855 (Medicare Enrollment Application).

3. Medication Obtained Via Mail Order

Many residents are now acquiring medications via mail order. When doing so, the supply received is often in large, bulk volume which can not be stored in the original container and housed in the medication cart. State rules address labeling by pharmacy and the labeling of over-the-counter meds. Has ISDH given direction in regard to preferred manner in which the "bulk" meds received via mail order be stored (as they can not be retained in the original container and the large container left on the cart)?

**Answer:** Medications must stay in the original labeled container received from pharmacy. Providers should consult with their pharmacy consultant on storage issues.

4. Residential Health Services

410 IAC 16.2-5-4(f) states "The facility shall have available on the premises or on call the services of a licensed nurse at all times."

There is no specification of on-site time required. Please clarify the expectation of ISDH in fulfillment of the above. Is there an expectation of frequency of time on-site versus on call?

**Answer:** No, but staffing must meet residents needs.

5. Immediate Jeopardy Removal Plan

Please clarify the process by which a removal plan is supplied by the facility and deemed to be acceptable by ISDH following the determination of Immediate Jeopardy. A facility has reported the passing of multiple days following submission of a removal plan prior to the surveyor stating that the plan was acceptable. When questioned, the surveyor responded that they could not

address whether the plan, as submitted, was accepted.

While the facility acknowledges that the removal plan must be observed in action (i.e., effective/operational) before the Immediate Jeopardy is removed, in what timeframe should the facility be notified that the removal plan, itself, is accepted?

**Answer:** When Immediate Jeopardy is identified, chapter 7 of the SOM states that, *"The facility must submit an allegation that the immediate jeopardy has been removed. This allegation must include a plan of sufficient detail to demonstrate how and when the immediate jeopardy has been removed."*

When the facility submits a "written" plan (i.e., allegation that the immediate jeopardy was removed), it is reviewed by the surveyor(s), the area supervisor, and discussed with the Survey Manager and/or the Director of Long Term Care. This review "may" not occur immediately, due to availability of the involved individual(s). The written plan/allegation is not "approved" or "disapproved." Rather, if ISDH believes that there are pertinent steps or information omitted from the written plan/allegation needful to assess the demonstration of how and when the immediate jeopardy has been removed, the area supervisor or surveyor may request further clarification of the administrator or designee in regard to plan/allegation. The submission of a written plan for removal does not remove an immediate jeopardy. A delay in review of the plan thus will not affect the removal of the immediate jeopardy. Rather, the onsite observations of actions and efficacy of systems put in place justify the removal of the immediate jeopardy.

Please refer to the following excerpt from Chapter 7 of the SOM which states: *7301A Immediate Jeopardy Exists*

"The State will require that the facility submit an allegation that the immediate jeopardy has been removed as well as provide sufficient detail to demonstrate how the immediate jeopardy has been addressed so that the State can verify onsite the removal of the immediate jeopardy. A plan of correction should be deferred until the facility has successfully demonstrated removal of immediate jeopardy."

Answers dated 10/16/08.



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