Indiana State Board of Health Facility Administrators

Laws and Regulations

A compilation of the Indiana Code and Indiana Administrative Code

2011 Edition

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NOTICE: This compilation incorporates the most recent revisions of statutes and administrative rules governing the health facility administrator profession, as of October 2011 Note that this compilation is not an official version of the Indiana Code. It is distributed as a general guide to individuals in the health facility administrator profession regulated by the Indiana State Board of Health Facility Administrators and the Indiana Professional Licensing Agency. It is not intended to be offered as legal advice, and it may contain typographical errors. The Indiana State Board of Health Facility Administrators and the Indiana Professional Licensing Agency staff are prohibited from providing legal advice on issues contained herein. For legal advice, please consult an attorney. To obtain official copies of the Indiana Code or Indiana Administrative Code, please contact your nearest public library or visit the website of the Indiana General Assembly at www.in.gov/legislative.

INDIANA STATE BOARD OF HEALTH FACILITY ADMINISTRATORS

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TABLE OF CONTENTS

INDIANA CODE § 25-19 – Health Facility Administrators

Chapter 1.	Regulation of Health Facility Administrators; Creation of Board	IC 25-19-1	Pages 4-7

INDIANA ADMINISTRATIVE CODE

Title 840, Article 1 – General Provisions

Rule 1.	Definitions; Licensure; Examinations	840 IAC 1-1	Pages 7-12
Rule 2.	Continuing Education for Renewal of License	840 IAC 1-2	Pages 12-14
Rule 3.	Schedule of Fees	840 IAC 1-3	Page 14

Title 840, Article 2 – Standards of Competent Practice

Rule 1.	Standards of Competent Practice	840 IAC 2-1	Pages 14-16

Title 410. Article 1 – Communicable Disease Control

Rule 3.	Infectious Waste	410 IAC 1-3	Pages 16-21
Rule 4.	Universal Precautions	410 IAC 1-4	Pages 21-26

Title 410, Article 16.2 – Health Facilities; Licensing and Operational Standards

Rule 0.5	Preamble	410 IAC 0.5	Pages 26-27
Rule 1.1	Definitions	410 IAC 16.2-1.1	Pages 27-38
Rule 3.1	Comprehensive Care Facilities	410 IAC 16.2-3.1	Pages 38-70
Rule 5.	Residential Care Facilities	410 IAC 16.2-5	Pages 70-88
Rule 6.	Health Care Facilities for Children	410 IAC 16.2-6	Pages 88-90
Rule 7.	Health Facilities for Developmentally Disabled Persons	410 IAC 16.2-7	Pages 90-91
Rule 8.	Incorporation by Reference.	410 IAC 16.2-8	Page 91

INDIANA CODE 25-19

ARTICLE 19. HEALTH FACILITY ADMINISTRATORS

INDIANA CODE 25-19-1

Chapter 1. Regulation of Health Facility Administrators; Creation of Board

IC 25-19-1-1 Definitions

Sec. 1. (a) As used in this chapter, "board" refers to the Indiana state board of health facility administrators.

(b) As used in this chapter, "health facility administrator" means a natural person who administers, manages, supervises, or is in general administrative charge of a licensed health facility whether such individual has an ownership interest in the health facility and whether the person's functions and duties are shared with one (1) or more individuals.

(c) As used in this chapter, "health facility" means any institution or facility defined as such for licensing under IC 16-28 and classified into care categories by rules adopted under IC 16-28.

(Formerly: Acts 1969, c.84, s.1; Acts 1971, P.L.374, SEC.1.) As amended by Acts 1982, P.L.29, SEC.5; P.L.149-1987, SEC.38; P.L.2-1993, SEC.139.

IC 25-19-1-2 State board of health facility administrators

Sec. 2. (a) There is created the Indiana state board of health facility administrators composed of thirteen (13) members as follows:

(1) The state health commissioner or the commissioner's designee.
(2) The director of the division of family resources or the director's designee.
(3) The state long term care ombudsman or the state long term care ombudsman's designee.
(4) The chief administrative officer of the Indiana University medical center at Indianapolis or the chief administrative officer's designee.
(5) One (1) member of the medical profession holding an unlimited license to practice medicine in Indiana.
(6) Four (4) administrators of licensed proprietary health facilities.
(7) Two (2) administrators of licensed nonproprietary health facilities.
(8) Two (2) members representing the public at large, who:
  (A) are residents of Indiana; and
  (B) have never been associated with health facility services or administration in any way other than as a resident or a family member of a resident of a health facility.

(b) Those members of the board other than the representatives of state agencies and institutions shall be appointed by the governor after consultation with the associations and societies appropriate to the disciplines and professions representative of the position to be filled. The original and all subsequent physician and hospital administrator appointments shall be for terms of four (4) years. All appointments shall be for four (4) year terms, except that in case of a vacancy prior to term completion, the appointment shall be for the remainder of the unexpired term. Any vacancy, either prior to or at term completion, shall be filled by the governor after consultation with the associations and societies appropriate to the discipline or professions representative of the vacancy. In all cases, the appointees shall serve until their successors are appointed and qualified.

(c) The governor may remove any member of the board other than the representative of a state agency or institution for misconduct, incapacity, incompetence, or neglect of duty after the member has been served with a written statement of charges and has been given an opportunity to be heard. Designated representatives of the state agencies or institutions may be removed by the original appointing authority for any of those causes.

(Formerly: Acts 1969, c.84, s.2.) As amended by Acts 1981, P.L.222, SEC.136; P.L.149-1987, SEC.39; P.L.2-1992, SEC.775; P.L.43-1998, SEC.1; P.L.145-2006, SEC.161; P.L.105-2008, SEC.33.

IC 25-19-1-3 Qualifications for license; examination

Sec. 3. (a) The board may issue licenses to qualified persons as health facility administrators and shall establish qualification criteria for health facility administrators. The board shall adopt rules establishing standards for the competent practice of a health facility administrator. A person who applies to the board to practice as a health facility administrator must:

(1) not have been convicted of a crime that has a direct bearing on the person's ability to practice competently;
(2) have:
  (A) satisfactorily completed a course of instruction and training prescribed by the board, which course shall be so designed as to content and so administered as to present sufficient knowledge of the needs properly to be served by health facilities, laws governing the operation of health facilities and the protection of the interests of patients therein, and the elements of good health facilities administration; or
  (B) presented evidence satisfactory to the board of sufficient education, training, or experience in the foregoing fields to administer, supervise, and manage a health facility; and
(3) have passed an examination administered by the board and designed to test for competence in the subject matter referred to in subdivision (2).

(b) The board may issue a provisional license for a single period not to exceed six (6) months for the purpose of enabling a qualified individual to fill a health facility administrator position that has been unexpectedly vacated. Before an individual is issued a provisional license, the individual must fulfill the requirements in subdivision (a)(1) in addition to complying with other standards and rules established by the board.

(Formerly: Acts 1969, c.84, s.3; Acts 1973, P.L.252, SEC.9.) As amended by Acts 1978, P.L.128, SEC.1; Acts 1981, P.L.222, SEC.137; Acts 1982, P.L.113, SEC.53; P.L.149-1987, SEC.40; P.L.152-1988, SEC.11; P.L.33-1993, SEC.26.

IC 25-19-1-3.5 Temporary permit; issuance; conditions

Sec. 3.5. (a) The board may issue a temporary permit to practice as a health facility administrator to a person who:

(1) has applied to the board for a license to practice as a health facility administrator;
(2) has a current license as a health facility administrator in another state;

(3) has met the educational requirements of the board;
(4) has completed a board approved training program or board determined equivalent; and
(5) has successfully completed the national examination with a score equivalent to the score required by this state.
(b) The board may substitute for the requirements in subsection (a)(3) or (a)(4) the experience of a person as a licensed health facility administrator in another state.
(c) A temporary permit issued under this section expires upon:
(1) the issuance of a license to the holder of the temporary permit; or
(2) the receipt by the holder of the temporary permit of notice from the board that the holder of the temporary permit has failed the required examination for licensure.
(d) A person holding a temporary permit to practice as a health facility administrator is subject to the disciplinary provisions of this chapter.
(e) The board may establish, by rules adopted under IC 4-22-2 and IC 25-19-1-4, application procedures and requirements for the issuance of temporary permits under this section.
As added by P.L.149-1987, SEC.41.

IC 25-19-1-4 Rules for licensure; cancellation, suspension, or revocation of license
Sec. 4. The board shall license health facility administrators in accordance with rules issued and from time to time revised by it. A health facility administrator's license shall not be transferable and shall be valid until surrendered for cancellation or suspended or revoked for violation of this chapter or any other laws or rules relating to the proper administration and management of a health facility. Any denial of issuance or renewal, suspension, or revocation under any section of this chapter shall be appealable upon the timely request of the applicant or licensee and pursuant to IC 4-21.5.
(Formerly: Acts 1969, c.84, s.4.) As amended by Acts 1982, P.L.154, SEC.76; P.L.7-1987, SEC.124.

IC 25-19-1-5 Classification as comprehensive health facilities and residential health facilities; administrator's license; fee
Sec. 5. (a) The state department of health, pursuant to authority provided by IC 16-28, has, by rule duly promulgated, classified health facilities into comprehensive health facilities and residential health facilities. The fee for a health facility administrator's license in either classification shall be set by the board under section 8 of this chapter.
(b) The fee and application shall be submitted to the board, and the board shall transmit all the funds received to the treasurer of state to be deposited by the treasurer in the general fund of the state. All expenses incurred in the administration of this chapter shall be paid from the general fund upon appropriation being made in the manner provided by law for making appropriations.
(c) The administrator of a comprehensive care facility must have a comprehensive care facility administrator license issued by the board in accordance with rules adopted under section 8 of this chapter.
(d) The administrator of a residential care facility must have one (1) of the following licenses issued by the board under rules adopted under section 8 of this chapter:
(1) A comprehensive care facility administrator license.
(2) A residential care facility administrator license.
(Formerly: Acts 1969, c.84, s.5; Acts 1971, P.L.374, SEC.2; Acts 1975, P.L.270, SEC.1.) As amended by Acts 1976, P.L.119, SEC.16; Acts 1982, P.L.29, SEC.6; P.L.169-1985, SEC.59; P.L.2-1993, SEC.140; P.L.54-2007, SEC.1; P.L.156-2011, SEC.39; P.L.197-2011, SEC.89.

IC 25-19-1-5.1 Fee; payment
Sec. 5.1. Notwithstanding section 5 of this chapter, the fee for a health facility administrator's license shall be submitted to the Indiana professional licensing agency for it to transmit to the state treasurer.
As added by Acts 1981, P.L.222, SEC.138. Amended by P.L.169-1985, SEC.60; P.L.1-2006, SEC.438.

IC 25-19-1-6 Organization and government of board; compensation; expenses; employees
Sec. 6. (a) The board shall elect from its membership annually a chairperson and vice chairperson and shall adopt rules to govern its proceedings.
(b) Each member of the board who is not a state employee is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). Such a member is also entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the department of administration and approved by the state budget agency.
(c) The Indiana professional licensing agency shall supply necessary personnel to assist the board in the performance of its duties.
(d) Seven (7) members of the board constitute a quorum for consideration of all matters before the board. A majority vote of the quorum is required for action of the board.
(Formerly: Acts 1969, c.84, s.6.) As amended by Acts 1981, P.L.222, SEC.139; P.L.169-1985, SEC.61; P.L.149-1987, SEC.42; P.L.28-1999, SEC.1; P.L.1-2006, SEC.439; P.L.105-2008, SEC.34.

IC 25-19-1-7 Determination of qualifications for license
Sec. 7. The Board shall have sole and exclusive authority to determine the qualifications, skill and fitness of any person to serve as an administrator of a health facility under the provisions of this chapter, and the holder of a license under the provisions of this chapter, shall be deemed qualified to serve as the administrator of that type of health facility for which he is licensed.
In carrying out its responsibilities under this chapter, The Board may seek the advice of various disciplines, agencies, institutions and individuals having an interest in long-term care.
(Formerly: Acts 1969, c.84, s.7; Acts 1971, P.L.374, SEC.3.)

IC 25-19-1-8 Powers and duties of the board
Sec. 8. The board shall do the following:
(1) Adopt rules establishing:
(A) standards for the competent practice of a health facility administrator; and
(B) separate education, experience, and training requirements for licensure in each of the following classifications described in section 5 of this chapter:
(i) Comprehensive health facility administrator.

(ii) Residential health facility administrator.

(2) Develop and apply appropriate techniques, including examination and investigations, for determining whether an individual meets the standards.

(3) Issue licenses to individuals determined, after application of the appropriate criteria, to meet the standards, and for cause, after due notice and hearing, impose sanctions under IC 25-1-9, including placing the licensee on probation and revoking or suspending licenses previously issued by the board in any case where the individual holding the license is determined substantially to have failed to conform to the requirements of the standards.

(4) Establish and carry out the procedures designed to ensure that individuals licensed as health facility administrators will, during any period that they serve as such, comply with the requirements of the standards.

(5) Subject to IC 25-1-7, receive, investigate, and take appropriate action under IC 25-1-9 with respect to, and including probation, suspension, or the revocation of a license if necessary after due notice and hearing and for cause, any charge or complaint filed with the board to the effect that any individual licensed as a health facility administrator has failed to comply with the requirements of the standards.

(6) Conduct a continuing study and investigation of health facilities and administrators of health facilities in the state to improve the standards imposed for the licensing of the administrators and of procedures and methods for the enforcement of the standards with respect to licensed health facility administrators.

(7) Conduct, or cause to be conducted, one (1) or more courses of instruction and training sufficient to meet the requirements of this chapter, and shall make provisions for the courses and their accessibility to residents of this state unless it finds and approves a sufficient number of courses conducted by others within this state. The board may approve courses conducted in or outside this state sufficient to meet the education and training requirements of this chapter.

(8) Take other actions, not inconsistent with law, including establishing and approving requirements for continuing professional education for licensure renewal, making provisions for accepting and disbursing funds for educational purposes, as may be necessary to enable the state to meet the requirements set forth in Section 1908 of the Social Security Act (42 U.S.C. 1396g), the federal regulations adopted under that law, and other pertinent federal authority, and designing any other action to improve the professional competence of licensees.

(Formerly: Acts 1969, c.84, s.8; Acts 1975, P.L.270, SEC.2.) As amended by Acts 1977, P.L.172, SEC.25; Acts 1981, P.L.222, SEC.140; P.L.149-1987, SEC.43; P.L.152-1988, SEC.12; P.L.54 -2007, SEC 2.

IC 25-19-1-9 Renewal of license; failure to renew

Sec. 9. (a) Every holder of a health facility administrator's license shall renew the license on the date established by the licensing agency under IC 25-1-5-4. The renewals shall be granted as a matter of course, unless the board finds, after due notice and hearing, that the applicant has acted or failed to act in a manner or under circumstances that would constitute grounds for nonrenewal, suspension, or revocation of a license.

(b) A health facility administrator's license expires at midnight on the renewal date specified by the Indiana professional licensing agency. Failure to renew a license on or before the renewal date automatically renders the license invalid.

(c) A person who fails to renew a license before it expires and becomes invalid at midnight of the renewal date shall be reinstated by the board if the person applies for reinstatement not later than three (3) years after the expiration of the license and meets the requirements under IC 25-1-8-6(c).

(d) The board may reinstate a person who applies to reinstate a license under this section more than three (3) years after the date the license expires and becomes invalid if the person applies to the board for reinstatement and meets the requirements for reinstatement established by the board under IC 25-1-8-6(d).

(e) The board may require an applicant under subsection (d) to appear before the board to explain the applicant's failure to renew.

(Formerly: Acts 1969, c.84, s.9; Acts 1975, P.L.270, SEC.3.) As amended by P.L.149-1987, SEC.44; P.L.48-1991, SEC.32; P.L.269-2001, SEC.14; P.L.1-2006, SEC.440; P.L.105-2008, SEC.35.

IC 25-19-1-10 License by reciprocity; requirements

Sec. 10. (a) The board may issue a health facility administrator's license to any person who holds a current comparable license from another jurisdiction, if the board finds that the applicant has:

(1) met the educational requirements of the board;

(2) completed a board approved training program or board determined equivalent;

(3) successfully completed the national examination with a score equivalent to the score required by this state; and

(4) successfully completed the state examination conducted by the board.

(b) The board may substitute for the requirements in subsection (a)(1) or (a)(2) the experience of a person as a licensed health facility administrator in another state.

(Formerly: Acts 1969, c.84, s.10.) As amended by P.L.149-1987, SEC.45; P.L.33-1993, SEC.27.

IC 25-19-1-11 Necessity of license; violations

Sec. 11. No health facility may operate unless it is under the supervision of an administrator who holds a currently valid health facility administrator's license, provisional license, or temporary permit issued under this chapter. No person may practice or offer to practice health facility administration or use any title, sign, card, or device to indicate that the person is a health facility administrator, unless the person has been duly licensed as a health facility administrator or provisional health facility administrator. A person who violates this section commits a Class C infraction, and each day of continuing violation after entry of judgment constitutes a separate infraction.

(Formerly: Acts 1969, c.84, s.11.) As amended by Acts 1978, P.L.2, SEC.2537; P.L.149-1987, SEC.46.

IC 25-19-1-12 Approval and promulgation of rules and regulations

Sec. 12. All rules and regulations authorized by this chapter, to become effective, shall be first approved by the board and then promulgated in the manner provided by law for the promulgation of rules and regulations of administrative bodies and when so promulgated shall be the only rules and regulations governing the licensing of health facility administrators as defined in this chapter, in the state.

(Formerly: Acts 1969, c.84, s.12.) As amended by Acts 1982, P.L.154, SEC.77.

IC 25-19-1-13 Repealed

(*Repealed by P.L.152-1988, SEC.30.)*

IC 25-19-1-14 Injunction from continuing violation of chapter; punishment

Sec. 14. The attorney general, the board, or the prosecuting attorney or a citizen of any county in which a person is in violation of this chapter may bring an action in the name of the state to enjoin the person from continuing in violation of this chapter. A person who is enjoined and who violates the injunction shall be punished for contempt of court. An injunction issued under this section does not relieve any person from criminal prosecution.
As added by P.L.149-1987, SEC.48.

TITLE 840 INDIANA STATE BOARD OF HEALTH FACILITY ADMINISTRATORS

NOTE: Originally adopted by the Indiana State Board of Registration and Education for Health Facility Administrators. Name changed by P.L.149-1987, SECTION 37, effective September 1, 1987.

ARTICLE 1. GENERAL PROVISIONS

Rule 1. Definitions; Licensure; Examinations

840 IAC 1-1-1 Title of rules; authority to promulgate rules *(Repealed)*

Sec. 1. *(Repealed by Indiana State Board of Health Facility Administrators; filed May 1, 2002, 10:35 a.m.: 25 IR 2861)*

840 IAC 1-1-2 Definitions

Authority: IC 25-19-1-4

Affected: IC 25-19-1-2

Sec. 2. Whenever used in this title, unless expressly otherwise stated, or unless the context or subject matter requires a different meaning, the following terms apply throughout this title:

(1) "Administrator-in-training" or "AIT" means a person who:
  (A) has registered with the board prior to commencing internship; and
  (B) desires to become involved in a program of professional health care training. No person shall serve or act as an AIT without being registered with the board and shall meet any and all criteria that may be established by the board.

(2) "AIT program" means an internship of a continuous educational experience in an HF approved by the board, such program to be administered under the supervision of a preceptor.

(3) "HF" means a licensed health facility or licensed residential facility.

(4) "HFA" means health facility administrator. (5) "HFA license" means a license issued under IC 25-19 that grants authority to administer a licensed residential facility or a licensed health facility.

(6) "Person" means a natural individual and does not include the following:
  (A) A firm.
  (B) A corporation.
  (C) An association.
  (D) A partnership.
  (E) An institution.
  (F) A public body.
  (G) A joint stock association.
  (H) Any other group of individuals.

(7) "Practice of health facility administration" means the practice of the person designated by a legal owner or owners of health facilities to perform any act or the making of any decision involved in the:
  (A) planning;
  (B) organizing;
  (C) developing;
  (D) directing; or
  (E) control;
of the operation of an HF.

(8) "Preceptor" means a duly licensed HFA or RCA who:
  (A) has been approved by the board under section 17 of this rule to serve in a teaching role; and
  (B) has the training, knowledge, professional activity, and a facility or organizational setting at his or her disposal to participate actively in the developing and refining of prospective HFAs or RCAs. This individual shall meet any and all criteria that may be established by the board.

(9) "RCA" means residential care administrator.

(10) "RCA license" means a license issued under IC 25-19 that grants authority to administer a licensed residential facility.

(11) "Related health care administration" means administration practiced in one (1) or more health related institutions. However, the term shall not mean any of the following:
  (A) The administration of services to an individual.
  (B) Administrative services that do not have as a major component the supervision of more than one (1) profession or discipline.
  (C) An administrative position in which the individual:
    (i) has not assumed direct responsibility for; and

(ii) is not held accountable for;
his or her own acts.

(Indiana State Board of Health Facility Administrators; Rule 3; filed May 26, 1978, 9:09 a.m.: 1 IR 243; filed May 18, 1979, 9:02 a.m.: 2 IR 842; filed May 2, 1985, 10:33 a.m.: 8 IR 1146; filed Sep 29, 1987, 2:08 p.m.: 11 IR 792; readopted filed May 1, 2002, 10:35 a.m.: 25 IR 2855; readopted filed Sep 26, 2008, 10:51 a.m.: 20081015-IR-840080338RFA; filed Jan 27, 2009, 9:50 a.m.: 20090225-IR-840080216FRA)

840 IAC 1-1-3 License required; use of title and HFA and RCA initials

Authority: IC 25-19-1-4

Affected: IC 25-19-1-5; IC 25-19-1-11

Sec. 3. (a) No HF in this state may operate unless it is under the supervision of an HFA who holds a current valid HFA license issued by the board under this rule, except that a licensed residential care facility may be administered by an RCA.

(b) No person shall practice or offer to practice HF administration in this state or use any title, sign, card, or device to indicate that he or she is an HFA or RCA unless the person shall have been duly licensed as an HFA or RCA pursuant to the laws of this state and the rules of this board lawfully promulgated.

(c) A person, not licensed as an HFA or RCA, shall not use the title "Assistant HF Administrator" or "Assistant RC Administrator", inasmuch as the employment of this title constitutes a fraudulent inducement to the public to rely on the expertise implied by the term "administrator" and is in violation of Indiana law. The designations "assistant-to-the-administrator" and "administrative assistant" can:

(1) serve the same purpose; and

(2) be in compliance with the law.

(d) A person licensed as an HFA in Indiana may use the initials HFA after the name. A person licensed as an RCA in Indiana may use the initials RCA after the name.

(Indiana State Board of Health Facility Administrators; Rule 4; filed May 26, 1978, 9:09 a.m.: 1 IR 244; readopted filed May 1, 2002, 10:35 a.m.: 25 IR 2855; readopted filed Sep 26, 2008, 10:51 a.m.: 20081015-IR-840080338RFA; filed Jan 27, 2009, 9:50 a.m.: 20090225-IR-840080216FRA)

840 IAC 1-1-4 Qualifications for licensure

Authority: IC 25-19-1-4

Affected: IC 25-19-1-3

Sec. 4. (a) All applicants for licensure as an HFA must have completed, at the time of application, the requirements of IC 25-19-1-3(a)(1) and any of the following educational attainments and administrator-in-training programs:

(1) Possession of a baccalaureate or higher degree from an accredited institution of higher learning approved by the board and completion of a required administrator-in-training program for the type of licensure pursued.

(2) Possession of an associate degree in health care from an accredited institution of higher learning approved by the board, completion of a specialized course of study in long-term health care administration approved by the board, and completion of a required administrator-in-training program for the type of licensure pursued.

(3) Completion of a specialized course of study in long-term health care administration prescribed by the board and completion of a required administrator-in-training program for the type of licensure pursued.

(b) Applicants for licensure by endorsement as an HFA may request that the board consider previous experience to satisfy the requirements of subsection (a). Educational and AIT requirements may be satisfied by two (2) years of active work experience as a licensed HFA in another state. Evidence must be presented to the board demonstrating competency of practice.

(c) Applicants for licensure as an HFA may request that the board consider previous experience to satisfy the AIT requirements of subsection (a). AIT requirements may be satisfied by any of the following:

(1) One (1) year of active work experience as a licensed HFA.

(2) Completion of a training program required for licensure as an HFA in another state that is determined by the board to be equivalent to the AIT requirements of this state.

(3) Completion of a residency-internship in health care administration completed as part of a degree requirement of subsection (a)(1) and (a)(2) that is determined by the board to be equivalent to the AIT requirements of this state.

(4) One (1) year of active work experience as a chief executive officer or chief operations officer in a hospital.

(5) A master's degree in health care administration and six (6) months of active work experience as a licensed HFA in another state.

(d) All applicants for licensure as an RCA must have completed, at the time of application, the requirements of IC 25-19-1-3(a)(1) and at least one (1) of the following educational attainments and administrator-in-training programs:

(1) Possession of a baccalaureate or higher degree from an accredited institution of higher learning approved by the board and completion of a required administrator-in-training program for the type of licensure pursued.

(2) Possession of an associate degree in health care from an accredited institution of higher learning approved by the board, completion of a specialized course of study in long-term health care administration approved by the board, and completion of a required administrator-in-training program for the type of licensure pursued.

(3) Completion of a specialized course of study prescribed by the board and completion of a required administrator-in-training program for the type of licensure pursued.

(e) Applicants for licensure by endorsement as an RCA may request that the board consider previous experience to satisfy the requirements of subsection (d). Educational and AIT requirements may be satisfied by two (2) years of active work experience as a licensed residential care administrator in another state. Evidence must be presented to the board demonstrating competency of practice.

(f) Applicants for licensure as an RCA may request that the board consider previous experience to satisfy the AIT requirements of subsection (d). AIT requirements may be satisfied by any of the following:

(1) One (1) year of active work experience as a licensed RCA.

(2) Completion of a training program required for licensure as an RCA in another state that is determined by the board to be equivalent to the AIT requirements of this state.

(3) Completion of a residency-internship in health care administration completed as part of a degree requirement of subsection (d)(1) and (d)(2) that is determined by the board to be equivalent to the AIT requirements of this state.

(4) One (1) year of active work experience as a chief executive officer or chief operations officer in a hospital.

(5) A master's degree in health care administration and six (6) months of active work experience as a licensed RCA in another state.

(g) The board may waive portions of the required training hours, up to thirty percent (30%), for an HFA or RCA applicant, based upon criteria approved by the board, provided the applicant's experience under consideration is verifiable to the board's satisfaction.

(Indiana State Board of Health Facility Administrators; Rule 5; filed May 26, 1978, 9:09 a.m.: 1 IR 244; filed May 2, 1985, 10:33 a.m.: 8 IR 1147; filed Sep 29, 1987, 2:08 p.m.: 11 IR 793; filed Dec 22, 1987, 2:36 p.m.: 11 IR 1604; errata filed Mar 25, 1991, 4:40 p.m.: 14 IR 1626; errata filed Jul 8, 1991, 5:00 p.m.: 14 IR 2066; readopted filed May 1, 2002, 10:35 a.m.: 25 IR 2856; filed Jan 24, 2003, 1:55 p.m.: 26 IR 1943; filed Jan 27, 2009, 9:50 a.m.: 20090225-IR-840080216FRA)

840 IAC 1-1-5 Application for license; interview

Authority: IC 25-19-1-4

Affected: IC 25-19-1-3; IC 25-19-1-5

Sec. 5. (a) An applicant for licensure as an HFA or RCA shall:

(1) make application for licensure in writing on forms provided by the board; and

(2) furnish evidence satisfactory to the board that the qualifying requirements have been met as provided for in the state licensing statutes and section 4 of this rule.

(b) The board may designate a time and place at which an applicant may be required to appear for an interview at the discretion of the board.

(Indiana State Board of Health Facility Administrators; Rule 6; filed May 26, 1978, 9:09 a.m.: 1 IR 245; filed May 2, 1985, 10:33 a.m.: 8 IR 1148; filed Sep 29, 1987, 2:08 p.m.: 11 IR 794; readopted filed May 1, 2002, 10:35 a.m.: 25 IR 2856; readopted filed Sep 26, 2008, 10:51 a.m.: 20081015-IR-840080338RFA; filed Jan 27, 2009, 9:50 a.m.: 20090225-IR-840080216FRA)

840 IAC 1-1-6 Examination

Authority: IC 25-19-1-4

Affected: IC 25-19-1-3

Sec. 6. (a) Every applicant for a license as an HFA or RCA, after meeting the requirements for qualification as set forth in section 4 of this rule, shall pass successfully a written or oral examination, or both, at the discretion of the board that shall include, but need not be limited to, the following:

(1) Applicable standards of environmental health and safety.

(2) Local health and safety regulation.

(3) General administration.

(4) Psychology of patient care.

(5) Principles of medical care.

(6) Pharmaceutical services and drug handling.

(7) Personal and social care.

(8) Therapeutic and supportive care and services in long-term care.

(9) Departmental organization and management.

(10) Community interrelationships.

(b) Every applicant for an HFA or RCA license shall be required to pass the examination for the license with a grade established by the board in accordance with methods and procedures set up by the board.

(c) All applications for the examination must be complete in every respect, including accompanying data and the required fee, at least thirty (30) days before the examination for which application is being made. Any applicant whose application does not meet these requirements will not be permitted to take the examination.

(d) An applicant who does not pass the licensing examination in the first attempt shall be entitled to take it two (2) additional times. However, an applicant must successfully pass the licensure examination within one (1) calendar year from the date of sitting for the exam.

(e) If an applicant exhausts all of the examination attempts within the one (1) year allowed under subsection (d), the applicant shall appear before the board and may be required to submit the following:

(1) Proof of the completion of at least two hundred (200) contact hours of continuing education approved by the board.

(2) A new application for entry into the administrator-in-training program.

(3) Proof of completion of the required administrator-in-training program. In addition, the applicant shall meet all other licensing requirements in force and effect at the time of reapplication.

(Indiana State Board of Health Facility Administrators; Rule 7; filed May 26, 1978, 9:09 a.m.: 1 IR 246; filed May 18, 1979, 9:02 a.m.: 2 IR 842; filed May 2, 1985, 10:33 a.m.: 8 IR 1148; filed Sep 29, 1987, 2:08 p.m.: 11 IR 794; readopted filed May 1, 2002, 10:35 a.m.: 25 IR 2857; filed Feb 6, 2004, 9:15 a.m.: 27 IR 1880; filed Jul 9, 2007, 8:58 a.m.: 20070808-IR-840060513FRA; filed Jan 27, 2009, 9:50 a.m.: 20090225-IR-840080216FRA)

840 IAC 1-1-7 Categories of licenses; renewal; fee (Repealed)

Sec. 7. (Repealed by Indiana State Board of Health Facility Administrators; filed Sep 29, 1987, 2:08 pm: 11 IR 798)

840 IAC 1-1-8 Disapproval; re-application (Repealed)

Sec. 8. (Repealed by Indiana State Board of Health Facility Administrators; filed Sep 29, 1987, 2:08 pm: 11 IR 798)

840 IAC 1-1-9 Suspension or revocation of license; restoration (Repealed)

Sec. 9. (Repealed by Indiana State Board of Health Facility Administrators; filed Sep 29, 1987, 2:08 pm: 11 IR 798)

840 IAC 1-1-10 Complaints and disciplinary hearings (Repealed)

Sec. 10. (Repealed by Indiana State Board of Health Facility Administrators; filed Sep 29, 1987, 2:08 pm: 11 IR 798)

840 IAC 1-1-11 Display of license
Authority: IC 25-19-1-4
Affected: IC 25-19-1
Sec. 11. Every individual licensed as an HFA or RCA shall display his or her current license in a prominent location in that individual's principal office. *(Indiana State Board of Health Facility Administrators; Rule 12; filed May 26, 1978, 9:09 a.m.: 1 IR 247; filed Sep 29, 1987, 2:08 p.m.: 11 IR 795; readopted filed May 1, 2002, 10:35 a.m.: 25 IR 2857; readopted filed Sep 26, 2008, 10:51 a.m.: 20081015-IR-840080338RFA; filed Jan 27, 2009, 9:50 a.m.: 20090225-IR-840080216FRA)*

840 IAC 1-1-12 Duplicate licenses
Authority: IC 25-19-1-4
Affected: IC 25-19-1
Sec. 12. (a) Upon receipt of satisfactory evidence that a license has been lost, stolen, mutilated, or destroyed, the board may issue a duplicate license upon:
(1) compliance with conditions as the board may prescribe; and
(2) payment of a fee as determined by the board.
(b) A practitioner may hold both an HFA and RCA license provided that all requirements of this rule are met, including separate applications to be submitted with the appropriate fees for each license application and renewal.
(Indiana State Board of Health Facility Administrators; Rule 13; filed May 26, 1978, 9:09 a.m.: 1 IR 247; readopted filed May 1, 2002, 10:35 a.m.: 25 IR 2857; readopted filed Sep 26, 2008, 10:51 a.m.: 20081015-IR-840080338RFA; filed Jan 27, 2009, 9:50 a.m.: 20090225-IR-840080216FRA)

840 IAC 1-1-13 Educational institutions and courses; approval by board
Authority: IC 25-19-1-4
Affected: IC 25-19-1-8
Sec. 13. Any course of study, offered by an educational institution, association, professional society, or organization for the purpose of qualifying an applicant for licensure must be approved by the board. *(Indiana State Board of Health Facility Administrators; Rule 14; filed May 26, 1978, 9:09 a.m.: 1 IR 247; readopted filed May 1, 2002, 10:35 a.m.: 25 IR 2857; readopted filed Sep 26, 2008, 10:51 a.m.: 20081015-IR-840080338RFA)*

840 IAC 1-1-14 Provisional licenses
Authority: IC 25-19-1-4
Affected: IC 25-19-1-3
Sec. 14. (a) An individual may be issued a provisional HFA license for a specific licensed health facility if the individual has:
(1) at least two (2) years of administrative experience in a licensed HF; and
(2) complied with the conditions of IC 25-19-1-3(a)(1).
(b) An individual may be issued a provisional RCA license for a specific licensed residential facility if the individual has:
(1) at least two (2) years of administrative experience in a licensed HF; and
(2) complied with the conditions of IC 25-19-1-3(a)(1).
(c) Under subsections (a) and (b), the director of the board may issue a provisional license to an individual who appears to be qualified; however, this license will be subject to the approval of the board at its next following meeting, at which time the board may withdraw the provisional license if it determines that the licensee fails to meet all applicable qualifications for the license.
(d) Experience gained under provisional licensure shall not satisfy the educational or AIT requirements of section 4(a) or 4(d) of this rule.
(Indiana State Board of Health Facility Administrators; Rule 15; filed May 18, 1979, 9:02 a.m.: 2 IR 841; filed Sep 29, 1987, 2:08 p.m.: 11 IR 795; readopted filed May 1, 2002, 10:35 a.m.: 25 IR 2858; readopted filed Sep 26, 2008, 10:51 a.m.: 20081015-IR-840080338RFA; filed Jan 27, 2009, 9:50 a.m.: 20090225-IR-840080216FRA)

840 IAC 1-1-15 Program for administrator-in-training
Authority: IC 25-19-1-4
Affected: IC 25-19-1-3; IC 25-19-1-8
Sec. 15. (a) An AIT seeking licensure as an HFA shall satisfactorily complete a course of instruction and training prescribed by the board that occurs in a licensed comprehensive care facility and that shall include, but not be limited to, the following:
(1) Standards of competent practice.
(2) Administration.
(3) Housekeeping/laundry.
(4) Facility management.
(5) Nursing.
(6) Dietary.
(7) Activities.
(8) Business office.
(9) Admissions/marketing.
(10) Overall facility management.
(b) An AIT seeking licensure as an RCA shall satisfactorily complete a course of instruction and training prescribed by the board that occurs in a licensed residential care facility and that shall include, but not be limited to, the following:
(1) Standards of competent practice.
(2) Administration.
(3) Housekeeping/laundry.
(4) Facility management.
(5) Nursing.

(6) Dietary.
(7) Activities.
(8) Business office.
(9) Admissions/marketing.
(10) Overall facility management.

(c) The AIT seeking licensure as an RCA is required to complete not less than eighty (80) hours of the training program in a licensed comprehensive care facility in order to complete training in the following areas:
(1) Medicare/Medicaid regulations and implementation thereof.
(2) Health comprehensive care organization and coordination of services.
(3) Assessments and care plans.
(4) Any other areas approved by the board.

(Indiana State Board of Health Facility Administrators; Rule 16; filed May 18, 1979, 9:02 a.m.: 2 IR 841; filed Sep 12, 1985, 3:25 p.m.: 9 IR 285; filed Sep 29, 1987, 2:08 p.m.: 11 IR 795; readopted filed May 1, 2002, 10:35 a.m.: 25 IR 2858; readopted filed Sep 26, 2008, 10:51 a.m.: 20081015-IR-840080338RFA; filed Jan 27, 2009, 9:50 a.m.: 20090225-IR-840080216FRA)

840 IAC 1-1-16 Qualifications and duties of administrator-in-training
Authority: IC 25-19-1-4
Affected: IC 25-19-1-3; IC 25-19-1-8

Sec. 16. (a) The AIT seeking licensure as an HFA or RCA shall:
(1) file an AIT application with the board and be approved prior to starting the internship program; and
(2) have met the requirements of IC 25-19-1-3(a)(1) and the educational attainments of section 4(a) of this rule at the time the application is filed.

(b) The AIT seeking licensure as an HFA shall:
(1) observe and become familiar with the responsibilities and duties of the preceptor and AIT;
(2) be assigned responsibilities in each department, with experience on every shift, including weekends;
(3) not hold a position in the facility during the hours of the AIT program;
(4) serve as an AIT a minimum of twenty (20) hours per week, but not more than ten (10) hours daily;
(5) complete the program in a minimum of six (6) months and a maximum of twelve (12) months for a minimum total of one thousand forty (1,040) hours;
(6) seek and accept instruction and assistance from the preceptor;
(7) notify the board on suitable forms of any change of status or discontinuance of the AIT program; and
(8) forward to the board at the end of the AIT program an affidavit stating the requirements of the program have been fulfilled.

(c) The AIT seeking licensure as an RCA shall:
(1) observe and become familiar with the responsibilities and duties of the preceptor and AIT;
(2) be assigned responsibilities in each department, with experience on every shift, including weekends;
(3) not hold a position in the facility during the hours of the AIT program;
(4) serve as an AIT a minimum of twenty (20) hours per week, but not more than ten (10) hours daily;
(5) complete the program in a minimum of six (6) months and a maximum of twelve (12) months for a minimum total of eight hundred sixty (860) hours;
(6) seek and accept instruction and assistance from the preceptor;
(7) notify the board on suitable forms of any change of status or discontinuance of the AIT program; and
(8) forward to the board at the end of the AIT program an affidavit stating the requirements of the program have been fulfilled.

(d) The AIT may serve up to twenty percent (20%) of the internship in a setting other than the preceptor's facility.

(e) The board reserves the right to take appropriate action for failure of an AIT to comply with the duties enumerated above.

(f) The hours and amount of time spent in the AIT program may be reduced due to credit given by the board under section 4(g) of this rule. *(Indiana State Board of Health Facility Administrators; Rule 17; filed May 18, 1979, 9:02 a.m.: 2 IR 840; filed Sep 12, 1985, 3:25 p.m.: 9 IR 285; filed Sep 29, 1987, 2:08 p.m.: 11 IR 796; readopted filed May 1, 2002, 10:35 a.m.: 25 IR 2858; readopted filed Sep 26, 2008, 10:51 a.m.: 20081015-IR-840080338RFA; filed Jan 27, 2009, 9:50 a.m.: 20090225-IR-840080216FRA)*

840 IAC 1-1-17 Qualifications and duties of preceptors
Authority: IC 25-19-1-8
Affected: IC 25-19-1-12

Sec. 17. (a) The applicant for approval as a preceptor shall file a new application for each AIT applicant for whom the preceptor applicant desires to serve as a preceptor.

(b) In order to qualify as a preceptor, the applicant:
(1) shall:
(A) be a currently licensed Indiana:
(i) HFA to precept an applicant seeking licensure as an HFA or RCA; or
(ii) RCA to precept an applicant seeking licensure as an RCA;
(B) file an application with the board and be approved prior to serving as the preceptor; and
(C) have attended, within the five (5) years prior to applying to serve as a preceptor, a board approved educational program and forward to the board a certificate of completion;
(2) must:
(A) have active work experience as an HFA or RCA for at least two (2) out of the immediate preceding three (3) years prior to the date of application;
(B) be a current CEO of a continuing care retirement community who holds a current valid HFA license; or
(C) be a current regional manager for a multi facility organization who holds a current valid HFA license or RCA and who affirms to the board that his or her physical presence at the training location is concurrent with at least sixty percent (60%) of the applicant's physical presence at the training location; and
(3) shall not have any disciplinary action taken by the board against his or her HFA or RCA license in the last two (2) years.

(c) Each approved preceptor shall:

(1) act as a teacher rather than an employer and should provide the AIT with educational opportunities;
(2) inform the board if the AIT presents any problems that may affect the facility's service and operation or the AIT's program;
(3) notify the board on suitable forms of any change of status or discontinuance of the AIT program;
(4) submit to the board at the completion of the program an affidavit, as prescribed by the board, stating that the requirements of the AIT/preceptor program as stated in section 15 of this rule have been met;
(5) ensure that the records of AIT programs are maintained for a period of five (5) years, during which time the board may request review of these records; and
(6) spend a majority of the required work hours during normal daytime business hours in the facility where training is to occur, except as deemed necessary to accommodate special situations or emergencies.

(d) The board reserves the right to take appropriate action for failure of a preceptor to comply with the duties enumerated above.

(e) A preceptor may not supervise more than one (1) AIT at any given time, except at the discretion of the board.

(f) The preceptor approval expires when the AIT applicant completes the course of instruction and training prescribed by the board or fails to complete the requirements of section 16 of this rule.

(Indiana State Board of Health Facility Administrators; Rule 18; filed May 18, 1979, 9:02 a.m.: 2 IR 843; filed Dec 31, 1981, 8:55 a.m.: 5 IR 398; filed Sep 12, 1985, 3:25 p.m.: 9 IR 286; filed Sep 29, 1987, 2:08 p.m.: 11 IR 796; readopted filed May 1, 2002, 10:35 a.m.: 25 IR 2859; readopted filed Sep 26, 2008, 10:51 a.m.: 20081015-IR-840080338RFA; filed Jan 27, 2009, 9:50 a.m.: 20090225-IR-840080216FRA)

840 IAC 1-1-18 Temporary permits

Authority: IC 25-19-1-3.5; IC 25-19-1-8

Affected: IC 25-19-1-3.5

Sec. 18. Persons holding a valid HFA or RCA license in another state who seek licensure by endorsement in Indiana may be granted a temporary permit. Applicants for a temporary permit will be required to take the Indiana jurisprudence examination for licensure within ninety (90) days of its issuance. In addition to the provisions of IC 25- 19-1-3.5, temporary permits of applicants who fail to appear for the scheduled examination will be invalidated. If the applicant presents compelling reasons to the board in writing for missing the scheduled examination, the board may allow the applicant to submit a new application for temporary permit.

(Indiana State Board of Health Facility Administrators; 840 IAC 1-1-18; filed Dec 22, 1987, 2:37 p.m.: 11 IR 1603; readopted filed May 1, 2002, 10:35 a.m.: 25 IR 2859; readopted filed Sep 26, 2008, 10:51 a.m.: 20081015-IR-840080338RFA; filed Jan 27, 2009, 9:50 a.m.: 20090225-IR-840080216FRA)

Rule 2. Continuing Education for Renewal of License

840 IAC 1-2-1 Continuing education; credit requirements

Authority: IC 25-19-1-4

Affected: IC 25-1-4-0.2; IC 25-19-1

Sec. 1. (a) An HFA or RCA who is not currently or previously licensed in another state is not required to complete the continuing education requirements for the two (2) year licensing period in which the license was issued.

(b) An HFA or RCA must complete at least forty (40) continuing education hours during the previous two (2) year licensing period.

(c) If an HFA or RCA attends an approved program in another state with a mandatory continuing education requirement, the board will accept the approved hours.

(d) Continuing education credit may not be carried over from one (1) biennial licensure renewal period to another.

(e) The forty (40) hours biennial continuing education requirement shall not be increased or decreased unless this section is duly amended and all licensees are notified in writing at the date of license renewal that the following renewal will require an increased or decreased number of hours of continuing education.

(f) The continuing education requirement shall be satisfied by participating in programs that must be offered by approved organizations as defined under IC 25-1-4-0.2.

(g) If the licensee holds both an HFA and an RCA license, only forty (40) hours of continuing education is required for renewal of both licenses. The requirement of continuing education having been met for one (1) license will have the effect of meeting the requirements for the other license.

(h) Continuing education courses offered by accredited colleges are acceptable if the course content pertains to the practice of HF administration.

(i) Accredited college courses related to the practice of HF administration are acceptable forms of continuing education. The following conversion will be used for continuing education credit:
(1) One (1) semester hour equals fifteen (15) contact hours.
(2) One (1) quarter hour equals ten (10) contact hours.

(j) Service on the Indiana state board of health facility administrators earns one (1) continuing education hour for each hour of service.

(k) A maximum of twenty (20) continuing education hours may be obtained through subsections (i) and (j).

(Indiana State Board of Health Facility Administrators; 840 IAC 1-2-1; filed Jan 5, 1984, 2:33 p.m.: 7 IR 577; filed Sep 29, 1987, 2:08 p.m.: 11 IR 797; filed Feb 14, 1991, 1:30 p.m.: 14 IR 1438; readopted filed May 1, 2002, 10:35 a.m.: 25 IR 2859; filed Feb 6, 2004, 9:15 a.m.: 27 IR 1881; filed Jun 5, 2008, 11:28 a.m.: 20080702-IR-840070825FRA; filed Jan 27, 2009, 9:50 a.m.: 20090225-IR-840080216FRA)

840 IAC 1-2-2 Verification of attendance

Authority: IC 25-19-1-4

Affected: IC 25-1-4; IC 25-19-1

Sec. 2. (a) The HFA or RCA shall:
(1) retain copies of certificates of completion for continuing education courses for three (3) years from the end of the licensing period for which the continuing education applied; and
(2) provide the board with copies of the certificates of completion upon the board's request for a compliance audit.

(b) Approved continuing education sponsors must retain the attendance records for a period of five (5) years, during which time the board may request review of these records.

(c) Continuing education audits and actions regarding noncompliance will be conducted as provided for in IC 25-1-4.
(Indiana State Board of Health Facility Administrators; 840 IAC 1-2-2; filed Jan 5, 1984, 2:33 p.m.: 7 IR 577; filed Feb 14, 1991, 1:30 p.m.: 14 IR 1439; readopted filed May 1, 2002, 10:35 a.m.: 25 IR 2860; filed Jun 5, 2008, 11:28 a.m.: 20080702-IR-840070825FRA; readopted filed Sep 26, 2008, 10:51 a.m.: 20081015-IR-840080338RFA; filed Jan 27, 2009, 9:50 a.m.: 20090225-IR-840080216FRA)

840 IAC 1-2-3 Reporting of credits (Repealed)
Sec. 3. *(Repealed by Indiana State Board of Health Facility Administrators; filed Sep 29, 1987, 2:08 pm: 11 IR 798)*

840 IAC 1-2-4 Approval of sponsor; responsibility
Authority: IC 25-19-1-4
Affected: IC 25-19-1
Sec. 4. (a) Sponsors of programs must file application with the board and be approved at least thirty (30) days prior to the date of the first presentation.
(b) The sponsor is responsible for monitoring attendance of programs in such a way that verification of attendance throughout the program can be reliably assured.
(c) Approval of a sponsor will be valid for a maximum period of one (1) year. All approvals expire on January 31 of each year.
(d) Under extenuating circumstances, the board may approve an application for a sponsor of continuing education programs which did not meet the thirty (30) day submission requirement. Such cases will be considered on an individual basis only.
(Indiana State Board of Health Facility Administrators; 840 IAC 1-2-4; filed Jan 5, 1984, 2:33 p.m.: 7 IR 577; filed Feb 14, 1991, 1:30 p.m.: 14 IR 1439; readopted filed May 1, 2002, 10:35 a.m.: 25 IR 2860; readopted filed Sep 26, 2008, 10:51 a.m.: 20081015-IR-840080338RFA)

840 IAC 1-2-5 Exemptions
Authority: IC 25-19-1-4
Affected: IC 25-19-1
Sec. 5. Licensees who fail to comply with the continuing education requirements of the board shall not be issued a renewal license, except for the following exemptions:
(1) An HFA or RCA who holds a valid license, but submits a statement from a physician or surgeon stating that the licensee is unable to practice due to illness or physical disability.
(2) An HFA or RCA on active military duty.
(3) Other circumstances determined by the board.
(Indiana State Board of Health Facility Administrators; 840 IAC 1-2-5; filed Jan 5, 1984, 2:33 p.m.: 7 IR 578; filed Sep 29, 1987, 2:08 p.m.: 11 IR 797; readopted filed May 1, 2002, 10:35 a.m.: 25 IR 2861; readopted filed Sep 26, 2008, 10:51 a.m.: 20081015-IR840080338RFA; filed Jan 27, 2009, 9:50 a.m.: 20090225-IR-840080216FRA)

840 IAC 1-2-5.1 Inactive status
Authority: IC 25-19-1-4
Affected: IC 25-19-1
Sec. 5.1. An H.F.A. may apply to the board to renew his or her license in an inactive status. No continuing education is required to renew inactive. An inactive H.F.A. may not practice health facility administration while in an inactive status.
(Indiana State Board of Health Facility Administrators; 840 IAC 1-2-5.1; filed Jun 5, 2008, 11:28 a.m.: 20080702-IR-840070825FRA)

840 IAC 1-2-5.2 Reactivation of inactive license
Authority: IC 25-19-1-4
Affected: IC 25-19-1
Sec. 5.2. (a) A licensed H.F.A. who has been inactive for a period of three (3) years at the date of the reactivation application is filed must show proof of having completed forty (40) hours of continuing education within the two (2) year period immediately before to the date the reactivation application is filed.
(b) A licensed H.F.A. who has been inactive for a period of more than three (3) years at the date the reactivation application is filed must:
(1) make a personal appearance before the board;
(2) show proof of having completed forty (40) hours of continuing education;
(3) provide employment history during inactive period; and
(4) do any other additional requirements as deemed by the board; within the two (2) year period immediately before to the date the reactivation application is filed.
(Indiana State Board of Health Facility Administrators; 840 IAC 1-2-5.2; filed Jun 5, 2008, 11:28 a.m.: 20080702-IR-840070825FRA)

840 IAC 1-2-6 Persons exempt from fee
Authority: IC 25-19-1-4
Affected: IC 25-19-1
Sec. 6. (a) The board shall exempt the following from payment of a fee for continuing education sponsorship:
(1) Any state or federal agency.
(2) Any state funded school.
(b) Exemption from payment of a fee for continuing education sponsorship does not relieve the sponsor of any other requirements or duties prescribed by law.
(*Indiana State Board of Health Facility Administrators; 840 IAC 1-2-6; filed May 2, 1985, 10:33 a.m.: 8 IR 1150; filed Sep 29, 1987, 2:08 p.m.: 11 IR 797; filed Feb 14, 1991, 1:30 p.m.: 14 IR 1439; readopted filed May 1, 2002, 10:35 a.m.: 25 IR 2861; readopted filed Sep 26, 2008, 10:51 a.m.: 20081015-IR-840080338RFA; filed Jan 27, 2009, 9:50 a.m.: 20090225-IR-840080216FRA)*

840 IAC 1-2-7 Administrator-in-training program; preceptor experience credit
Authority: IC 25-19-1-4
Affected: IC 25-19-1-3; IC 25-19-1-8
Sec. 7. Two (2) credit hours of continuing education will be granted for each complete month an HFA or RCA has served as preceptor for an approved AIT program. Not more than twenty (20) hours per renewal cycle may be earned using this method.
(Indiana State Board of Health Facility Administrators; 840 IAC 1-2-7; filed Sep 12, 1985, 3:25 p.m.: 9 IR 286; filed Sep 29, 1987, 2:08 p.m.: 11 IR 798; readopted filed May 1, 2002, 10:35 a.m.: 25 IR 2861; readopted filed Sep 26, 2008, 10:51 a.m.: 20081015-IR840080338RFA; filed Jan 27, 2009, 9:50 a.m.: 20090225-IR-840080216FRA)

Rule 3. Schedule of Fees

840 IAC 1-3-1 Fees (Repealed)
Sec. 1. *(Repealed by Indiana State Board of Health Facility Administrators; filed Dec 26, 2001, 2:47 p.m.: 25 IR 1634)*

840 IAC 1-3-2 Fees
Authority: IC 25-1-8-2; IC 25-19-1-8; IC 25-19-1-12
Affected: IC 25-19-1-5; IC 25-19-1-9
Sec. 2. (a) The board shall charge and collect the following fees:

Application for licensure	$100
Application to repeat jurisprudence examination	$100
Application to repeat national examination	$50
License renewal	$100 biennially
Provisional license	$100
Preceptor application	$50
Temporary permit	$50
Verification of licensure	$10
Duplicate wall license	$10
Application for continuing education sponsorship	$100
Continuing education sponsorship renewal	$100 annually

(b) Applicants required to take the national examination for licensure shall pay a fee directly to a professional examination service in the amount set by the examination service.
(Indiana State Board of Health Facility Administrators; 840 IAC 1-3-2; filed Dec 26, 2001, 2:47 p.m.: 25 IR 1634; readopted filed Sep 26, 2008, 10:51 a.m.: 20081015-IR-840080338RFA)

ARTICLE 2. STANDARDS OF COMPETENT PRACTICE

Rule 1. Standards of Competent Practice

840 IAC 2-1-1 Statement of policy regarding the practice of health facility administration
Authority: IC 25-19-1-8
Affected: IC 25-19-1-7
Sec. 1. The HFA or RCA is expected to:
(1) exercise ethical and sound decision making and judgment;
(2) assume leadership in his or her facility; and
(3) exemplify an administrative philosophy congruent with the mission and goals of the organization.
(Indiana State Board of Health Facility Administrators; 840 IAC 2-1-1; filed Feb 1, 1999, 10:52 a.m.: 22 IR 2004; readopted filed Jun 13, 2005, 2:00 p.m.: 28 IR 3353; filed Jan 27, 2009, 9:50 a.m.: 20090225-IR-840080216FRA)

840 IAC 2-1-2 Organizational management
Authority: IC 25-19-1-8
Affected: IC 25-19-1-7
Sec. 2. With regard to organizational management, the HFA or RCA shall comply with the following:
(1) Not engage in fraudulent, misleading, or deceptive advertising in either form or content.
(2) Not practice health facility administration unless the person holds a license, as required in 840 IAC 1-1-3, with such license at the time of practice not having a status of suspended, delinquent, or expired. An individual may not:
(A) allow another person to present his or her license as their own; or
(B) present as his or her own the license of another individual.
(3) Not:
(A) make or file a report or record that the licensee knows to be false;
(B) fail to file a report or record required by federal or state law;
(C) impede or obstruct the filing; or
(D) induce another person to impede or obstruct the filing.
(4) Set in place a functional table of organization with standards of accountability and hold department heads accountable for the performance of their

respective departments.
(5) Review and consider for possible implementation, reports from various sources to maintain or improve resident care and quality of life.
(6) Not practice health facility administration in more than one (1) health facility simultaneously.
(Indiana State Board of Health Facility Administrators; 840 IAC 2-1-2; filed Feb 1, 1999, 10:52 a.m.: 22 IR 2004; readopted filed Jun 13, 2005, 2:00 p.m.: 28 IR 3353; filed Jan 27, 2009, 9:50 a.m.: 20090225-IR-840080216FRA)

840 IAC 2-1-3 Resident care
Authority: IC 25-19-1-8
Affected: IC 25-19-1-7
Sec. 3. With regard to resident care, the HFA or RCA shall develop and administer resident centered policies that do the following:
(1) Ensure the:
(A) health;
(B) safety;
(C) welfare; and
(D) rights;
of the residents.
(2) Govern continuing care, related medical, and other services provided by the facility to provide the highest practicable mental, physical, and psychosocial well-being for each resident in a healthy, safe, and home-like environment.
(3) Evaluate the quality of resident care, residents' rights, and quality of life. Identify strengths and weaknesses and set in place measures for the improvement where necessary, evaluate progress, and institute appropriate follow-up activities.
(4) Ensure residents are free from the following:
(A) Sexual abuse.
(B) Physical abuse.
(C) Mental abuse.
(D) Corporal punishment.
(E) Exploitation.
(F) Neglect.
(G) Involuntary seclusion.
(5) Protect resident personal funds and property.
(Indiana State Board of Health Facility Administrators; 840 IAC 2-1-3; filed Feb 1, 1999, 10:52 a.m.: 22 IR 2004; readopted filed Jun 13, 2005, 2:00 p.m.: 28 IR 3353; filed Jan 27, 2009, 9:50 a.m.: 20090225-IR-840080216FRA)

840 IAC 2-1-4 Personnel management
Authority: IC 25-19-1-8
Affected: IC 25-19-1-7
Sec. 4. With regard to personnel management, the HFA or RCA shall do the following:
(1) Implement personnel policies and procedures that:
(A) define job responsibilities, accountability, and the performance appraisal process; and
(B) emphasize the importance of resident satisfaction.
(2) Promote:
(A) job satisfaction;
(B) commitment to quality care; and
(C) residents' rights; by assuring that a program is in place to provide for the recruitment, hiring, retention, training, and development of competent facility staff.
(3) Ensure that personnel are present in number and ability to attain or maintain the highest practicable level of physical, mental, and psychosocial well-being for each resident.
(Indiana State Board of Health Facility Administrators; 840 IAC 2-1-4; filed Feb 1, 1999, 10:52 a.m.: 22 IR 2005; readopted filed Jun 13, 2005, 2:00 p.m.: 28 IR 3353; filed Jan 27, 2009, 9:50 a.m.: 20090225-IR-840080216FRA)

840 IAC 2-1-5 Regulatory management
Authority: IC 25-19-1-8
Affected: IC 25-19-1-7
Sec. 5. With regard to regulatory management, the HFA or RCA shall develop and administer policies and procedures that comply with the following:
(1) Protect residents, employees, or staff from discrimination consistent with federal, state, and local laws and regulations.
(2) Protect resident records from unauthorized disclosure of confidential information.
(3) Ensure that the facility complies with federal, state, and local laws and regulations.
(4) Not allow payment or offer payment or other valuable consideration to any person or organization outside the facility for health facility admissions in violation of federal, state, and local laws and regulations.
(5) Correct deficiencies found in the health facility resulting from a survey conducted by the Indiana state department of health or other appropriate regulatory agency in a time frame as established by such agency.
(Indiana State Board of Health Facility Administrators; 840 IAC 2-1-5; filed Feb 1, 1999, 10:52 a.m.: 22 IR 2005; readopted filed Jun 13, 2005, 2:00 p.m.: 28 IR 3353; filed Jan 27, 2009, 9:50 a.m.: 20090225-IR-840080216FRA)

840 IAC 2-1-6 Financial management
Authority: IC 25-19-1-8
Affected: IC 25-19-1-7
Sec. 6. With regard to financial management, the HFA or RCA shall do the following:
(1) Work with the governing body or owner, or both, to plan, implement, and evaluate an integrated financial program for the facility that ensures compliance with applicable laws and regulations and quality of care and life.
(2) Evaluate the implications of the budget on the quality of care and life and share such with the governing body or owner, or both.
(Indiana State Board of Health Facility Administrators; 840 IAC 2-1-6; filed Feb 1, 1999, 10:52 a.m.: 22 IR 2005; readopted filed Jun 13, 2005, 2:00 p.m.: 28 IR 3353; filed Jan 27, 2009, 9:50 a.m.: 20090225-IR-840080216FRA)

840 IAC 2-1-7 Environmental management
Authority: IC 25-19-1-8
Affected: IC 25-19-1-7
Sec. 7. With regard to environmental management, the HFA or RCA shall plan, implement, and evaluate a program of environmental services that does the following:
(1) Ensures that the health facility, its equipment, and its grounds are maintained in a way that protects the health, safety, and welfare, and rights of:
(A) residents;
(B) families;
(C) staff; and
(D) others.
(2) Provides a clean and attractive home-like environment for the residents.
(Indiana State Board of Health Facility Administrators; 840 IAC 2-1-7; filed Feb 1, 1999, 10:52 a.m.: 22 IR 2005; readopted filed Jun 13, 2005, 2:00 p.m.: 28 IR 3353; filed Jan 27, 2009, 9:50 a.m.: 20090225-IR-840080216FRA)

TITLE 410 INDIANA STATE DEPARTMENT OF HEALTH

NOTE: Under IC 16-1-1-6, the name of the Indiana State Board of Health is changed to Indiana State Department of Health, effective January 1, 1992.

ARTICLE 1. COMMUNICABLE DISEASE CONTROL

Rule 3. Infectious Waste

410 IAC 1-3-1 "Bedding" defined
Authority: IC 16-19-3-4; IC 16-41-16-8
Affected: IC 16-41-16
Sec. 1. "Bedding" means bedding that has been used for laboratory animals.
(Indiana State Department of Health; 410 IAC 1-3-1; filed Jan 17, 1989, 3:30 p.m.: 12 IR 1382; filed Sep 18, 1998, 11:38 a.m.: 22 IR 436; 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 1-3-2 "Carcasses, body parts, blood and body fluids, and bedding of laboratory animals" defined
Authority: IC 16-19-3-4; IC 16-41-16-8
Affected: IC 16-41-16
Sec. 2. "Carcasses, body parts, blood and body fluids, and bedding of laboratory animals" means carcasses, body parts, blood and body fluids in liquid or semi liquid form, and bedding of animals that have been intentionally or are suspected of having been exposed to pathogens in:
(1) research;
(2) production of biologicals;
(3) the in vivo testing of pharmaceuticals; or
(4) other procedures.
(Indiana State Department of Health; 410 IAC 1-3-2; filed Jan 17, 1989, 3:30 p.m.: 12 IR 1382; filed Sep 18, 1998, 11:38 a.m.: 22 IR 436; 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 1-3-3 "Container" defined
Authority: IC 16-19-3-4; IC 16-41-16-8
Affected: IC 16-41-16
Sec. 3. "Container" means any portable device or material in which infectious waste is:
(1) stored;
(2) transported;
(3) treated;
(4) disposed of; or
(5) otherwise handled.
(Indiana State Department of Health; 410 IAC 1-3-3; filed Jan 17, 1989, 3:30 p.m.: 12 IR 1382; filed Sep 18, 1998, 11:38 a.m.: 22 IR 436; 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 1-3-4 "Contaminated sharp" defined
Authority: IC 16-19-3-4; IC 16-41-16-8
Affected: IC 16-41-16
Sec. 4. "Contaminated sharp" means an object that is capable of cutting or penetrating the skin and has been in contact with blood or body fluids. The term includes any of the following:
(1) Hypodermic or suture needle.
(2) Syringe.
(3) Scalpel blade.
(4) Pipette.
(5) Lancet.
(6) Broken glass.
(Indiana State Department of Health; 410 IAC 1-3-4; filed Jan 17, 1989, 3:30 p.m.: 12 IR 1382; filed Sep 18, 1998, 11:38 a.m.: 22 IR 437; 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 1-3-5 "Communicable disease" defined
Authority: IC 16-19-3-4; IC 16-41-16-8
Affected: IC 16-41-2-1
Sec. 5. "Communicable disease" means a communicable disease as defined by rule under IC 16-41-2-1.
(Indiana State Department of Health; 410 IAC 1-3-5; filed Jan 17, 1989, 3:30 p.m.: 12 IR 1382; filed Sep 18, 1998, 11:38 a.m.: 22 IR 437; 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 1-3-5.5 "Department" defined
Authority: IC 16-19-3-4; IC 16-41-16-8
Affected: IC 16-41-16
Sec. 5.5. "Department" means the Indiana state department of health.
(Indiana State Department of Health; 410 IAC 1-3-5.5; filed Sep 18, 1998, 11:38 a.m.: 22 IR 437; 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 1-3-6 "Emergency medical services provider" defined
Authority: IC 16-19-3-4; IC 16-41-16-8
Affected: IC 16-31-3
Sec. 6. "Emergency medical services provider" means a person certified under IC 16-31-3.
(Indiana State Department of Health; 410 IAC 1-3-6; filed Jan 17, 1989, 3:30 p.m.: 12 IR 1382; filed Sep 18, 1998, 11:38 a.m.: 22 IR 437; 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 1-3-7 "Facility" defined
Authority: IC 16-19-3-4; IC 16-41-16-8
Affected: IC 16-21-2; IC 16-28-1; IC 16-41-12; IC 16-41-16
Sec. 7. "Facility" means any of the following places where infectious waste activity occurs:
(1) Hospital.
(2) Ambulatory surgical center as defined in IC 16-21-2.
(3) Medical/diagnostic laboratory.
(4) Blood center as defined in IC 16-41-12.
(5) Pharmaceutical company.
(6) Academic research laboratory company.
(7) Industrial research laboratory.
(8) Health facility as defined in IC 16-28-1.
(9) Office and mobile units of a health care provider.
(10) Diet or health care clinic.
(11) Office of a veterinarian.
(12) Veterinary hospital.
(13) Emergency medical services provider.
(14) Mortuary.
(Indiana State Department of Health; 410 IAC 1-3-7; filed Jan 17, 1989, 3:30 p.m.: 12 IR 1383; filed Sep 18, 1998, 11:38 a.m.: 22 IR 437; 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 1-3-8 "Health care provider" defined
Authority: IC 16-19-3-4; IC 16-41-16-8
Affected: IC 16-18-2-163; IC 16-41-16
Sec. 8. "Health care provider" means a person employed as, or by, or receiving training from, a provider as defined in IC 16-18-2-163, or by a laboratory, blood center, state institution, or any other facility where the person is likely to have direct contact with blood or body fluids.
(Indiana State Department of Health; 410 IAC 1-3-8; filed Jan 17, 1989, 3:30 p.m.: 12 IR 1383; filed Sep 18, 1998, 11:38 a.m.: 22 IR 437; 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 1-3-9 "Infectious waste activity" defined
Authority: IC 16-19-3-4; IC 16-41-16-8
Affected: IC 16-41-16
Sec. 9. "Infectious waste activity" means the:
(1) generation;
(2) collection;
(3) storage;
(4) transportation;
(5) treatment; or
(6) disposal of infectious waste;
as defined in this rule.
(Indiana State Department of Health; 410 IAC 1-3-9; filed Jan 17, 1989, 3:30 p.m.: 12 IR 1383; filed Sep 18, 1998, 11:38 a.m.: 22 IR 438; 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 1-3-10 "Infectious waste" defined
Authority: IC 16-19-3-4; IC 16-41-16-8
Affected: IC 16-41-16
Sec. 10. (a) "Infectious waste", except as provided in subsection (b), means waste that epidemiologic evidence indicates is capable of transmitting a dangerous communicable disease. The term includes, but is not limited to, the following:
(1) Contaminated sharps or contaminated objects that could potentially become contaminated sharps.
(2) Infectious biological cultures, infectious associated biologicals, and infectious agent stock.
(3) Pathological waste.
(4) Blood and blood products in liquid and semi liquid form.
(5) Carcasses, body parts, blood and body fluids in liquid and semi liquid form, and bedding of laboratory animals.
(6) Other waste that has been intermingled with infectious waste.
(b) The term, as it applies to a home health agency or to services delivered in the home of a hospice patient, includes only contaminated sharps.
(Indiana State Department of Health; 410 IAC 1-3-10; filed Jan 17, 1989, 3:30 p.m.: 12 IR 1383; filed Sep 18, 1998, 11:38 a.m.: 22 IR 438; 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 1-3-11 "Mortuary" defined
Authority: IC 16-19-3-4; IC 16-41-16-8
Affected: IC 16-41-16; IC 25-15-2-15
Sec. 11. "Mortuary" means a funeral home as defined in IC 25-15-2-15.
(Indiana State Department of Health; 410 IAC 1-3-11; filed Jan 17, 1989, 3:30 p.m.: 12 IR 1383; filed Sep 18, 1998, 11:38 a.m.: 22 IR 438; 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 1-3-12 "Pathological waste" defined
Authority: IC 16-19-3-4; IC 16-41-16-8
Affected: IC 16-41-16
Sec. 12. "Pathological waste" means:
(1) tissues;
(2) organs;
(3) body parts; and
(4) blood or body fluids in liquid or semi liquid form of humans;
that are removed during surgery, biopsy, or autopsy.
(Indiana State Department of Health; 410 IAC 1-3-12; filed Jan 17, 1989, 3:30 p.m.: 12 IR 1383; filed Sep 18, 1998, 11:38 a.m.: 22 IR 438; 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 1-3-13 "Person" defined
Authority: IC 16-19-3-4; IC 16-41-16-8
Affected: IC 16-41-16
Sec. 13. "Person" means any:
(1) individual;
(2) facility;
(3) partnership;
(4) copartnership;
(5) firm;
(6) company;
(7) association;
(8) joint-stock company;
(9) corporation;
(10) governmental entity; or
(11) agent.
(Indiana State Department of Health; 410 IAC 1-3-13; filed Jan 17, 1989, 3:30 p.m.: 12 IR 1383; filed Sep 18, 1998, 11:38 a.m.: 22 IR 438; 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 1-3-14 "Secured area" defined
Authority: IC 16-19-3-4; IC 16-41-16-8
Affected: IC 16-41-16
Sec. 14. "Secured area" means an area that is designed and maintained to prevent the entry of unauthorized persons.
(Indiana State Department of Health; 410 IAC 1-3-14; filed Jan 17, 1989, 3:30 p.m.: 12 IR 1383; filed Sep 18, 1998, 11:38 a.m.: 22 IR 438; 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 1-3-15 "Semi liquid blood and blood products" defined
Authority: IC 16-19-3-4; IC 16-41-16-8
Affected: IC 16-41-16
Sec. 15. "Semi liquid blood and blood products" means blood and blood products that have intermediate fluid properties and are capable of flowing in a manner similar to a liquid. *(Indiana State Department of Health; 410 IAC 1-3-15; filed Jan 17, 1989, 3:30 p.m.: 12 IR 1384; filed Sep 18, 1998, 11:38 a.m.: 22 IR 438; 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 1-3-16 "State board" defined *(Repealed)*
Sec. 16. *(Repealed by Indiana State Department of Health; filed Sep 18, 1998, 11:38 a.m.: 22 IR 440)*

410 IAC 1-3-17 "Storage" defined
Authority: IC 16-19-3-4; IC 16-41-16-8
Affected: IC 16-41-16
Sec. 17. "Storage" means the containment of infectious waste in such a manner as not to constitute:
(1) collection;
(2) treatment;
(3) transport; or
(4) disposal.
(Indiana State Department of Health; 410 IAC 1-3-17; filed Jan 17, 1989, 3:30 p.m.: 12 IR 1384; filed Sep 18, 1998, 11:38 a.m.: 22 IR 439; 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 1-3-18 "Veterinarian" defined
Authority: IC 16-19-3-4; IC 16-41-16-8
Affected: IC 15-5-1.1; IC 16-41-16
Sec. 18. "Veterinarian" means a person authorized to practice veterinary medicine under IC 15-5-1.1.
(Indiana State Department of Health; 410 IAC 1-3-18; filed Jan 17, 1989, 3:30 p.m.: 12 IR 1384; filed Sep 18, 1998, 11:38 a.m.: 22 IR 439; 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 1-3-19 "Waste" defined
Authority: IC 16-19-3-4; IC 16-41-16-8
Affected: IC 16-41-16
Sec. 19. "Waste" means any solid, liquid, or semi liquid material that:
(1) is discarded or being accumulated prior to being discarded; or
(2) has served its natural, biological, medical, or intended purpose and is generally discarded and not reused.
(Indiana State Department of Health; 410 IAC 1-3-19; filed Jan 17, 1989, 3:30 p.m.: 12 IR 1384; filed Sep 18, 1998, 11:38 a.m.: 22 IR 439; 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 1-3-20 "Waste handlers" defined
Authority: IC 16-19-3-4; IC 16-41-16-8
Affected: IC 16-41-16
Sec. 20. "Waste handlers" means any person who handles infectious waste.
(Indiana State Department of Health; 410 IAC 1-3-20; filed Jan 17, 1989, 3:30 p.m.: 12 IR 1384; filed Sep 18, 1998, 11:38 a.m.: 22 IR 439; 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 1-3-21 Applicability of standards
Authority: IC 16-19-3-4; IC 16-41-16-8
Affected: IC 16-41-11
Sec. 21. (a) This rule applies, without regard to quantity, to defined facilities and persons involved in infectious waste activity.
(b) This rule represents minimum standards, and persons may utilize more stringent standards.
(c) All written policies required under this rule shall, at a minimum, comply with the requirements of IC 16-41-11.
(Indiana State Department of Health; 410 IAC 1-3-21; filed Jan 17, 1989, 3:30 p.m.: 12 IR 1384; filed Sep 18, 1998, 11:38 a.m.: 22 IR 439; 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 1-3-22 Appropriate containment and labeling; effective treatment, transport, or disposal
Authority: IC 16-19-3-4; IC 16-41-16-8
Affected: IC 16-41-16
Sec. 22. For purposes of IC 16-41-16 and this rule, the generator of infectious waste is responsible for the appropriate containment, appropriate labeling, effective treatment, transport, and disposal of infectious waste as required by this rule. A person may provide services to the generator of infectious waste, including the appropriate containment, appropriate labeling, effective treatment, transport, or disposal of infectious waste. Both the generator of infectious waste and the person providing services to the generator of infectious waste are responsible for complying with the requirements set forth in this rule.

(Indiana State Department of Health; 410 IAC 1-3-22; filed Jan 17, 1989, 3:30 p.m.: 12 IR 1384; filed Sep 18, 1998, 11:38 a.m.: 22 IR 439; 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 1-3-23 Written policies, procedures
Authority: IC 16-19-3-4; IC 16-41-16-8
Affected: IC 16-41-16-9

Sec. 23. All persons and facilities subject to this rule shall:
(1) have a written policy and procedures that, at a minimum, contain:
(A) the requirements contained in this rule; and
(B) the sanctions, including discipline and dismissal of persons, if warranted, for failure to follow the requirements set forth in this rule;
(2) provide necessary instruction and materials, including protective garments, to implement this rule prior to giving a person an assignment where contact with infectious waste is likely;
(3) maintain a record of such instruction, including an attendance record of a person's participation in the instruction; and
(4) make all records available to the department for inspection under IC 16-41-16-9.

(Indiana State Department of Health; 410 IAC 1-3-23; filed Jan 17, 1989, 3:30 p.m.: 12 IR 1384; filed Sep 18, 1998, 11:38 a.m.: 22 IR 439; 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 1-3-24 Containment
Authority: IC 16-19-3-4; IC 16-41-16-8
Affected: IC 16-41-16

Sec. 24. (a) All persons and facilities subject to this rule shall ensure that infectious waste is at all times contained in a manner that will reasonably protect waste handlers and the public from contracting dangerous communicable disease that may result from exposure to the infectious waste.

(b) All persons and facilities subject to this rule shall place contaminated sharps or contaminated objects that could potentially become contaminated sharps, infectious biological cultures, infectious associated biologicals, and infectious agent stock in containers that are:
(1) leak proof, rigid, puncture-resistant;
(2) tightly sealed to prevent expulsion;
(3) labeled with the biohazard symbol; and
(4) effectively treated in accordance with this rule prior to being stored in an unsecured area and sent for final disposal.

(c) All persons and facilities subject to this rule shall place pathological waste; laboratory animal carcasses, laboratory animal body parts, laboratory animal blood and body fluids, and laboratory animal bedding; human blood; human blood products in liquid or semiliquid form; and human body fluids that are visibly contaminated with blood in containers that are:
(1) impervious to moisture;
(2) sufficient strength and thickness to prevent expulsion;
(3) secured to prevent leakage or expulsion;
(4) labeled with the biohazard symbol; and
(5) effectively treated in accordance with this rule prior to being placed in an unsecured area and sent for final disposal.

(Indiana State Department of Health; 410 IAC 1-3-24; filed Jan 17, 1989, 3:30 p.m.: 12 IR 1385; 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 1-3-25 Storage
Authority: IC 16-19-3-4; IC 16-41-16-8
Affected: IC 16-41-16

Sec. 25. If infectious waste is stored prior to final disposal, all persons subject to this rule shall:
(1) store infectious waste in a secure area that:
(A) is locked or otherwise secured to eliminate access by or exposure to the general public;
(B) affords protection from adverse environmental conditions and vermin; and
(C) has a prominently displayed biohazard symbol;
(2) store infectious waste in a manner that preserves the integrity of the container, and is not conducive to rapid microbial growth and putrefaction; and
(3) disinfect reusable containers for infectious waste each time that they are emptied, unless the surfaces of the reusable containers have been protected from contamination by disposable liners, bags, or other devices that are removed with the infectious waste.

(Indiana State Department of Health; 410 IAC 1-3-25; filed Jan 17, 1989, 3:30 p.m.: 12 IR 1385; 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 1-3-26 Treatment
Authority: IC 16-19-3-4; IC 16-41-16-8
Affected: IC 16-41-16

Sec. 26. (a) All persons and facilities subject to this rule shall either effectively treat infectious waste in accordance with this rule or transport infectious waste off-site for effective treatment in accordance with this rule.

(b) A treatment is effective if it reduces the pathogenic qualities of infectious waste for safe handling, is designed for the specific infectious waste involved, and is carried out in a manner consistent with this rule. Effective treatment may include:
(1) incineration;
(2) steam sterilization;
(3) chemical disinfection;
(4) thermal inactivation;
(5) irradiation; or
(6) discharge in a sanitary sewer or septic system that is properly installed and operating in accordance with state and local laws.

(c) Except as provided in section 28 of this rule, all persons and facilities subject to this rule may store, transport, and dispose of infectious waste that has been effectively treated in accordance with this rule in the usual manner for waste that is noninfectious. *(Indiana State Department of Health; 410 IAC 1-3-26; filed Jan 17, 1989, 3:30 p.m.: 12 IR 1385; 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 1-3-27 Protection in transport
Authority: IC 16-19-3-4; IC 16-41-16-8
Affected: IC 16-41-16
Sec. 27. All persons and facilities subject to this rule shall:
(1) transport infectious waste in a manner that reasonably protects waste handlers and the public from contracting dangerous communicable disease; and
(2) effectively treat infectious waste in accordance with this rule before it is compacted.
(Indiana State Department of Health; 410 IAC 1-3-27; filed Jan 17, 1989, 3:30 p.m.: 12 IR 1385; 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 1-3-28 Transporting off-site
Authority: IC 16-19-3-4; IC 16-41-16-8
Affected: IC 16-41-16
Sec. 28. (a) All persons and facilities subject to this rule who are transporting infectious waste off-site, whether effectively treated or not, shall:
(1) mark containers of infectious waste with a label that states the name, address, and telephone number of the generating facility and treatment facility, if applicable; and
(2) provide a form that contains:
(A) the name, address, and telephone number of the generating facility and treatment facility, if applicable;
(B) a brief description of the waste and the method of effective treatment; and
(C) the signature of a responsible person.
(b) The information required in subsection (a) may be enclosed between the secondary packaging and the outer packaging, when such packaging is used. The outer packaging must contain a biohazard symbol.
(Indiana State Department of Health; 410 IAC 1-3-28; filed Jan 17, 1989, 3:30 p.m.: 12 IR 1386; filed Sep 18, 1998, 11:38 a.m.: 22 IR 440; 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 1-3-29 Penalties for violation
Authority: IC 16-19-3-4; IC 16-41-16-8
Affected: IC 16-41-16-10
Sec. 29. Penalties for violation of this rule are set forth in IC 16-41-16-10.
(Indiana State Department of Health; 410 IAC 1-3-29; filed Jan 17, 1989, 3:30 p.m.: 12 IR 1386; filed Sep 18, 1998, 11:38 a.m.: 22 IR 440; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA)

Rule 4. Universal Precautions

410 IAC 1-4-0.5 Applicability of definitions
Authority: IC 16-41-11-9
Affected: IC 16-41-11
Sec. 0.5. The definitions in this rule apply throughout this rule. Additionally, the definitions of any other terms contained in the Indiana occupational safety and health administration's bloodborne pathogens standards (as found in 29 CFR 1910.1030) are incorporated by reference.
(Indiana State Department of Health; 410 IAC 1-4-0.5; filed Nov 22, 1993, 5:00 p.m.: 17 IR 753; 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 1-4-1 "Blood" defined
Authority: IC 16-41-11-9
Affected: IC 16-41-11
Sec. 1. "Blood" means human blood, human blood components, and products made from human blood.
(Indiana State Department of Health; 410 IAC 1-4-1; filed Oct 6, 1989, 4:20 p.m.: 13 IR 280; filed Nov 22, 1993, 5:00 p.m.: 17 IR 753; 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 1-4-1.1 "Bloodborne pathogens" defined
Authority: IC 16-41-11-9
Affected: IC 16-41-11
Sec. 1.1. "Bloodborne pathogens" means pathogenic microorganisms that are present in human blood and can cause disease in humans. These pathogens include, but are not limited to, HBV, HCV, and HIV.
(Indiana State Department of Health; 410 IAC 1-4-1.1; filed Nov 22, 1993, 5:00 p.m.: 17 IR 753; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234; filed Mar 28, 2006, 12:45 p.m.: 29 IR 2536; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA)

410 IAC 1-4-1.2 "Contaminated" defined
Authority: IC 16-41-11-9
Affected: IC 16-41-11
Sec. 1.2. "Contaminated" means the presence or the reasonably anticipated presence of blood or other potentially infectious materials on an item or surface.
(Indiana State Department of Health; 410 IAC 1-4-1.2; filed Nov 22, 1993, 5:00 p.m.: 17 IR 754; 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 1-4-1.3 "Contaminated laundry" defined
Authority: IC 16-41-11-9
Affected: IC 16-41-11
Sec. 1.3. "Contaminated laundry" means laundry which has been soiled with blood or other potentially infectious materials or laundry which may contain sharps.
(Indiana State Department of Health; 410 IAC 1-4-1.3; filed Nov 22, 1993, 5:00 p.m.: 17 IR 754; 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 1-4-1.4 "Covered individual" defined
Authority: IC 16-41-11-9
Affected: IC 16-41-11-4
Sec. 1.4. "Covered individual" means any individual covered by IC 16-41-11-4 whose professional, employment, training, or volunteer activities or duties include any reasonably anticipated skin, eye, mucous membrane, or parenteral contact with blood or other potentially infectious materials.
(Indiana State Department of Health; 410 IAC 1-4-1.4; filed Nov 22, 1993, 5:00 p.m.: 17 IR 754; 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 1-4-1.5 "Decontamination" defined
Authority: IC 16-41-11-9
Affected: IC 16-41-11
Sec. 1.5. "Decontamination" means the use of physical or chemical means to remove, inactivate, or destroy bloodborne pathogens on a surface or item which does not require sterilization to the point where they are no longer capable of transmitting infectious particles and the surface or item is rendered safe for handling, use, or disposal.
(Indiana State Department of Health; 410 IAC 1-4-1.5; filed Nov 22, 1993, 5:00 p.m.: 17 IR 754; 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 1-4-2 "Department" defined
Authority: IC 16-41-11-9
Affected: IC 16-41-11
Sec. 2. "Department" means the Indiana state department of health.
(Indiana State Department of Health; 410 IAC 1-4-2; filed Oct 6, 1989, 4:20 p.m.: 13 IR 280; filed Nov 22, 1993, 5:00 p.m.: 17 IR 754; 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 1-4-2.1 "Employee" defined
Authority: IC 16-41-11-9
Affected: IC 16-41-11; IC 22-8-1.1-1
Sec. 2.1. "Employee" has the meaning set forth in IC 22-8-1.1-1.
(Indiana State Department of Health; 410 IAC 1-4-2.1; filed Nov 22, 1993, 5:00 p.m.: 17 IR 754; 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 1-4-3 "Employer" defined
Authority: IC 16-41-11-9
Affected: IC 16-41-11; IC 22-8-1.1-1
Sec. 3. "Employer" has the meaning set forth in IC 22-8-1.1-1.
(Indiana State Department of Health; 410 IAC 1-4-3; filed Oct 6, 1989, 4:20 p.m.: 13 IR 280; filed Nov 22, 1993, 5:00 p.m.: 17 IR 754; 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 1-4-3.1 "ERP" defined
Authority: IC 16-41-11-9
Affected: IC 16-41-11
Sec. 3.1. "ERP" means expert review panel, as defined in section 8.1 of this rule.
(Indiana State Department of Health; 410 IAC 1-4-3.1; filed Nov 22, 1993, 5:00 p.m.: 17 IR 754; 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 1-4-4 "Facility" defined
Authority: IC 16-41-11-9
Affected: IC 16-41-11
Sec. 4. "Facility" means a building or location where an individual can be reasonably anticipated in the course of performing his or her professional, employment, training, or volunteer activities or duties to have skin, eye, mucous membrane, or parenteral contact with potentially infectious materials.

(Indiana State Department of Health; 410 IAC 1-4-4; filed Oct 6, 1989, 4:20 p.m.: 13 IR 280; filed Nov 22, 1993, 5:00 p.m.: 17 IR 754; 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 1-4-4.1 "HBeAg" defined
Authority: IC 16-41-11-9
Affected: IC 16-41-11
Sec. 4.1. "HBeAg" means the presence of hepatitis B e antigen in human blood as an indicator of high infectivity for hepatitis B virus.
(Indiana State Department of Health; 410 IAC 1-4-4.1; filed Nov 22, 1993, 5:00 p.m.: 17 IR 755; 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 1-4-4.2 "HBsAg" defined
Authority: IC 16-41-11-9
Affected: IC 16-41-11
Sec. 4.2. "HBsAg" means the presence of hepatitis B surface antigens in human blood as an indicator of infectivity for hepatitis B virus. *(Indiana State Department of Health; 410 IAC 1-4-4.2; filed Nov 22, 1993, 5:00 p.m.: 17 IR 755; 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 1-4-4.3 "HBV" and "HCV" defined
Authority: IC 16-41-11-9
Affected: IC 16-41-11
Sec. 4.3. (a) "HBV" means hepatitis B virus.
(b) "HCV" means hepatitis C virus.
(Indiana State Department of Health; 410 IAC 1-4-4.3; filed Nov 22, 1993, 5:00 p.m.: 17 IR 755; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234; filed Mar 28, 2006, 12:45 p.m.: 29 IR 2536; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA)

410 IAC 1-4-4.4 "Health care worker" defined
Authority: IC 16-41-11-9
Affected: IC 16-41-11
Sec. 4.4. "Health care worker" means any covered individual providing health care for or to a patient during the patient's care or treatment and whose professional, employment, volunteer, or student training duties or activities can be reasonably anticipated to result in skin, eye, mucous membrane, or parenteral contact with blood or other potentially infectious materials.
(Indiana State Department of Health; 410 IAC 1-4-4.4; filed Nov 22, 1993, 5:00 p.m.: 17 IR 755; 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 1-4-4.5 "HIV" defined
Authority: IC 16-41-11-9
Affected: IC 16-41-11
Sec. 4.5. "HIV" means human immunodeficiency virus.
(Indiana State Department of Health; 410 IAC 1-4-4.5; filed Nov 22, 1993, 5:00 p.m.: 17 IR 755; 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 1-4-4.6 "Other potentially infectious materials" defined
Authority: IC 16-41-11-9
Affected: IC 16-41-11
Sec. 4.6. "Other potentially infectious materials" means the following:
(1) Human body fluids as follows:
(A) Semen.
(B) Vaginal secretions.
(C) Cerebrospinal fluid.
(D) Synovial fluid.
(E) Pleural fluid.(F) Pericardial fluid.
(G) Peritoneal fluid.
(H) Amniotic fluid.
(I) Saliva in dental procedures.
(J) Any body fluid that is visibly contaminated with blood.
(K) All body fluids where it is difficult or impossible to differentiate between body fluids.
(2) Any unfixed tissue or organ, other than intact skin, from a human, living or dead.
(3) HIV-containing cell or tissue cultures, organ cultures, and HIV or HBV-containing culture medium or other solutions; and blood, organs, or other tissues from experimental animals infected with HIV or HBV.
(Indiana State Department of Health; 410 IAC 1-4-4.6; filed Nov 22, 1993, 5:00 p.m.: 17 IR 755; 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 1-4-4.7 "Parenteral" defined
Authority: IC 16-41-11-9
Affected: IC 16-41-11
Sec. 4.7. "Parenteral" means piercing the mucous membranes or the skin barrier through such events as needle sticks, human bites, cuts, or abrasions.
(Indiana State Department of Health; 410 IAC 1-4-4.7; filed Nov 22, 1993, 5:00 p.m.: 17 IR 755; 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 1-4-4.8 "Sterilize" defined
Authority: IC 16-41-11-9
Affected: IC 16-41-11
Sec. 4.8. "Sterilize" means the use of a physical or chemical procedure to destroy all microbial life, including highly resistant bacterial endospores.
(Indiana State Department of Health; 410 IAC 1-4-4.8; filed Nov 22, 1993, 5:00 p.m.: 17 IR 756; 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 1-4-5 "Universal precautions" defined
Authority: IC 16-41-11-9
Affected: IC 16-41-11
Sec. 5. "Universal precautions" means an approach to infection control in which all human blood and certain human body fluids are treated as if known to be infectious for HIV, HBV, and other bloodborne pathogens.
(Indiana State Department of Health; 410 IAC 1-4-5; filed Oct 6, 1989, 4:20 p.m.: 13 IR 280; filed Nov 22, 1993, 5:00 p.m.: 17 IR 756; 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 1-4-6 Facility operator responsibilities
Authority: IC 16-41-11-9
Affected: IC 16-41-11
Sec. 6. (a) An individual or entity that is a facility operator shall comply with the following:
(1) Inform all health care workers and covered individuals whose professional, employment, training, or volunteer activities or duties are performed at or on behalf of the facility, that it is strongly recommended by the department that all persons who have reason to believe they are at risk of HIV infection should know their HIV status.
(2) Inform all health care workers that it is strongly recommended by the department that all those:
(A) who perform procedures during which there is a recognized risk of percutaneous injury to the health care worker, and, if such injury occurs, the health care worker's blood may contact the patient's body cavity, subcutaneous tissue, or mucous membranes; and
(B) who do not have serologic evidence of immunity to HBV from vaccination or from previous infection should know their HBsAg status and, if that is positive, should also know their HBeAg status.
(3) Ensure that the training described in the Indiana occupational safety and health administration's bloodborne pathogens standards (as found in 29 CFR 1910.1030) is provided to all covered individuals whose professional, employment, training, or volunteer activities or duties are performed at or on behalf of the facility.
(4) Ensure that a record is maintained, as required under the Indiana occupational safety and health administration's bloodborne pathogens standards (as found in 29 CFR 1910.1030) of an individual's participation in the training that is provided. The record shall be made available to the department for inspection upon request.
(5) Ensure that each covered individual whose professional, employment, training, or volunteer activities or duties are performed at or on behalf of the facility, is provided appropriate equipment and expendables needed to implement the precautions required under section 8 of this rule and under the Indiana occupational safety and health administration's bloodborne pathogens standards (as found in 29 CFR 1910.1030).
(6) Require all health care workers whose professional, employment, training, or volunteer activities or duties are performed at or on behalf of the facility to provide evidence of compliance with the continuing universal precautions education requirements contained in section 7.1 of this rule.
(b) The operator of a facility, if providing services to patients or the public in which there is a risk of skin, eye, mucous membrane, or parenteral contact to human blood or other potentially infectious materials, shall display, or make available to the public, a description of compliance with the requirements contained in subsection (a)(6).
(c) The operator of a facility, if providing services to patients or the public in which there is a risk of skin, eye, mucous membrane, or parenteral contact to human blood or other potentially infectious materials, shall display, or make available to the public, written materials prepared or approved by the department explaining universal precautions and patients' rights under this rule. These materials shall include information on how to report violations of universal precautions and shall include information regarding the department's duties to investigate.
(Indiana State Department of Health; 410 IAC 1-4-6; filed Oct 6, 1989, 4:20 p.m.: 13 IR 280; filed Nov 22, 1993, 5:00 p.m.: 17 IR 756; 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 1-4-7 Facility operator policies
Authority: IC 16-41-11-9
Affected: IC 16-41-11
Sec. 7. A facility operator shall develop a written policy in compliance with this rule and the requirements of the Indiana occupational safety and health administration's bloodborne pathogens standards (as found in 29 CFR 1910.1030), that:
(1) requires the use of universal precautions by a covered individual when performing those professional, employment, training, or volunteer activities or duties that include any reasonably anticipated skin, eye, mucous membrane, or parenteral contact with blood or other potentially infectious materials;
(2) provides sanctions, including discipline and dismissal, if warranted, for failure to use universal precautions; and
(3) proscribes the facility operator, or any covered individual acting at or on behalf of the facility, from retaliating against any person, including any professional, employee, trainee, volunteer, or patient, for filing a complaint with the department in good faith under this rule.
(Indiana State Department of Health; 410 IAC 1-4-7; filed Oct 6, 1989, 4:20 p.m.: 13 IR 280; filed Nov 22, 1993, 5:00 p.m.: 17 IR 757; 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 1-4-7.1 Covered individuals' minimum training and certification requirements

Authority: IC 16-41-11-9

Affected: IC 16-41-11

Sec. 7.1. All covered individuals shall comply with the following:

(1) Covered individuals, including health care workers, whose professional, employment, training, or volunteer activities or duties are performed at or on behalf of a facility, must complete the training programs which the facility is required to have employees attend under the Indiana occupational safety and health administration's bloodborne pathogens standards (as found in 29 CFR 1910.1030). Approved programs under this rule shall be as follows:

(A) A bloodborne pathogen training session provided by a facility or employer under the Indiana occupational safety and health administration's bloodborne pathogens standards (as found in 29 CFR 1910.1030).

(B) Unless the department makes a specific determination to the contrary, any continuing professional education program on current universal precautions techniques that has been accepted or accredited by the applicable professional credentialing or health licensing entity.

(2) Covered individuals who are health care workers shall, either individually or through their employer, upon receipt of a written request by the department, employer, or a patient to whom direct services have been provided, provide evidence of compliance with the requirements of this section.

(Indiana State Department of Health; 410 IAC 1-4-7.1; filed Nov 22, 1993, 5:00 p.m.: 17 IR 757; 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 1-4-8 Precautions generally

Authority: IC 16-41-11-9

Affected: IC 16-19; IC 16-41-11

Sec. 8. (a) All covered individuals and health care workers under this rule shall comply with the requirements imposed under the Indiana occupational safety and health administration's bloodborne pathogens standards (as found in 29 CFR 1910.1030).

(b) The operator and all covered individuals whose professional, employment, training, or volunteer activities or duties are performed at or on behalf of a facility providing services to patients or other members of the public in which there is a reasonably anticipated risk of skin, eye, mucous membrane, or parenteral contact with human blood or other potentially infectious materials shall also comply with the following requirements:

(1) All equipment and environmental and working surfaces shall be cleaned and decontaminated after contact with blood or other potentially infectious materials.

(2) Heating procedures capable of sterilization must be used when heat stable, nondisposable equipment is sterilized. Monitoring of heat sterilization procedures shall include documentation of the following:

(A) Each sterilization cycle.

(B) Use of chemical indicators when sterilizing packaged nondisposable equipment.

(C) That biological indicators were used within thirty (30) days prior to the current sterilization procedure.

(D) Routine equipment maintenance according to manufacturer recommendations.

Documents required under this subdivision must be made available to the department upon request.

(3) Reusable equipment requiring sterilization that is destroyed or altered by heat must be sterilized by chemical means.

(4) Environmental surfaces and equipment not requiring sterilization which have been contaminated by blood or other potentially infectious materials shall be cleaned with an absorbent material prior to disinfection. Disinfectant solutions shall:

(A) be a germicide registered with the Environmental Protection Agency (EPA) for use as a hospital disinfectant and labeled tuberculocidal or registered germicide with specific inactivation claims against HIV and HBV; or

(B) be a sodium hypochlorite solution dated and not used after twenty-four (24) hours old as follows:

(i) A minimum of 1:100 dilution (one-quarter (¼) cup of five and twenty-five hundredths percent (5.25%) common household bleach in one (1) gallon of water).

(ii) A 1:10 dilution (one (1) part five and twenty-five hundredths percent (5.25%) common household bleach in nine (9) parts water) shall be used when a blood, culture, or OPIM spill occurs in the laboratory setting.

(5) If a patient's diagnosis, laboratory analysis, or medical condition requires additional infection control measures or isolation, those specific measures apply in addition to the requirements of this rule and other requirements found at IC 16-19.

(Indiana State Department of Health; 410 IAC 1-4-8; filed Oct 6, 1989, 4:20 p.m.: 13 IR 280; filed Nov 22, 1993, 5:00 p.m.: 17 IR 757; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234; filed Mar 28, 2006, 12:45 p.m.: 29 IR 2537; errata filed Aug 16, 2006, 2:30 p.m.: 20060830-IR-410050259ACA; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA)

410 IAC 1-4-8.1 Expert review panel

Authority: IC 16-41-11-9

Affected: IC 16-41-11

Sec. 8.1. (a) An HIV infected or HBV infected (and HBeAg positive) health care worker whose practices include digital palpation of a needle tip in a body cavity or the simultaneous presence of the health care worker's finger and needle or other sharp instrument in a poorly visualized or highly confined human anatomic site should either seek the advice of an ERP approved by the department or voluntarily cease these practices.

(b) As used in this rule, "expert review panel" means a group of experts authorized under this rule to provide confidential consultation and advice to HIV and HBV (and HBeAg) infected health care workers as indicated to promote the highest achievable level of safe, professional care. To be deemed authorized, an ERP must be sponsored by an organization which has been approved by the department under subsection (c).

(c) Before any public or private medical, surgical, dental, nursing, or other health care organization may sponsor an authorized ERP under this section, the potential sponsor must be approved by the department as having provided credible assurances that:

(1) the sponsor is capable of establishing specific ERP protocols and procedures that will accomplish the purposes of an ERP under this section; and

(2) it will comply with general protocols to be established and disseminated on request by the department.

(d) The ERP will consist of:

(1) an expert review entity consisting of:

(A) the HIV or HBV infected health care worker's treating physician, either directly or through medical and historical treatment records;

(B) an infectious disease specialist knowledgeable in the epidemiology of HIV and HBV infection;

(C) a health care provider of the same profession as the infected health care provider with expertise in the procedures practiced; and
(D) an infection control expert or epidemiologist; or
(2) any other expert review entity expressly authorized by the department.
(e) An ERP sponsored by an organization approved by the department under subsection (c) will be deemed an authorized ERP.
(f) An ERP shall advise the health care worker whether and how to modify techniques or to cease performing certain procedures. In rendering this advice, the ERP shall consider the past history of the health care worker's technique, and the extent to which, in the context of other indicated procedures with a measurable and unavoidable significant risk to patients, an indicated invasive procedure in the hands of that health care worker does or does not expose patients to the significant risk of HIV or HBV transmission from the health care worker.
(g) The role of the ERP is strictly confidential and advisory to the health care worker.
(h) All proceedings and communications of the ERP shall be confidential. All communications to an ERP shall be privileged communications. Neither the personnel nor any participant in a panel proceeding shall reveal the identity of any health care worker consulting such panel nor any content of communication to the records of or the outcomes of an ERP outside the panel to any person or other entity, other than the health care worker consulting such panel.
(i) No person who participates in an ERP proceeding shall be permitted or required to disclose any information acquired in connection with, or in the course of, the proceeding, any opinion, recommendation, or evaluation of the panel or of any panel member.
(j) The only duty of an ERP is to provide good faith consultation and advice to the HIV or HBV infected health care worker seeking such advice. A health care worker is not, by this rule, relieved of any responsibility, either to himself or herself or to others, for all actions taken or not taken in his or her professional capacity after consulting with an ERP. Neither an ERP nor any member of an ERP is approved by this rule to substitute or assume responsibility for the subsequent actions of the health care worker. No civil or other legal action of any nature shall arise against any member or personnel of an ERP for any good faith act or statement made in the confines of the panel or proceeding thereof.
(k) Neither an ERP nor any member of an ERP shall, by virtue of their consultation and advice, assume any liability of any kind to the health care worker, his or her patients, or any other person. The personnel and members of an ERP shall be immune from any civil action arising from any determination or recommendation made in good faith in the scope of their duties.
(Indiana State Department of Health; 410 IAC 1-4-8.1; filed Nov 22, 1993, 5:00 p.m.: 17 IR 759; errata, 17 IR 1009; 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 1-4-9 Complaints
Authority: IC 16-41-11-9
Affected: IC 4-15-2-34; IC 4-15-2-35; IC 16-41-11; IC 25
Sec. 9. A person who believes that this rule has been violated may file a complaint with the department. A complaint must be in writing unless, in the opinion of the department, the violation complained of constitutes an emergency. The department shall reduce an emergency oral complaint to writing. The department shall maintain the confidentiality of the person who files the complaint. The department shall also comply with the following:
(1) The department shall promptly investigate, or cause to be investigated with available resources, all complaints received alleging violations of this rule.
(2) The department shall not disclose the name or identifying characteristics of the person who files a complaint under this rule:
(A) unless the person consents in writing to the disclosure; or
(B) the investigation results in an administrative or judicial proceeding and disclosure is ordered by the administrative law judge or the court.
Confidential communication of the complaint information to the Indiana department of labor for compliance purposes shall not constitute disclosure for the purposes of this rule.
(3) The department shall give a person who files a complaint under this section the opportunity to withdraw the complaint at any time prior to the issuance of an order under subdivision (2)(B).
(4) A person filing a complaint must make a reasonable attempt to ascertain the correctness of any information to be furnished. Failure to make a reasonable attempt may subject that person to other sanctions available at law.
(5) A determination of a substantiated and unresolved violation of this rule by a health care provider licensed under IC 25 shall be referred by the department to the appropriate licensing board through notification of the attorney general's consumer protection division.
(6) In the investigation of a complaint regarding a violation of this rule, the department shall coordinate the investigation, as appropriate, with the state or federal enforcement agency having jurisdiction over the industry or occupation. All complaints alleging violations of the Indiana occupational safety and health administration's bloodborne pathogens standards (as found in 29 CFR 1910.1030) shall be forwarded to the Indiana department of labor.
(Indiana State Department of Health; 410 IAC 1-4-9; filed Oct 6, 1989, 4:20 p.m.: 13 IR 282; filed Nov 22, 1993, 5:00 p.m.: 17 IR 760; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA)

ARTICLE 16.2. HEALTH FACILITIES; LICENSING AND OPERATIONAL STANDARDS

Rule 0.5. Preamble

410 IAC 16.2-0.5-1 Preamble
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28
Sec. 1. (a) This article is intended for:
(1) the operation of health facilities in Indiana in meeting the long term care needs of residents;
(2) state surveyors in determining compliance with this article for the purpose of licensure; and
(3) the state survey agency in the application of remedies.
(b) This article includes provisions dealing with the following:
(1) Residents' rights.
(2) The administration and management of health facilities.
(3) Sanitation and safety standards.
(4) Assessment of residents' needs.

(5) Medical and nursing services.
(6) Food and nutrition services.
(7) Infection control.
(8) Activities and social services programs.
(9) Clinical records.

(c) This article was developed in the spirit of focusing on potential and actual outcomes of care. This article is intended to focus on achieving the best practicable health and happiness of residents, and preventing systemic, adverse events.

(d) The department recognizes that creative and innovative methods not contemplated by this article can be developed by health facilities in caring for residents. This article is not intended to stifle or discourage such creative and innovative methods of caregiving when it can be shown that residents' needs are being met.

(Indiana State Department of Health; 410 IAC 16.2-0.5-1; filed Jan 10, 1997, 4:00 p.m.: 20 IR 1518, 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)

Rule 1.1. Definitions

410 IAC 16.2-1.1-1 Applicability
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28

Sec. 1. The definitions in this rule apply throughout this article, except as noted.

(Indiana State Department of Health; 410 IAC 16.2-1.1-1; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1902, eff Mar 1, 2003; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA)

410 IAC 16.2-1.1-2 "Abuse" defined
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28

Sec. 2. "Abuse" means any physical or mental injury or sexual assault inflicted on a resident in the facility, other than by accidental means.

(Indiana State Department of Health; 410 IAC 16.2-1.1-2; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1902, eff Mar 1, 2003; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA)

410 IAC 16.2-1.1-3 "Activities of daily living" defined
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28

Sec. 3. "Activities of daily living" means mobility, eating, dressing, bathing, toileting, and transferring.

(Indiana State Department of Health; 410 IAC 16.2-1.1-3; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1902, eff Mar 1, 2003; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA)

410 IAC 16.2-1.1-4 "Administration of medications" defined
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28

Sec. 4. "Administration of medications" means preparation and/or distribution of prescribed medications. This does not include reminders, cues, and/or opening of medication containers or assistance with eye drops, when requested by a resident.

(Indiana State Department of Health; 410 IAC 16.2-1.1-4; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1903, eff Mar 1, 2003; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA)

410 IAC 16.2-1.1-5 "Administrator" defined
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28; IC 25-19-1

Sec. 5. "Administrator" means a person holding a valid license under IC 25-19-1.

(Indiana State Department of Health; 410 IAC 16.2-1.1-5; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1903, eff Mar 1, 2003; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA)

410 IAC 16.2-1.1-6 "Advance directives" defined
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28

Sec. 6. "Advance directives" means a written instrument, such as a living will or durable power of attorney for health care, recognized under state law, relating to the provision of health care when the individual is incapacitated.

(Indiana State Department of Health; 410 IAC 16.2-1.1-6; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1903, eff Mar 1, 2003; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA)

410 IAC 16.2-1.1-7 "Ambulation" defined
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28

Sec. 7. "Ambulation" means walking, once in a standing position.

(Indiana State Department of Health; 410 IAC 16.2-1.1-7; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1903, eff Mar 1, 2003; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA)

410 IAC 16.2-1.1-8 "Assessment" defined
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28
Sec. 8. "Assessment" means the identification of an individual's present level of strengths, abilities, and needs and the conditions that impede the individual's development or functioning.
(Indiana State Department of Health; 410 IAC 16.2-1.1-8; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1903, eff Mar 1, 2003; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA)

410 IAC 16.2-1.1-9 "Bathing" defined
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28
Sec. 9. "Bathing" means washing and drying the body (excluding the back and shampooing the hair), including:
(1) full-body bath;
(2) sponge bath;
(3) preparatory activities; and
(4) transferring into and out of the tub and shower.
(Indiana State Department of Health; 410 IAC 16.2-1.1-9; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1903, eff Mar 1, 2003; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA)

410 IAC 16.2-1.1-10 "Certification" defined
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28
Sec. 10. "Certification" means that the federal Department of Health and Human Services has determined a facility to be in compliance with applicable statutory or regulatory requirements and standards for the purposes of participation as a provider of care and service for Title XVIII or Title XIX, or both, of the federal Social Security Act.
(Indiana State Department of Health; 410 IAC 16.2-1.1-10; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1903, eff Mar 1, 2003; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA)

410 IAC 16.2-1.1-11 "Children" defined
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28
Sec. 11. "Children" means individuals who:
(1) are less than eighteen (18) years of age and not legally emancipated; or
(2) if older:
(A) require by the reason of physical or mental handicap, care of the type usually accepted as pediatric; or
(B) are suffering from a handicap or ailment which, in the judgment of the attending physician, indicates that the child care facility is more appropriate to their needs than an adult care facility.
(Indiana State Department of Health; 410 IAC 16.2-1.1-11; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1903, eff Mar 1, 2003; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA)

410 IAC 16.2-1.1-11.5 "Cognitive" defined
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28-5-1
Sec. 11.5. "Cognitive" means a person's ability:
(1) for short and long term memory or recall;
(2) to make decisions regarding the tasks of daily living; and
(3) to make self understood.
(Indiana State Department of Health; 410 IAC 16.2-1.1-11.5; filed Jul 22, 2004, 10:05 a.m.: 27 IR 3987; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA)

410 IAC 16.2-1.1-12 "Comfortable and safe temperature levels" defined
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28
Sec. 12. "Comfortable and safe temperature levels" means that the ambient temperature should be in a relatively narrow range, seventy-one (71) degrees Fahrenheit to eighty-one (81) degrees Fahrenheit, that minimizes residents' susceptibility to the loss of body heat and risk of hypothermia or susceptibility to respiratory ailments and colds.
(Indiana State Department of Health; 410 IAC 16.2-1.1-12; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1903, eff Mar 1, 2003; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA)

410 IAC 16.2-1.1-13 "Communicable disease" defined
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28
Sec. 13. "Communicable disease" means communicable disease as defined in 410 IAC 1-2.3-11.
(Indiana State Department of Health; 410 IAC 16.2-1.1-13; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1904, eff Mar 1, 2003; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA)

410 IAC 16.2-1.1-14 "Comprehensive care facility" defined
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28
Sec. 14. "Comprehensive care facility" means a health facility that provides nursing care, room, food, laundry, administration of medications, special diets, and treatments and that may provide rehabilitative and restorative therapies under the order of an attending physician.
(Indiana State Department of Health; 410 IAC 16.2-1.1-14; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1904, eff Mar 1, 2003; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA)

410 IAC 16.2-1.1-15 "Comprehensive nursing care" defined
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28
Sec. 15. "Comprehensive nursing care" includes, but is not limited to, the following:
(1) Intravenous feedings.
(2) Enteral feeding.
(3) Nasopharyngeal and tracheostomy aspiration.
(4) Insertion and sterile irrigation and replacement of suprapubic catheters.
(5) Application of dressings to wounds that:
(A) require use of sterile techniques, packing, or irrigation; or
(B) are infected or otherwise complicated.
(6) Treatment of Stages 2, 3, and 4 pressure ulcers or other widespread skin disorders.
(7) Heat treatments that have been specifically ordered by a physician as part of active treatment and require observation by nurses to adequately evaluate the process.
(8) Initial phases of a regimen involving administration of medical gases.
(Indiana State Department of Health; 410 IAC 16.2-1.1-15; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1904, eff Mar 1, 2003; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA)

410 IAC 16.2-1.1-16 "Construction type" defined
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28
Sec. 16. "Construction type" means the type of construction as established by the rules of the fire prevention and building safety commission (675 IAC).
(Indiana State Department of Health; 410 IAC 16.2-1.1-16; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1904, eff Mar 1, 2003; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA)

410 IAC 16.2-1.1-17 "Convenience" defined
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28
Sec. 17. "Convenience" means any action taken by the facility to control resident behavior or maintain residents with a lesser amount of effort by the facility and not in the resident's best interest.
(Indiana State Department of Health; 410 IAC 16.2-1.1-17; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1904, eff Mar 1, 2003; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA)

410 IAC 16.2-1.1-18 "Department" defined
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28
Sec. 18. "Department" means the Indiana state department of health.
(Indiana State Department of Health; 410 IAC 16.2-1.1-18; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1904, eff Mar 1, 2003; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA)

410 IAC 16.2-1.1-19 "Developmentally disabled" defined
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28
Sec. 19. "Developmentally disabled" means a personal disability that:
(1) is attributable to:
(A) mental retardation, cerebral palsy, epilepsy, or autism;
(B) any other condition found to be closely related to mental retardation because this condition results in similar impairment of general intellectual functioning or adaptive behavior or requires similar treatment and services; or
(C) dyslexia resulting from a disability described in this section;
(2) originates before the person is eighteen (18) years of age; and
(3) has continued or is expected to continue indefinitely and constitutes a substantial handicap to the person's ability to function normally in society.
(Indiana State Department of Health; 410 IAC 16.2-1.1-19; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1904, eff Mar 1, 2003; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA)

410 IAC 16.2-1.1-19.3 "Dining assistant" defined
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28
Sec. 19.3. "Dining assistant" means an individual who is paid to feed residents by a facility or who is used under an arrangement with another agency or organization.

(Indiana State Department of Health; 410 IAC 16.2-1.1-19.3; filed Aug 11, 2004, 11:00 a.m.: 28 IR 189; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA)

410 IAC 16.2-1.1-20 "Discipline" defined
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28
Sec. 20. "Discipline" means any action taken by the facility for the express purpose of punishing or penalizing residents.
(Indiana State Department of Health; 410 IAC 16.2-1.1-20; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1904, eff Mar 1, 2003; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA)

410 IAC 16.2-1.1-21 "Division" defined
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28
Sec. 21. "Division" means the part of the Indiana state department of health responsible for survey, licensure, and enforcement of health facilities.
(Indiana State Department of Health; 410 IAC 16.2-1.1-21; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1904, eff Mar 1, 2003; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA)

410 IAC 16.2-1.1-22 "Dressing" defined
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28
Sec. 22. "Dressing" means selecting, obtaining, putting on, fastening, and taking off all items of clothing, including donning or removing braces and artificial limbs.
(Indiana State Department of Health; 410 IAC 16.2-1.1-22; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1905, eff Mar 1, 2003; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA)

410 IAC 16.2-1.1-23 "Eating" defined
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28
Sec. 23. "Eating" means how a resident ingests and drinks, regardless of self-feeding skills.
(Indiana State Department of Health; 410 IAC 16.2-1.1-23; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1905, eff Mar 1, 2003; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA)

410 IAC 16.2-1.1-24 "Emergency" defined
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28
Sec. 24. "Emergency" means a situation or physical condition that presents imminent danger of death or serious physical or mental harm to one (1) or more residents of a facility.
(Indiana State Department of Health; 410 IAC 16.2-1.1-24; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1905, eff Mar 1, 2003; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA)

410 IAC 16.2-1.1-25 "Exercising rights" defined
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28
Sec. 25. "Exercising rights" means that the residents have autonomy and choice, to the maximum extent possible, about how they wish to live their everyday lives and receive care, subject to the facility's rules, as long as those rules do not violate a regulatory requirement.
(Indiana State Department of Health; 410 IAC 16.2-1.1-25; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1905, eff Mar 1, 2003; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA)

410 IAC 16.2-1.1-26 "Grooming" defined
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28
Sec. 26. "Grooming" means maintaining personal hygiene, including the following:
(1) Preparatory activities.
(2) Combing hair.
(3) Washing and drying face, hands, and perineum.
(4) Brushing teeth.
(5) If applicable, shaving or applying makeup.
(Indiana State Department of Health; 410 IAC 16.2-1.1-26; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1905, eff Mar 1, 2003; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA)

410 IAC 16.2-1.1-27 "Habilitation" defined
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28
Sec. 27. "Habilitation" means programs and activities designed to help a resident develop and maintain a level of independence and self-sufficiency consistent with individual capabilities and performance levels.
(Indiana State Department of Health; 410 IAC 16.2-1.1-27; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1905, eff Mar 1, 2003; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA)

410 IAC 16.2-1.1-28 "Health care facilities for children" defined
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28

Sec. 28. "Health care facilities for children" means those facilities that provide nursing care, habilitative and rehabilitative procedures, room, food, and laundry for children who, because of handicaps, require such care.
(Indiana State Department of Health; 410 IAC 16.2-1.1-28; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1905, eff Mar 1, 2003; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA)

410 IAC 16.2-1.1-29 "Health facility license" defined
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28-2
Sec. 29. "Health facility license" means any instrument issued pursuant to IC 16-28-2 by the department to any person or persons demonstrating compliance with the laws and rules governing such issuance.
(Indiana State Department of Health; 410 IAC 16.2-1.1-29; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1905, eff Mar 1, 2003; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA)

410 IAC 16.2-1.1-30 "Highest practicable" defined
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28
Sec. 30. "Highest practicable" means the highest level of functioning and well-being possible, limited by the individual's present functional status, and potential for improvement or reduced rate of functional decline.
(Indiana State Department of Health; 410 IAC 16.2-1.1-30; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1905, eff Mar 1, 2003; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA)

410 IAC 16.2-1.1-31 "Home health aide" defined
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28
Sec. 31. "Home health aide" means an individual whose name is on the home health aide registry with no findings.
(Indiana State Department of Health; 410 IAC 16.2-1.1-31; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1905, eff Mar 1, 2003; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA)

410 IAC 16.2-1.1-32 "Infectious" defined
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28
Sec. 32. "Infectious" means capable of spreading infection.
(Indiana State Department of Health; 410 IAC 16.2-1.1-32; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1905, eff Mar 1, 2003; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA)

410 IAC 16.2-1.1-33 "Intermediate care facility for the mentally retarded (or persons with related conditions)" defined
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28
Sec. 33. "Intermediate care facility for the mentally retarded (or persons with related conditions)" means a health facility that provides active treatment for each developmentally disabled resident. In addition, the facility provides nursing care, room, food, laundry, administration of medications, modified diets, and treatments. A facility is only for developmentally disabled residents, and the facility shall be designed to enhance the development of these individuals, to maximize achievement through an interdisciplinary approach based on development principles and to create the least restrictive environment.
(Indiana State Department of Health; 410 IAC 16.2-1.1-33; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1906, eff Mar 1, 2003; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA)

410 IAC 16.2-1.1-34 "Legal representative" defined
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28; IC 16-36-1-5
Sec. 34. "Legal representative" means a person who is:
(1) a guardian;
(2) a health care representative;
(3) an attorney in fact; or
(4) a person authorized by IC 16-36-1-5 to give health care consent.
(Indiana State Department of Health; 410 IAC 16.2-1.1-34; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1906, eff Mar 1, 2003; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA)

410 IAC 16.2-1.1-35 "Licensed practical nurse" or "LPN" defined
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28; IC 25-23-1-12
Sec. 35. "Licensed practical nurse" or "LPN" means an individual as defined in IC 25-23-1-12.
(Indiana State Department of Health; 410 IAC 16.2-1.1-35; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1906, eff Mar 1, 2003; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA)

410 IAC 16.2-1.1-36 "Licensee" defined
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28-2
Sec. 36. "Licensee" means the individual, partnership, corporation, association, company, and legal successor thereof who holds a valid license issued pursuant to IC 16-28-2.
(Indiana State Department of Health; 410 IAC 16.2-1.1-36; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1906, eff Mar 1, 2003; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA)

410 IAC 16.2-1.1-37 "Medical records practitioner" defined
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28
Sec. 37. "Medical records practitioner" means a person who is certified as or is eligible for certification as a registered health information administrator (RHIA) or an *[sic., a]* registered health information technician (RHIT) by the American Health Information Management Association under its requirements.
(Indiana State Department of Health; 410 IAC 16.2-1.1-37; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1906, eff Mar 1, 2003; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA)

410 IAC 16.2-1.1-38 "Medically stable" defined
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28
Sec. 38. "Medically stable" means that a person's clinical condition is predictable, does not change rapidly, and medical orders are not likely to involve complex modifications or frequent changes except as appropriate to adjust medication dosage levels.
(Indiana State Department of Health; 410 IAC 16.2-1.1-38; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1906, eff Mar 1, 2003; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA)

410 IAC 16.2-1.1-39 "Medication error" defined
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28
Sec. 39. "Medication error" means a discrepancy between what the physician ordered and what was or was not administered.
(Indiana State Department of Health; 410 IAC 16.2-1.1-39; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1906, eff Mar 1, 2003; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA)

410 IAC 16.2-1.1-40 "Minor regimens" defined
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28
Sec. 40. "Minor regimens" includes, but is not limited to, the following:
(1) Assistance with self-maintained exdwelling and indwelling catheter care and intermittent catheterization for a chronic condition.
(2) Prophylactic and palliative skin care, including application of creams or ointments for treatment of minor skin problems.
(3) Routine dressing that does not require packing or irrigation, but is for abrasions, skin tears, closed surgical wounds, and chronic skin conditions.
(4) General maintenance care of ostomy, including routine change of bag with care and maintenance of surrounding tissue.
(5) Restorative nursing assistance, including passive and/or active assisted range of motion.
(6) Toileting care including assistance in use of adult briefs and cues for bowel and bladder training.
(7) Routine blood glucose testing involving a finger-stick method.
(8) Enema and digital stool removal therapies.
(9) General maintenance care in connection with braces, splints, and plaster casts.
(10) Observation of self-maintained prosthetic devices.
(11) Administration of subcutaneous or intramuscular injections.
(12) Metered dose inhalers, nebulizer/aerosol treatments self-administered by a resident, and routine administration of medical gases after a therapy regimen has been established.
(Indiana State Department of Health; 410 IAC 16.2-1.1-40; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1906, eff Mar 1, 2003; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA)

410 IAC 16.2-1.1-41 "Misappropriation of property" defined
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28
Sec. 41. "Misappropriation of property" means the deliberate misplacement, exploitation, or wrongful, temporary, or permanent use of a resident's belongings or money without the resident's consent.
(Indiana State Department of Health; 410 IAC 16.2-1.1-41; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1907, eff Mar 1, 2003; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA)

410 IAC 16.2-1.1-42 "Mobile" defined
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28
Sec. 42. "Mobile" means able to move from place to place by ambulation or with the assistance of a wheelchair or other device.
(Indiana State Department of Health; 410 IAC 16.2-1.1-42; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1907, eff Mar 1, 2003; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA)

410 IAC 16.2-1.1-43 "Modified diet" defined
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28
Sec. 43. "Modified diet" means an adjustment of the regular diet that alters the calorie value, nutritive content, or consistency of the food.
(Indiana State Department of Health; 410 IAC 16.2-1.1-43; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1907, eff Mar 1, 2003; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA)

410 IAC 16.2-1.1-44 "Neglect" defined
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28
Sec. 44. "Neglect" means:
(1) an act or omission that places a resident in a situation that may endanger the resident's life or health;
(2) abandoning or cruelly confining the resident;
(3) depriving the resident of necessary support, including food, clothing, shelter, and medical care; or
(4) depriving the resident of education as required by statute.
(Indiana State Department of Health; 410 IAC 16.2-1.1-44; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1907, eff Mar 1, 2003; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA)

410 IAC 16.2-1.1-45 "Nurse aide" defined
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28
Sec. 45. "Nurse aide" means an individual as defined in 42 CFR 483.75(e)(1).
(Indiana State Department of Health; 410 IAC 16.2-1.1-45; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1907, eff Mar 1, 2003; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA)

410 IAC 16.2-1.1-46 "Nurse practitioner" defined
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28; IC 25-23-1
Sec. 46. "Nurse practitioner" means an individual as defined in IC 25-23-1.
(Indiana State Department of Health; 410 IAC 16.2-1.1-46; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1907, eff Mar 1, 2003; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA)

410 IAC 16.2-1.1-47 "Nursing care" defined
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28
Sec. 47. "Nursing care" means those activities, including:
(1) identifying human responses to actual or potential health conditions;
(2) deriving a nursing diagnosis;
(3) executing a nursing treatment regimen based on the nursing diagnosis;
(4) teaching health care practices;
(5) advocating provision of necessary health care services through collaboration with other health service personnel;
(6) executing regimens as prescribed by a physician, licensed chiropractor, dentist, optometrist, podiatrist, or nurse practitioner; and
(7) administering, supervising, delegating, and evaluating nursing activities.
(Indiana State Department of Health; 410 IAC 16.2-1.1-47; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1907, eff Mar 1, 2003; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA)

410 IAC 16.2-1.1-48 "Nursing staff" defined
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28
Sec. 48. "Nursing staff" means, at a minimum, licensed nurses and nurse aides. Nurse aides must meet the training and competency requirements required by the state.
(Indiana State Department of Health; 410 IAC 16.2-1.1-48; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1907, eff Mar 1, 2003; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA)

410 IAC 16.2-1.1-49 "Pharmacist" defined
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28; IC 25-26-13
Sec. 49. "Pharmacist" means an individual as defined in IC 25-26-13.
(Indiana State Department of Health; 410 IAC 16.2-1.1-49; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1907, eff Mar 1, 2003; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA)

410 IAC 16.2-1.1-50 "Physician" defined
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28; IC 25-22.5-1-1.1
Sec. 50. "Physician" means an individual as defined in IC 25-22.5-1-1.1.
(Indiana State Department of Health; 410 IAC 16.2-1.1-50; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1908, eff Mar 1, 2003; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA)

410 IAC 16.2-1.1-51 "Physician orders" defined
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28
Sec. 51. "Physician orders" means those orders facility staff need to provide essential care to the resident, consistent with the resident's mental and physical status. At a minimum, these orders include dietary, medications, and routine care to maintain or improve the resident's functional abilities.
(Indiana State Department of Health; 410 IAC 16.2-1.1-51; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1908, eff Mar 1, 2003; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA)

410 IAC 16.2-1.1-52 "Policy manual" defined
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28
Sec. 52. "Policy manual" means a document that details the administrative and operating plan of the facility.
(Indiana State Department of Health; 410 IAC 16.2-1.1-52; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1908, eff Mar 1, 2003; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA)

410 IAC 16.2-1.1-53 "Psychologist" defined
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28; IC 25-33-1
Sec. 53. "Psychologist" means a person as defined in IC 25-33-1.
(Indiana State Department of Health; 410 IAC 16.2-1.1-53; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1908, eff Mar 1, 2003; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA)

410 IAC 16.2-1.1-54 "Qualified medication aide" defined
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28
Sec. 54. "Qualified medication aide" means an individual who has satisfactorily completed the state qualified medication aide course and test.
(Indiana State Department of Health; 410 IAC 16.2-1.1-54; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1908, eff Mar 1, 2003; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA)

410 IAC 16.2-1.1-55 "Qualified mental retardation professional" or "QMRP" defined
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28; IC 25-22.5-5; IC 25-23-1-11; IC 25-27; IC 25-35.6-3
Sec. 55. "Qualified mental retardation professional" or "QMRP" means a person who has specialized training or one (1) year of experience in treating the mentally retarded and is one (1) of the following:
(1) A psychologist with a master's degree from an accredited program.
(2) A licensed doctor of medicine or osteopathy.
(3) An educator with a degree in education from an accredited program.
(4) A social worker with a bachelor's or master's degree in social work from an accredited program or a bachelor's or master's degree in a field other than social work and at least three (3) years of social work experience under the supervision of a qualified social worker.
(5) An occupational therapist who:
(A) is a graduate of an occupational therapy curriculum accredited jointly by the council on medical education of the American Medical Association and the American Occupational Therapy Association;
(B) is eligible for certification by the American Occupational Therapy Association under its requirements in effect on September 29, 1978; or
(C) has two (2) years of appropriate experience as an occupational therapist and has achieved a satisfactory grade on the approved proficiency examination, except that such determinations of proficiency shall not apply with respect to persons initially licensed by the state or seeking initial qualifications as an occupational therapist after December 31, 1977.
(6) A speech pathologist or audiologist licensed pursuant to IC 25-35.6-3.
(7) A registered nurse licensed pursuant to IC 25-23-1-11.
(8) A therapeutic recreation specialist who is a graduate of an accredited program.
(9) A rehabilitative counselor who is certified by the Committee of Rehabilitation Counselor Certification.
(10) A physical therapist who is licensed pursuant to IC 25-27.
(Indiana State Department of Health; 410 IAC 16.2-1.1-55; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1908, eff Mar 1, 2003; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA)

410 IAC 16.2-1.1-56 "Range of motion" defined
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28
Sec. 56. "Range of motion" means the extent of movement of a joint.
(Indiana State Department of Health; 410 IAC 16.2-1.1-56; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1908, eff Mar 1, 2003; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA)

410 IAC 16.2-1.1-57 "Recreation area" defined
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28
Sec. 57. "Recreation area" means:
(1) an area where residents can enjoy fresh air, either inside or outside the facility, for example:

(A) balcony;
(B) porch;
(C) patio;
(D) courtyard; or
(E) solarium; and
(2) an inside area used primarily for activities organized by the facility.
(Indiana State Department of Health; 410 IAC 16.2-1.1-57; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1908, eff Mar 1, 2003; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA)

410 IAC 16.2-1.1-58 "Registered nurse" or "RN" defined
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28; IC 25-23-1-11
Sec. 58. "Registered nurse" or "RN" means an individual as defined in IC 25-23-1-11.
(Indiana State Department of Health; 410 IAC 16.2-1.1-58; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1909, eff Mar 1, 2003; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA)

410 IAC 16.2-1.1-59 "Rehabilitation" defined
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28
Sec. 59. "Rehabilitation" means programs and activities implemented as a component of a treatment plan or in support of a plan to restore a resident to his or her optimal level of physical and psychosocial functions.
(Indiana State Department of Health; 410 IAC 16.2-1.1-59; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1909, eff Mar 1, 2003; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA)

410 IAC 16.2-1.1-60 "Rehabilitative therapy" defined
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28
Sec. 60. "Rehabilitative therapy" means:
(1) physical therapy;
(2) occupational therapy;
(3) respiratory therapy;
(4) speech therapy;
(5) mental health therapy; and
(6) other medically-recognized therapies.
(Indiana State Department of Health; 410 IAC 16.2-1.1-60; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1909, eff Mar 1, 2003; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA)

410 IAC 16.2-1.1-61 "Resident" defined
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28
Sec. 61. "Resident" means a person residing and receiving care in a health facility. For purposes of exercising the resident's rights, such rights may be exercised by the resident or his or her legal representative.
(Indiana State Department of Health; 410 IAC 16.2-1.1-61; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1909, eff Mar 1, 2003; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA)

410 IAC 16.2-1.1-62 "Residential care facility" defined
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28
Sec. 62. "Residential care facility" means a health care facility that provides residential nursing care.
(Indiana State Department of Health; 410 IAC 16.2-1.1-62; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1909, eff Mar 1, 2003; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA)

410 IAC 16.2-1.1-63 "Residential nursing care" defined
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28
Sec. 63. "Residential nursing care" may include, but is not limited to, the following:
(1) Identifying human responses to actual or potential health conditions.
(2) Deriving a nursing diagnosis.
(3) Executing a minor regimen based on a nursing diagnosis or executing minor regimens as prescribed by a physician, physician assistant, chiropractor, dentist, optometrist, podiatrist, or nurse practitioner.
(4) Administering, supervising, delegating, and evaluating nursing activities as described in this section.
(Indiana State Department of Health; 410 IAC 16.2-1.1-63; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1909, eff Mar 1, 2003; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA)

410 IAC 16.2-1.1-64 "Respiratory therapy" defined
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28; IC 25-34.5-1-6
Sec. 64. "Respiratory therapy" means medical specialty primarily concerned with the treatment and care of persons with deficiencies and abnormalities associated with the cardiopulmonary system and includes those activities set forth in IC 25-34.5-1-6.
(Indiana State Department of Health; 410 IAC 16.2-1.1-64; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1909, eff Mar 1, 2003; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA)

410 IAC 16.2-1.1-65 "Respite care" defined
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28
Sec. 65. "Respite care" means the provision by a facility of room, board, and care up to the level ordinarily provided for permanent residents of the facility to a person for not more than one (1) month for each stay in the facility.
(Indiana State Department of Health; 410 IAC 16.2-1.1-65; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1909, eff Mar 1, 2003; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA)

410 IAC 16.2-1.1-66 "Restraint" defined
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28
Sec. 66. "Restraint" means a device or method, including chemical means, used to limit the activity or aggressiveness of a resident where such activity or aggressiveness could be harmful to the resident or others.
(Indiana State Department of Health; 410 IAC 16.2-1.1-66; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1909, eff Mar 1, 2003; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA)

410 IAC 16.2-1.1-67 "Seclusion" defined
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28
Sec. 67. "Seclusion" means any circumscribed area in which a person is maintained alone and under surveillance, with the area so equipped that the person may not leave without assistance.
(Indiana State Department of Health; 410 IAC 16.2-1.1-67; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1910, eff Mar 1, 2003; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA)

410 IAC 16.2-1.1-68 "Self-limiting condition" defined
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28
Sec. 68. "Self-limiting condition" means the condition will normally resolve itself without further intervention or by staff implementing standard disease related clinical interventions.
(Indiana State Department of Health; 410 IAC 16.2-1.1-68; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1910, eff Mar 1, 2003; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA)

410 IAC 16.2-1.1-69 "Service plan" defined
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28
Sec. 69. "Service plan" means a written plan for services to be provided by the facility, developed by the facility, the resident, and others, if appropriate, on behalf of the resident, consistent with the services needed to ensure the health and welfare of the resident.
(Indiana State Department of Health; 410 IAC 16.2-1.1-69; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1910, eff Mar 1, 2003; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA)

410 IAC 16.2-1.1-70 "Significant change" defined
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28
Sec. 70. "Significant change" means a major improvement or decline in the resident's physical, mental, or psychosocial status.
(Indiana State Department of Health; 410 IAC 16.2-1.1-70; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1910, eff Mar 1, 2003; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA)

410 IAC 16.2-1.1-71 "Sufficient space" defined
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28
Sec. 71. "Sufficient space" means the resident can access the area unless it is functionally off-limits, and the resident's functioning is not restricted once access to the space is gained.
(Indiana State Department of Health; 410 IAC 16.2-1.1-71; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1910, eff Mar 1, 2003; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA)

410 IAC 16.2-1.1-72 "Supervise" defined
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28
Sec. 72. "Supervise" means to instruct an employee or subordinate in his or her duties and to oversee or direct work, but does not necessarily require immediate presence of the supervisor.
(Indiana State Department of Health; 410 IAC 16.2-1.1-72; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1910, eff Mar 1, 2003; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA)

410 IAC 16.2-1.1-73 "Therapist" defined
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28
Sec. 73. "Therapist" means a person who holds a valid license issued pursuant to Indiana statute or is certified or registered by the appropriate body to practice and who has completed the approved educational curriculum.
(Indiana State Department of Health; 410 IAC 16.2-1.1-73; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1910, eff Mar 1, 2003; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA)

410 IAC 16.2-1.1-74 "Toileting" defined
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28
Sec. 74. "Toileting" means how the resident:
(1) uses the toilet room (or bedpan, bedside commode, or urinal);
(2) transfers on and off the toilet;
(3) cleanses self after elimination;
(4) changes sanitary napkins or incontinence pads or external catheters; and
(5) adjusts clothing prior to and after using the toilet.
(Indiana State Department of Health; 410 IAC 16.2-1.1-74; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1910, eff Mar 1, 2003; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA)

410 IAC 16.2-1.1-75 "Toileting care" defined
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28
Sec. 75. "Toileting care" means provision of care before and after use of the toilet room, commode, bedpan, or urinal. It includes transferring on and off the toilet, or both, cleansing, pad change, and changing of soiled clothing.
(Indiana State Department of Health; 410 IAC 16.2-1.1-75; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1910, eff Mar 1, 2003; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA)

410 IAC 16.2-1.1-76 "Total assistance with eating" defined
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28
Sec. 76. "Total assistance with eating" means the resident must be fed by another person at every meal.
(Indiana State Department of Health; 410 IAC 16.2-1.1-76; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1910, eff Mar 1, 2003; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA)

410 IAC 16.2-1.1-77 "Total assistance with toileting" defined
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28
Sec. 77. "Total assistance with toileting" means that the resident requires continual observation using the toilet room (or bedpan, bedside commode, or urinal) and is unable to cleanse himself or herself after elimination.
(Indiana State Department of Health; 410 IAC 16.2-1.1-77; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1910, eff Mar 1, 2003; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA)

410 IAC 16.2-1.1-78 "Total assistance with transferring" defined
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28
Sec. 78. "Total assistance with transferring" means transfers and position changes of a resident who is unable to bear any weight or who requires two (2) or more persons or one (1) person with a mechanical lifting device to transfer the resident.
(Indiana State Department of Health; 410 IAC 16.2-1.1-78; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1911, eff Mar 1, 2003; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA)

410 IAC 16.2-1.1-79 "Total health status" defined
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28
Sec. 79. "Total health status" includes the following:
(1) Functional status.
(2) Medical care.
(3) Nursing care.
(4) Nutritional status.

(5) Rehabilitation and restorative potential.
(6) Activities potential.
(7) Cognitive status.
(8) Oral health status.
(9) Psychosocial status.
(10) Sensory and physical impairments.

(Indiana State Department of Health; 410 IAC 16.2-1.1-79; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1911, eff Mar 1, 2003; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA)

410 IAC 16.2-1.1-80 "Transfer" defined
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28

Sec. 80. "Transfer" means moving between two (2) surfaces, to or from a:
(1) bed;
(2) chair;
(3) wheelchair; or
(4) standing position.

The term does not include transfer to or from the bath or toilet. This section does not apply to transfer and discharge of residents pursuant to 410 IAC 16.2-3.1 and 410 IAC 16.2-5.

(Indiana State Department of Health; 410 IAC 16.2-1.1-80; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1911, eff Mar 1, 2003; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA)

410 IAC 16.2-1.1-81 "Written" defined
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28

Sec. 81. "Written" means handwritten, typewritten, or contained on electronic media.

(Indiana State Department of Health; 410 IAC 16.2-1.1-81; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1911, eff Mar 1, 2003; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA)

Rule 3.1. Comprehensive Care Facilities

410 IAC 16.2-3.1-1 Applicability of rule
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28

Sec. 1. This rule applies to all comprehensive care facilities.

(Indiana State Department of Health; 410 IAC 16.2-3.1-1; filed Jan 10, 1997, 4:00 p.m.: 20 IR 1526, 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 16.2-3.1-2 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. 2. (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 19 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 19 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 16.2-5 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 revocations 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 comply with any 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 fifteen (15) 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 fifteen (15) 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.

(n) For Medicare or Medicaid certified facilities, or both, the department shall not collect both a civil money penalty under 42 CFR 488 and a fine under IC 16-28 and this article.

(Indiana State Department of Health; 410 IAC 16.2-3.1-2; filed Jan 10, 1997, 4:00 p.m.: 20 IR 1526, eff Apr 1, 1997; errata filed Apr 10, 1997, 12:15 p.m.: 20 IR 2414; filed May 16, 2001, 2:09 p.m.: 24 IR 3022; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234; filed Aug 19, 2004, 3:15 p.m.: 28 IR 182; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA)

410 IAC 16.2-3.1-3 Residents' rights

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

Affected: IC 16-28-5-1

Sec. 3. (a) The resident has a right to a dignified existence, self-determination, and communication with and access to persons and services inside and outside the facility. A facility must protect and promote the rights of each resident, including each of the following rights:

(1) To exercise his or her rights as a resident of the facility and as a citizen or resident of the United States.

(2) To be free of the following:

(A) Interference.

(B) Coercion.

(C) Discrimination.

(D) Reprisal from or threat of reprisal from the facility in exercising his or her rights.

(b) The resident has the right to the following:

(1) Examination of the results of the most recent annual survey of the facility conducted by federal or 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.

(2) Receipt of information from agencies acting as client advocates and the opportunity to contact these agencies.

(c) In the case of a resident adjudged incompetent under the laws of the state by a court of competent jurisdiction, the rights of the residents are exercised by the person appointed under state law to act on the resident's behalf.

(d) In the case of an incompetent resident who has not been adjudicated incompetent by a state court, any legal representative may exercise the resident's rights to the extent provided by state law.

(e) The resident has 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 care plan;

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

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

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

(f) The resident has the right to have reasonable access to the use of a telephone where calls can be made without being overheard.

(g) A resident has the right to organize and participate in resident groups in the facility.
(h) A resident's family has the right to meet in the facility with the families of other residents in the facility.
(i) The facility must provide a resident or family group, if one exists, with private space.
(j) Staff or visitors may attend meetings only at the group's invitation.
(k) The facility must provide a designated staff person responsible for providing assistance and responding to written requests that result from group meetings.
(l) When a resident or family group exists, the facility must listen to the views and act upon the grievances and recommendations of residents and families and report back at a later time in accordance with facility policy.
(m) A resident has the right to participate in social, religious, and community activities that do not interfere with the rights of other residents in the facility.
(n) The resident has the right to the following:
(1) Choose a personal attending physician and other providers of services. If a physician or other provider of services, or both, of the resident's choosing fails to fulfill a given federal or state requirement to assure the provisions of appropriate and adequate care and treatment, the facility will have the right, after consulting with the resident, the physician, and the other provider of services, to seek alternate physician participation or services from another provider.
(2) Be fully informed in advance about care and treatment, and of any changes in that care and treatment, that may affect the resident's well-being.
(3) Participate in planning care and treatment or changes in care and treatment unless adjudged incompetent or otherwise found to be incapacitated under state law.
(o) The resident has the right to personal privacy and confidentiality of his or her personal and clinical records.
(p) Personal privacy includes the following:
(1) Accommodations.
(2) Medical treatment.
(3) Written and telephone communications.
(4) Personal care.
(5) Visits.
(6) Meetings of family and resident groups.
This does not require the facility to provide a private room for each resident.
(q) Except as provided in subsection (r), the resident may approve or refuse the release of personal and clinical records to any individual outside the facility.
(r) The resident's rights to refuse release of personal and clinical records does not apply when:
(1) the resident is transferred to another health care institution; or
(2) record release is required by law.
(s) The resident has 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;
(2) have access to stationery, postage, and writing implements at the resident's own expense; and
(3) receive any literature or statements of services that accompany mailings from Medicaid that the facility receives on behalf of the resident.
(t) The resident has the right to be cared for in a manner and in an environment that maintains or enhances each resident's dignity and respect in full recognition of his or her individuality.
(u) The resident has the right to the following:
(1) Choose activities, schedules, and health care consistent with his or her interests, assessments, and plans of care.
(2) Interact with members of the community both inside and outside the facility.
(3) Make choices about aspects of his or her life in the facility that are significant to the resident.
(v) A resident has the right to the following:
(1) Reside and receive services in the facility with reasonable accommodations of the individual's needs and preferences, except when the health or safety of the individual or other residents would be endangered.
(2) Receive notice before the resident's room or roommate in the facility is changed.
(w) The resident has 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.
(x) For purposes of IC 16-28-5-1, a breach of:
(1) subsection (a), (b)(1), (e), (n), (o), (p), (q), (r), (t), or (w) is a deficiency;
(2) subsection (b)(2), (c), (d), (f), (g), (l), (m), (s), (u), or (v) is a noncompliance; and
(3) subsection (h), (i), (j), or (k) is a nonconformance.
(Indiana State Department of Health; 410 IAC 16.2-3.1-3; filed Jan 10, 1997, 4:00 p.m.: 20 IR 1528, eff Apr 1, 1997; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234; filed Jul 22, 2004, 10:05 a.m.: 27 IR 3988; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA)

410 IAC 16.2-3.1-4 Notice of rights and services
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 12-10-5.5; IC 16-28-5-1; IC 16-36-1-3; IC 16-36-1-7; IC 16-36-4-7; IC 16-36-4-13; IC 30-5-7-4
Sec. 4. (a) The facility must inform the resident both orally and in writing in a language that the resident understands of his or her rights and all rules and regulations governing resident conduct and responsibilities during the stay in the facility. Such notification must be made prior to or upon admission and during the resident's stay. Receipt of such information, and any amendments to it, must be acknowledged in writing. A copy of the resident's rights must be available in a publicly accessible area. The copy must be at least 12-point type.
(b) The resident has the right to the following:
(1) Immediate access to the current active clinical record.
(2) Upon an oral or written request, to access all other records pertaining to himself or herself within twenty-four (24) hours.
(3) After receipt of his or her records for inspection, to purchase at a cost, not to exceed the community standard, photocopies of the records or any portions of them upon request and two (2) working days' advance notice to the facility.
(c) The resident has the right to be fully informed in language that he or she can understand of his or her total health status, including, but not limited to, his or her medical condition.

(d) The resident has the right to refuse treatment. Any refusals of treatment must be accompanied by counseling on the medical consequences of such refusal.

(e) The resident has the right to refuse participation in experimental research. All experimental research must be conducted in compliance with state, federal, and local laws and professional standards.

(f) The facility must do the following:

(1) Inform each resident who is entitled to Medicaid benefits, in writing, at the time of admission to the nursing facility or when the resident becomes eligible for Medicaid of the following:

(A) The items and services that are included in nursing facility services under the state plan and for which the resident may not be charged.

(B) Those other items and services that the facility offers and for which the resident may be charged and the amount of the charges.

(2) Inform each resident when changes are made to the items and services specified in this section.

(3) Inform each resident before, or at the time of admission, in writing and periodically during the resident's stay, of services available in the facility and of charges for those services, including any charges for services not covered under Medicare or by the facility's per diem rate.

(4) Provide written information to each resident concerning the following:

(A) The resident's rights under IC 16-36-1-3 and IC 16-36-1-7 to make decisions concerning their care, including the right to:

(i) accept or refuse medical or surgical treatment; and

(ii) formulate advance directives.

(B) The facility's written policies regarding the implementation of such rights, including a clear and precise statement of limitation if the facility or its agent cannot implement an advance directive on the basis of conscience under IC 16-36-4-13.

(5) Document in the resident's clinical record whether the resident has executed an advance directive and include a copy of such advance directive in the clinical record.

(6) Not condition the provision of care or otherwise discriminate against an individual based on whether or not the individual has executed an advance directive.

(7) Ensure compliance with the requirements of state law regarding advance directives.

(8) Provide for education for staff on issues concerning advance directives.

(9) Provide for community education regarding advance directives either directly or in concert with other facilities or health care providers or other organizations.

(10) Distribute to each resident upon admission the state developed written description of the law concerning advance directives.

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

(g) A facility is not required to provide care that conflicts with an advance directive under IC 16-36-4-7.

(h) If a facility objects to implementation of an advance directive on the basis of conscience, they must comply with IC 30-5-7-4.

(i) 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.

(j) The facility must furnish on admission a written description of legal rights, including the following:

(1) A description of the manner of protecting personal funds under this section.

(2) 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.

(3) The most recently known addresses and telephone numbers, including, but not limited to, 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 rehabilitative services.

(D) The area agency on aging.

(E) The local mental health center.

(F) The protection and advocacy services commission.

(G) Adult protective services.

These shall be displayed in a prominent place in the facility.

(k) The facility must inform each resident of the name, specialty, and way of contacting the physician responsible for his or her care.

(l) The facility must prominently display in the facility written information, and provide to residents and applicants for admission oral and written information, about how to:

(1) apply for and use Medicare and Medicaid benefits; and

(2) receive refunds for previous payments covered by such benefits.

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

(1) subsection (h) is an offense;

(2) subsection (d), (e), or (g) is a deficiency;

(3) subsection (a), (b), (c), (f)(1), (f)(2), (f)(3), (f)(4), (f)(5), (f)(8), (f)(10), (i), (j)(1), (k), or (l) is a noncompliance; and

(4) subsection (f)(6), (f)(7), (f)(9), (j)(2), or (j)(3) is a nonconformance.

(Indiana State Department of Health; 410 IAC 16.2-3.1-4; filed Jan 10, 1997, 4:00 p.m.: 20 IR 1529, eff Apr 1, 1997; errata filed Apr 10, 1997, 12:15 p.m.: 20 IR 2414; errata filed Jun 4, 1997, 1:47 p.m.: 20 IR 2789; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234; filed Jul 22, 2004, 10:05 a.m.: 27 IR 3989; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA)

410 IAC 16.2-3.1-5 Notification of changes

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

Affected: IC 16-28-5-1

Sec. 5. (a) A facility must immediately inform the resident, consult with the resident's physician, and, if known, notify the resident's legal representative or an interested family member when there is:

(1) an accident involving the resident that results in injury and has the potential for requiring physician intervention;

(2) a significant change in the resident's physical, mental, or psychosocial status, that is, a deterioration in health, mental, or psychosocial status in either life-threatening conditions or clinical complications;
(3) 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; or
(4) a decision to transfer or discharge the resident from the facility.
(b) The facility must also promptly notify the resident and, if known, the resident's legal representative or interested family member, when there is:
(1) a change in room or roommate assignment; or
(2) a change in resident rights under federal or state law or regulation.
(c) The facility must record and periodically update the address and phone number of the resident's legal representative or interested family member.
(d) For purposes of IC 16-28-5-1, a breach of:
(1) subsection (a) is a deficiency;
(2) subsection (b)(2) or (c) is a noncompliance; and
(3) subsection (b)(1) is a nonconformance.
(Indiana State Department of Health; 410 IAC 16.2-3.1-5; filed Jan 10, 1997, 4:00 p.m.: 20 IR 1531, eff Apr 1, 1997; errata filed Apr 10, 1997, 12:15 p.m.: 20 IR 2414; 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 16.2-3.1-6 Protection of resident funds
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28-5-1
Sec. 6. (a) The resident has the right to manage his or her financial affairs, and the facility may not require residents to deposit their personal funds with the facility.
(b) Upon written authorization of the resident, the facility must hold, safeguard, manage, and account for personal funds of the resident deposited with the facility.
(c) Unless otherwise required by federal law, the facility must deposit any residents' personal funds in excess of fifty dollars ($50) 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.)
(d) The facility must maintain residents' personal funds that do not exceed fifty dollars ($50) in a noninterest bearing account, interest bearing, or petty cash fund.
(e) The facility must 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. The system must preclude any commingling of resident funds with facility funds or with the funds of any person other than another resident.
(f) The facility must:
(1) provide reasonable access during normal business hours to the funds in the account;
(2) return to the resident in not later than fifteen (15) calendar days, upon written request, all or any part of the resident's funds given to the facility for safekeeping; and
(3) provide reasonable access during normal business hours, to the written records of all financial transactions involving the individual resident's funds upon request.
(g) The individual financial record must be provided to the resident or his or her legal representative upon request of the resident and through quarterly statements.
(h) Upon the death of a resident with a personal fund deposited with the facility, the facility must convey within thirty (30) days the resident's funds, and a final accounting of those funds, to the individual or the probate jurisdiction administering the resident's estate.
(i) The facility must purchase surety bond insurance, or otherwise provide assurance satisfactory to the state survey agency, to assure the security of all personal funds of residents deposited with the facility.
(j) The facility may not impose a charge against the personal funds of a resident for any item or service for which payment is made under Medicaid or Medicare.
(k) For purposes of IC 16-28-5-1, a breach of:
(1) subsection (a), (b), (c), (d), (e), (f), (g), (h), or (j) is a noncompliance; and
(2) subsection (i) is a nonconformance.
(Indiana State Department of Health; 410 IAC 16.2-3.1-6; filed Jan 10, 1997, 4:00 p.m.: 20 IR 1531, eff Apr 1, 1997; errata filed Apr 10, 1997, 12:15 p.m.: 20 IR 2414; 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 16.2-3.1-7 Grievances
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28-5-1
Sec. 7. (a) A resident has the right to the following:
(1) Voice a grievance without discrimination or reprisal. Such grievances include those with respect to treatment which has been furnished as well as that which has not been furnished.
(2) Prompt efforts by the facility to resolve grievances the resident may have, including those with respect to the behavior of other residents.
(3) Recommend changes in policy and procedure, and receive reasonable responses to their requests without fear of reprisal or interference.
(b) Each facility shall develop and implement policies for investigating and responding to complaints and grievances made by an individual resident, a resident group, a family member, or family group or other individuals.
(c) For purposes of IC 16-28-5-1, a breach of:
(1) subsection (a)(1) is a deficiency; and
(2) subsection (a)(2), (a)(3), or (b) is a noncompliance.
(Indiana State Department of Health; 410 IAC 16.2-3.1-7; filed Jan 10, 1997, 4:00 p.m.: 20 IR 1531, 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 16.2-3.1-8 Access and visitation rights
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28-5-1

Sec. 8. (a) Residents have the right to choose with whom they associate. The facility shall provide reasonable visiting hours which should include at least nine (9) hours a day. The hours shall be posted in a prominent place in the facility and made available to each resident. Policies shall also provide for emergency visitation at other than posted hours.

(b) The resident has the right and the facility must provide immediate access to any resident by the following:

(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) Subject to the resident's right to deny or withdraw consent at any time, the resident's legal representative or spiritual advisor.
(9) Subject to reasonable restrictions and the resident's right to deny or withdraw consent at any time, others who are visiting with the consent of the resident.

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

(d) The facility must 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.

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

(1) subsection (b) or (c) is a deficiency; and
(2) subsection (a) or (d) is a noncompliance.

(Indiana State Department of Health; 410 IAC 16.2-3.1-8; filed Jan 10, 1997, 4:00 p.m.: 20 IR 1532, 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 16.2-3.1-9 Personal property
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28-5-1

Sec. 9. (a) The resident has the right to retain and use personal possessions, including some furnishings and appropriate clothing as space permits unless to do so would infringe upon the rights or health and safety of other residents.

(b) The facility shall exercise reasonable care for the protection of the resident's property from loss or theft.

(c) The administrator or the administrator's designee is responsible for investigating reports of lost or stolen residents' property.

(d) The facility will have written policies and procedures outlining the steps to be taken in the event an item is reported lost or stolen.

(e) The policies will include a mechanism to report the results of the investigation to the resident or his or her legal representative in the event the lost or stolen item is not recovered.

(f) If the resident's clothing is laundered by the facility, the facility shall identify the clothing in a suitable manner. The facility is only responsible for marking those items that are recorded on the resident's inventory sheet.

(g) The facility must inventory, upon admission and discharge, the personal effects, money, and valuables declared by the resident at the time of admission. It is the resident's responsibility to maintain and update the inventory listing of the resident's personal property.

(h) Facilities shall, in writing, annually remind residents, legal representatives, or family members or all, of the need to update inventory records.

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

(1) subsection (b) is a deficiency; and
(2) subsection (a), (c), (d), (e), (f), (g), or (h) is a noncompliance.

(Indiana State Department of Health; 410 IAC 16.2-3.1-9; filed Jan 10, 1997, 4:00 p.m.: 20 IR 1532, 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 16.2-3.1-10 Living arrangements
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28-5-1

Sec. 10. (a) The resident has the right to share a room with his or her spouse when:

(1) married residents live in the same facility and both spouses consent to the arrangement; and
(2) a room is available for residents to share.

(b) The facility shall have written policy and procedures to 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 occupants.

(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 16.2-3.1-10; filed Jan 10, 1997, 4:00 p.m.: 20 IR 1533, 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 16.2-3.1-11 Self-administration of drugs
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28-5-1

Sec. 11. (a) An individual resident may self-administer drugs if the interdisciplinary team has determined that the practice is safe.

(b) For purposes of IC 16-28-5-1, a breach of subsection (a) is a noncompliance.

(Indiana State Department of Health; 410 IAC 16.2-3.1-11; filed Jan 10, 1997, 4:00 p.m.: 20 IR 1533, 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 16.2-3.1-12 Transfer and discharge rights

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 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. For Medicare and Medicaid certified facilities, an interfacility transfer and discharge means the movement of a resident to a bed outside of the certified facility whether that bed is in the same physical plant or not.

(2) As used in this section, "intrafacility transfer" means the movement of a resident to a bed within the same licensed facility. For Medicare and Medicaid certified facilities, an intrafacility transfer means the movement of a resident to a bed within the same certified 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 (or to have paid under Medicare or Medicaid) 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, 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 division and local long term care ombudsman.

(H) For 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 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 facility resident requests a hearing, the department shall hold an informal hearing at the 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 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 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 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. If a hearing is to be held de novo, that hearing shall be held in the facility where the resident resides.

(14) An intrafacility transfer can be made only if:

(A) the transfer is necessary for medical reasons as judged by the attending physician; or

(B) the transfer is necessary for the welfare of the resident or other persons.

(15) If an intrafacility transfer is required, the resident must be given notice at least two (2) days before relocation, except when:

(A) the safety of individuals in the facility would be endangered;

(B) the health of individuals in the facility would be endangered;

(C) the resident's health improves sufficiently to allow a more immediate transfer; or

(D) an immediate transfer is required by the resident's urgent medical needs.

(16) The written notice of an intrafacility transfer must include the following:

(A) Reasons for transfer.

(B) Effective date of transfer.

(C) Location to which the resident is transferred.

(D) Name, address, and telephone number of the local and state long term care ombudsman.

(E) For facility residents with developmental disabilities or who are mentally ill, the mailing address and telephone number of the protection and advocacy services commission.

(17) The resident has the right to relocate prior to the expiration of the two (2) day notice.

(18) Prior to any interfacility or involuntary intrafacility relocation, the facility shall prepare a relocation plan to prepare the resident for relocation and to provide continuity of care. In nonemergency relocations, the planning process shall include a relocation planning conference to which the resident, his or her legal representative, family members, and physician shall be invited. The planning conference may be waived by the resident or his or her legal representative.

(19) At the planning conference, the resident's medical, psychosocial, and social needs with respect to the relocation shall be considered and a plan devised to meet these needs.

(20) The facility shall provide reasonable assistance to the resident to carry out the relocation plan.

(21) The facility must provide sufficient preparation and orientation to residents to ensure safe and orderly transfer or discharge from the facility.

(22) If the relocation plan is disputed, a meeting shall be held prior to the relocation with the administrator or his or her designee, the resident, and the resident's legal representative. An interested family member, if known, shall be invited. The purpose of the meeting shall be to discuss possible alternatives to the proposed relocation plan.

(23) A written report of the content of the discussion at the meeting and the results of the meeting shall be reviewed by the administrator or his or her designee, the resident, the resident's legal representative, and an interested family member, if known, each of whom may make written comments on the report.

(24) The written report of the meeting shall be included in the resident's permanent record.

(25) Before a facility transfers a resident to a hospital or allows a resident to go on therapeutic leave of twenty-four (24) hours duration or longer, the facility must provide written information to the resident and a family member or legal representative that specifies the following:

(A) The duration of the bed-hold policy under the Medicaid state plan during which the resident is permitted to return and resume residence in the facility.

(B) The facility's policies regarding bed-hold periods, which must be consistent with subdivision (27), permitting a resident to return.

(26) Except in an emergency, at the time of transfer of a resident for hospitalization or therapeutic leave, a facility must provide to the resident and a family member or legal representative written notice which specifies the duration of the bed-hold policy described in subdivision (25).

(27) Medicaid certified facilities must establish and follow a written policy under which a resident, whose hospitalization or therapeutic leave exceeds the bed-hold period under the state plan, is readmitted to the facility immediately upon the first availability of a bed in a semiprivate room if the resident:

(A) requires the services provided by the facility; and

(B) is eligible for Medicaid nursing facility services.

(b) For purposes of IC 16-28-5-1, a breach of subsection (a) is a deficiency.

(Indiana State Department of Health; 410 IAC 16.2-3.1-12; filed Jan 10, 1997, 4:00 p.m.: 20 IR 1533, eff Apr 1, 1997; errata filed Apr 10, 1997, 12:15 p.m.: 20 IR 2414; 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 16.2-3.1-13 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

Sec. 13. (a) The licensee is responsible for compliance with all applicable laws and rules. The licensee has full authority and responsibility for the organization, management, operation, and control of the licensed facility. The delegation of any authority by the licensee does not diminish the responsibilities of the licensee.

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

(1) initial orientation of all employees;

(2) a continuing inservice education and training program for all employees; and

(3) provision of supervision for all employees.

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

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

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

(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 but shall not function as a departmental supervisor, for example, director of nursing or food service supervisor, during the same hours. The responsibilities of the administrator shall include, but are not limited to, the following:

(1) Immediately informing the division by telephone, followed by written notice within twenty-four (24) hours, of unusual occurrences that directly threaten the welfare, safety, or health of the resident or residents, including, but not limited to, any:

(A) epidemic outbreaks;

(B) poisonings;

(C) fires; or

(D) major accidents.

If the department cannot be reached, such as on holidays or weekends, a call shall be made to the emergency telephone number ((317) 383-6144) of the division.

(2) Promptly arranging for medical, dental, podiatry, or nursing care or other health care services as prescribed by the attending physician.

(3) Obtaining director approval prior to the admission of an individual under eighteen (18) years of age to an adult facility.

(4) Ensuring that the facility maintains, on the premises, time schedules and an accurate record of actual time worked that indicates the employees' full names and the dates and hours worked during the past twelve (12) months. This information shall be furnished to the division staff upon request.

(5) Maintaining a copy of this article and making it available to all personnel and the residents.

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

(i) Each facility shall establish and implement a written policy manual to ensure that resident care and facility objectives are attained, to include:

(1) the range of services offered;

(2) residents' rights;

(3) personnel administration; and

(4) facility operations.

(j) The licensee shall approve the policy manual, and subsequent revisions, in writing. The policy manual shall be reviewed and dated at least annually. The resident care policies shall be developed by a group of professional personnel and approved by the medical director.

(k) The policies shall be maintained in a manual or manuals accessible to employees and made available upon request to:

(1) residents;

(2) the department;

(3) the sponsor or surrogate of a resident; and

(4) the public.

Management/ownership confidential directives are not required to be included in the policy manual; however, the policy manual must include all of the facility's operational policies.

(l) To assure continuity of care of residents in cases of emergency, the facility must have detailed written plans and procedures to meet all potential emergencies and disasters, such as fire, severe weather, missing residents, and including situations that may require emergency relocation of residents. Facilities caring for children shall have a written plan outlining the staff procedures, including isolation and evacuation, in case of an outbreak of childhood diseases.

(m) If the facility does not employ a qualified professional person to furnish a specific service to be provided by the facility, the facility must have that service furnished to residents by a person or agency outside the facility under a written agreement. Such agreements pertaining to services furnished by outside resources must specify, in writing, that the facility assumes responsibility for the following:

(1) Obtaining services that meet professional standards and principles that apply to professionals providing services in such a facility.

(2) The timeliness of the services.

(3) Orientation to pertinent facility policies and residents to whom they are responsible.

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

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

(p) The facility must have in effect a written transfer agreement with one (1) or more hospitals that reasonably assures the following:

(1) Residents will be transferred from the facility to the hospital and ensured of timely admission to the hospital when transfer is medically appropriate as determined by the attending physician.

(2) Medical and other information needed for care and treatment of residents, and, when the transferring facility deems it appropriate, for determining whether such residents can be adequately cared for in a less expensive setting than either the facility or the hospital, will be exchanged between the institutions.

(3) Specification of the responsibilities assumed by both the discharging and receiving institutions for prompt notification of the impending transfer of the resident for:

(A) agreement by the receiving institution to admit the resident;

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

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

(4) Specification of the restrictions with respect to the types of services available or the types of residents or health conditions that will not be accepted by the hospital or the facility, or both, including any other criteria relating to the transfer of residents.

The facility is considered to have a transfer agreement in effect if the facility has attempted in good faith to enter into an agreement with a hospital sufficiently close to the facility to make transfer feasible.

(q) A facility must be administered in a manner that enables it to use its resources effectively and efficiently to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident.

(r) The facility must operate and provide services in compliance with all applicable federal, state, and local laws, regulations, and codes and with accepted professional standards and principles that apply to professionals providing services in such a facility.

(s) The facility must have a governing body, or designated persons functioning as a governing body, that is legally responsible for establishing and implementing policies regarding the management and operation of the facility.

(t) The governing body shall appoint the administrator who is:

(1) licensed under IC 25-19-1; and

(2) responsible for the management of the facility.

(u) The facility must designate a physician to serve as medical director.

(v) The medical director shall be responsible for the following:

(1) Acting as a liaison between the administrator and the attending physicians to encourage physicians to write orders promptly and to make resident visits in a timely manner.

(2) Reviewing, evaluating, and implementing resident care policies and procedures and to guide the director of nursing services in matters related to resident care policies and services.

(3) Reviewing incidents and accidents that occur on the premises to identify hazards to health and safety.

(4) Reviewing employees preemployment physicals and health reports and monitoring employees health status.

(5) The coordination of medical care in the facility.

(w) 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 meet the needs or preferences, or both, of cognitively impaired residents and to gain understanding of the current standards of care for residents with dementia.

(x) 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 personnel assigned to the unit receive required inservice training.

(3) Ensure that care provided to Alzheimer's and dementia care unit residents is consistent with inservice training, current Alzheimer's and dementia care practices, and regulatory standards.

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

(1) subsection (a), (c), (g), (r), (t), (u), (v), or (x) is a deficiency;

(2) subsection (b), (d), (e), (f), (i), (l), (p), (q), (s), or (w) is a noncompliance; and

(3) subsection (h), (j), (k), (m), (n), or (o) is a nonconformance.

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410 IAC 16.2-3.1-14 Personnel

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

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

Sec. 14. (a) Each facility shall have specific procedures written and implemented for the screening of prospective employees. Specific 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) A facility must not use any individual working in the facility as a nurse aide for more than four (4) months on a full-time, part-time, temporary, per diem, or other basis unless that individual:

(1) is competent to provide nursing and nursing-related services; and

(2) has completed a:

(A) training and competency evaluation program; or

(B) competency evaluation program;

approved by the division.

(c) Each nurse aide who is hired to work in a facility shall have successfully completed a nurse aide training program approved by the division or shall enroll in the first available approved training program scheduled to commence within sixty (60) days of the date of the nurse aide's employment. The program may be established by the facility, an organization, or an institution. The training program shall consist of at least the following:

(1) Thirty (30) hours of classroom instruction within one hundred twenty (120) days of employment. At least sixteen (16) of those hours shall be in the following areas prior to any direct contact with a resident:

(A) Communication and interpersonal skills.

(B) Infection control.

(C) Safety/emergency procedures, including the Heimlich maneuver.

(D) Promoting residents' independence.

(E) Respecting residents' rights.

(2) The remainder of the thirty (30) hours of instruction shall include the following:

(A) Basic nursing skills as follows:

(i) Taking and recording vital signs.

(ii) Measuring and recording height and weight.

(iii) Caring for residents' environment.

(iv) Recognizing abnormal changes in body functioning and the importance of reporting such changes to a supervisor.

(v) Caring for residents when death is imminent.

(B) Personal care skills, including, but not limited to, the following:

(i) Bathing.
(ii) Grooming, including mouth care.
(iii) Dressing.
(iv) Toileting.
(v) Assisting with eating and hydration.
(vi) Proper feeding techniques.
(vii) Skin care.
(viii) Transfers, positioning, and turning.

(C) Mental health and social service needs as follows:
(i) Modifying aides' behavior in response to residents' behavior.
(ii) Awareness of developmental tasks associated with the aging process.
(iii) How to respond to residents' behavior.
(iv) Allowing the resident to make personal choices, providing and reinforcing other behavior consistent with the resident's dignity.
(v) Using the resident's family as a source of emotional support.

(D) Care of cognitively impaired residents as follows:
(i) Techniques for addressing the unique needs and behaviors of individuals with dementia (Alzheimer's and others).
(ii) Communicating with cognitively impaired residents.
(iii) Understanding the behavior of cognitively impaired residents.
(iv) Appropriate responses to the behavior of cognitively impaired residents.
(v) Methods of reducing the effects of cognitive impairments.

(E) Basic restorative services as follows:
(i) Training the resident in self-care according to the resident's abilities.
(ii) Use of assistive devices in transferring, ambulation, eating, and dressing.
(iii) Maintenance of range of motion.
(iv) Proper turning and positioning in bed and chair.
(v) Bowel and bladder training.
(vi) Care and use of prosthetic and orthotic devices.

(F) Residents' rights as follows:
(i) Providing privacy and maintenance of confidentiality.
(ii) Promoting residents' right to make personal choices to accommodate their needs.
(iii) Giving assistance in resolving grievances and disputes.
(iv) Providing needed assistance in getting to and participating in resident and family groups and other activities.
(v) Maintaining care and security of residents' personal possessions.
(vi) Promoting residents' right to be free from abuse, mistreatment, and neglect, and the need to report any instances of such treatment to appropriate facility staff.
(vii) Avoiding the need for restraints in accordance with current professional standards.

(3) Seventy-five (75) hours of supervised clinical experience, at least sixteen (16) hours of which must be in directly supervised practical training. As used in this subdivision, "directly supervised practical training" means training in a laboratory or other setting in which the trainee demonstrates knowledge while performing tasks on an individual under direct supervision of a registered nurse or a licensed practical nurse. These hours shall consist of normal employment as a nurse aide under the supervision of a licensed nurse.

(4) Training that ensures the following:
(A) Students do not perform any services for which they have not trained and been found proficient by the instructor.
(B) Students who are providing services to residents are under the general supervision of a licensed nurse.

(d) A facility must arrange for individuals used as nurse aides, as of the effective date of this rule, to participate in a competency evaluation program approved by the division and preparation necessary for the individual to complete the program.

(e) Before allowing an individual to serve as a nurse aide, a facility must receive registry verification that the individual has met competency evaluation requirements unless the individual:
(1) is a full-time employee in a training and competency evaluation program approved by the division; or
(2) can prove that he or she has recently successfully completed a training and competency evaluation program approved by the division and has not yet been included in the registry.

Facilities must follow up to ensure that such individual actually becomes registered.

(f) A facility must check with all state nurse aide registries it has reason to believe contain information on an individual before using that individual as a nurse aide.

(g) If, since an individual's most recent completion of a training and competency evaluation program, there has been a continuous period of twenty-four (24) consecutive months during none of which the individual provided nursing or nursing-related services for monetary compensation, the individual must complete a new:
(1) training and competency evaluation program; or
(2) competency evaluation program.

(h) The facility must complete a performance review of every nurse aide at least once every twelve (12) months and must provide regular inservice education based on the outcome of these reviews. The inservice training must be as follows:
(1) Sufficient to ensure the continuing competence of nurse aides but must be no less than twelve (12) hours per year.
(2) Address areas of weakness as determined in nurse aides' performance reviews and may address the special needs of residents as determined by the facility staff.
(3) For nurse aides providing services to individuals with cognitive impairments, also address the care of the cognitively impaired.

(i) The facility must ensure that nurse aides and qualified medication aides are able to demonstrate competency in skills and techniques necessary to care for residents' needs as identified through resident assessments and described in the care plan.

(j) Medication shall be administered by licensed nursing personnel or qualified medication aides. If medication aides handle or administer drugs or perform treatments requiring medications, the facility shall ensure that the persons have been properly qualified in medication administration by a state-approved course. Injectable medications shall be given only by licensed personnel.

(k) There shall be an organized ongoing inservice education and training program planned in advance for all personnel. This training shall include, but not be limited to, the following:

(1) Residents' rights.

(2) Prevention and control of infection.

(3) Fire prevention.

(4) Safety and accident prevention.

(5) Needs of specialized populations served.

(6) Care of cognitively impaired residents.

(l) The frequency and content of inservice education and training programs shall be in accordance with the skills and knowledge of the facility personnel as follows. For nursing personnel, this shall include at least twelve (12) hours of inservice per calendar year and six (6) hours of inservice per calendar year for nonnursing personnel.

(m) Inservice programs for items required under subsection (k) shall contain a means to assess learning by participants.

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

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

(1) The time, date, and location.

(2) The name of the instructor.

(3) The title of the instructor.

(4) The names of the participants.

(5) The program content of inservice.

The employee will acknowledge attendance by written signature.

(p) Initial orientation of all staff must be conducted and documented and shall include the following:

(1) Instructions on the needs of the specialized population or populations served in the facility, for example:

(A) aged;

(B) developmentally disabled;

(C) mentally ill;

(D) children; or

(E) care of cognitively impaired;

residents.

(2) A review of residents' rights and other pertinent portions of the facility's policy manual.

(3) Instruction in first aid, emergency procedures, and fire and disaster preparedness, including evacuation procedures and universal precautions.

(4) A detailed review of the appropriate job description, including a demonstration of equipment and procedures required of the specific position to which the employee will be assigned.

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

(6) For direct care staff, instruction in the particular needs of each resident to whom the employee will be providing care.

(q) Each 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, certification, 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 and to the specific job skills.

(8) Signed acknowledgement of orientation to residents' rights.

(9) Performance evaluations in accordance with the facility's policy.

(10) Date and reason for separation.

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

(s) Professional staff must be licensed, certified, or registered in accordance with applicable state laws or rules.

(t) A physical examination shall be required for each employee of a facility within one (1) month prior to employment. The examination shall include a tuberculin skin test, using the Mantoux method (5 TU PPD), administered by persons having documentation of training from a department-approved course of instruction in intradermal tuberculin skin testing, reading, and recording 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 tuberculin skin test must be read prior to the employee starting work. 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. For health care workers who have not had a documented negative tuberculin skin test result during the preceding twelve (12) months, the baseline tuberculin skin testing should employ the two-step method. If the first step is negative, a second test should be performed one (1) to three (3) weeks after the first step. The frequency of repeat testing will depend on the risk of infection with tuberculosis.

(2) All employees who have a positive reaction to the skin test shall be required to have a chest x-ray and other physical and laboratory examinations in order to complete a diagnosis.

(3) The facility shall maintain a health record of each employee that includes:

(A) a report of the preemployment physical examination; and

(B) reports of all employment-related health examinations.

(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.

(u) In addition to the required inservice hours in subsection (l), staff who have regular contact with residents shall have a minimum of six (6) hours of dementia-specific training within six (6) months of initial employment, or within thirty (30) days for personnel assigned to the Alzheimer's and dementia special care unit, and three (3) hours annually thereafter to meet the needs or preferences, or both, of cognitively impaired residents and to gain understanding of the current standards of care for residents with dementia.

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

(1) subsection (c), (e), (f), (g), (i), (j), or (s) is a deficiency;

(2) subsection (a), (b), (d), (h), (k), (l), (m), (n), (o), (p), (t), or (u) is a noncompliance; and

(3) subsection (q) or (r) is a nonconformance.

(Indiana State Department of Health; 410 IAC 16.2-3.1-14; filed Jan 10, 1997, 4:00 p.m.: 20 IR 1537, eff Apr 1, 1997; errata, 20 IR 1738; errata filed Apr 10, 1997, 12:15 p.m.: 20 IR 2414; filed May 16, 2001, 2:09 p.m.: 24 IR 3024; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234; filed Jul 22, 2004, 10:05 a.m.: 27 IR 3993; filed Aug 11, 2004, 11:00 a.m.: 28 IR 189; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA)

410 IAC 16.2-3.1-15 Equal access to quality care

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

Affected: IC 16-28-5-1

Sec. 15. (a) A facility must establish and maintain identical policies and practices regarding transfer, discharge, and the provision of services under the state plan for all individuals regardless of source of payment.

(b) The facility may charge any amount for services furnished to non-Medicaid residents consistent with the notice requirement in section 4(f) of this rule describing the charges.

(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 16.2-3.1-15; filed Jan 10, 1997, 4:00 p.m.: 20 IR 1540, 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 16.2-3.1-16 Admissions policy

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

Affected: IC 16-28-5-1

Sec. 16. (a) The facility must not:

(1) require residents or potential residents to waive their rights to Medicare or Medicaid; or

(2) require oral or written assurance that residents or potential residents are not eligible for, or will not apply for, Medicare or Medicaid benefits.

(b) The facility must not require a third party guarantee of payment to the facility as a condition of admission or expedited admission, or continued stay in the facility. However, the facility may require an individual who has legal access to a resident's income or resources available to pay for facility care to sign a contract, without incurring personal financial liability, to provide facility payment from the resident's income or resources.

(c) In the case of a person eligible for Medicaid, a nursing facility must not charge, solicit, accept, or receive, in addition to any amount otherwise required to be paid under the state plan, any gift, money, or donation, or other consideration as a precondition of admission, expedited admission, or continued stay in the facility. However, a nursing facility may:

(1) charge a resident who is eligible for Medicaid for items and services the resident has requested and received and that are not specified in the state plan as included in the term "nursing facility services" so long as the facility gives proper notice of the availability and cost of these services to residents and does not condition the resident's admission or continued stay on the request for and receipt of such additional services; or

(2) solicit, accept, or receive a charitable, religious, or philanthropic contribution from an organization or from a person unrelated to a Medicaid-eligible resident, or potential resident, but only to the extent that the contribution is not a condition of admission, expedited admission, or continued stay in the facility for a Medicaid-eligible resident.

(d) A facility must not admit, on or after January 1, 1989, any new residents with:

(1) mental illness unless the state mental health authority or its designee has determined, based upon an independent physical and mental evaluation performed by a person or entity other than the state mental health authority or its designee, prior to admission that:

(A) because of the physical and mental condition of the individual, the individual requires the level of services provided by the facility; and

(B) if the individual requires such level of services, whether the individual requires specialized services for mental illnesses or services of a lesser intensity; or

(2) mental retardation unless the state mental retardation authority or its designee has determined prior to admission that:

(A) because of the physical and mental condition of the individual, the individual requires the level of services provided by the facility; and

(B) the individual requires such level of services, whether the individual requires specialized services or services of a lesser intensity for mental retardation.

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

(1) subsection (d) is a deficiency; and

(2) subsection (a), (b), or (c) is a noncompliance.

(Indiana State Department of Health; 410 IAC 16.2-3.1-16; filed Jan 10, 1997, 4:00 p.m.: 20 IR 1540, 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 16.2-3.1-17 Nursing services

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

Affected: IC 16-28-5-1

Sec. 17. (a) The facility must have sufficient nursing staff to provide nursing and related services to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident, as determined by resident assessments and individual plans of care.

(b) The facility must provide services by sufficient number of each of the following types of personnel on a twenty-four (24) hour basis to provide nursing care to all residents in accordance with resident care plans:

(1) Except when waived under subsection (f), the facility shall provide a licensed nurse hour-to-resident ratio of five-tenths (.5) licensed nurse hour per resident per day, averaged over a one (1) week period. The hours worked by the director of nursing shall not be counted in the staffing hours.
(2) Except when waived under subsection (f), the facility must designate a licensed nurse to serve as a charge nurse on each tour of duty.
(3) Except when waived under subsection (f), the facility must use the services of a registered nurse for at least eight (8) consecutive hours a day, seven (7) days a week.
(4) Except as waived in subsection (f), the facility must designate a registered nurse who has completed a nursing management course with a clinical component or who has at least one (1) year of nursing supervision in the past five (5) years to serve as the director of nursing on a full-time basis.

(c) The director of nursing will also function in the following duties:
(1) Communication to the administrator and, where appropriate, the physician, the status of the residents, the occurrence of incidents, and accidents and unresolved administrative problems of the nursing department.
(2) Plan for and direct nursing care services in accordance with the physicians' orders and to meet the needs of the residents.
(3) Provide for the training of nursing staff.
(4) Supervise nursing personnel to assure that preventive and restorative nursing procedures for each resident are initiated and performed so as to attain and maintain the highest practicable physical, mental, and psychosocial well-being in accordance with the comprehensive assessment and care plan.
(5) Assure that the clinical records are maintained in accordance with the facility policies and procedures and in compliance with this rule.

(d) The director of nursing shall have, in writing, and shall exercise administrative authority, responsibility, and accountability for nursing services within the facility and shall serve only one (1) facility at a time in this capacity, and confer with the administrator on the evaluation of prospective residents to assure that only those residents whose physical, mental, and psychosocial needs can be met by the facility or through community resources are admitted to and retained by the facility.

(e) The director of nursing may serve as a charge nurse only when the facility has an average daily occupancy of sixty (60) or fewer residents. These hours worked may be counted toward staffing requirements.

(f) A facility may request a waiver from either the requirement that a nursing facility provide a registered nurse for at least eight (8) consecutive hours a day, seven (7) days a week, or provide a registered nurse as the director of nursing, as specified in subsection (b), if the following conditions are met:
(1) The facility demonstrates to the satisfaction of the state that the facility has been unable, despite diligent efforts (including offering wages at the community prevailing rate for nursing facilities), to recruit appropriate personnel.
(2) The state determines that a waiver of the requirement will not endanger the health or safety of individuals staying in the facility.
(3) The state finds that, for any periods in which registered nursing services are not available, a registered nurse or physician is obligated to respond immediately to telephone calls from the facility.
(4) A waiver granted under the conditions listed in this subsection is subject to annual state review.
(5) Effective October 1, 1990, in granting or renewing a waiver, a facility may be required by the state to use other qualified, licensed personnel.
(6) The state agency granting a waiver of such requirements provides notice of the waiver to the state long term care ombudsman and the protection and advocacy system in the state for the mentally ill and mentally retarded.
(7) The nursing facility that is granted such a waiver by the state notifies residents of the facility.

(g) For purposes of IC 16-28-5-1, a breach of:
(1) subsection (a), (c), or (d) is a deficiency; and
(2) subsection (b), (e), or (f) is a noncompliance.

(Indiana State Department of Health; 410 IAC 16.2-3.1-17; filed Jan 10, 1997, 4:00 p.m.: 20 IR 1541, eff Apr 1, 1997; errata filed Apr 10, 1997, 12:15 p.m.: 20 IR 2414; 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 16.2-3.1-18 Infection control program
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28-5-1

Sec. 18. (a) The facility must establish and maintain an infection control program 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 under which it does the following:
(1) Investigates, controls, and prevents infections in the facility, including, but not limited to, a surveillance system to:
(A) monitor, investigate, document, and analyze the occurrence of nosocomial infection;
(B) recommend corrective action; and
(C) review findings at least quarterly.
The system shall enable the facility to analyze clusters and/or significant increases in the rate of infection.
(2) Decides what procedures (such as isolation) should be applied to an individual resident, including, but not limited to, written, current infection control program policies and procedures for an isolation/precautions system to prevent the spread of infection that isolates the infectious agent and includes full implementation of universal precautions.
(3) Maintains a record of incidents and corrective actions related to infections.
(4) Provides orientation and in-service education on infection prevention and control, including universal precautions.
(5) Provides a resident health program, including, but not limited to, appropriate personal hygiene and immunization.
(6) Provides an employee health program, including appropriate handling of an infected employee as well as employee exposure.
(7) Reports communicable disease to public health authorities.

(c) A diagnostic chest x-ray completed no more than six (6) months prior to admission shall be required.

(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) The baseline tuberculin skin testing should employ the two-step method. 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 (5 TU 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 prohibit employees with a 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 a 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.

(l) The facility must require staff to wash their hands after each direct resident contact for which hand washing is indicated by accepted professional practice.

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

(1) subsection (a) is an offense;

(2) subsection (b)(1), (b)(2), (j), (k), or (l) is a deficiency; and

(3) subsection (b)(3), (c), (d), (e), (f), (g), (h), or (i) is a noncompliance.

(Indiana State Department of Health; 410 IAC 16.2-3.1-18; filed Jan 10, 1997, 4:00 p.m.: 20 IR 1542, 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 16.2-3.1-19 Environment and physical standards

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

Affected: IC 16-28-5-1

Sec. 19. (a) The facility must be designed, constructed, equipped, and maintained to protect the health and safety of residents, personnel, and the public.

(b) The facility must meet the applicable provisions of the 2000 edition of the Life Safety Code of the National Fire Protection Association, which is incorporated by reference. This section applies to all facilities initially licensed on or after the effective date of this rule.

(c) Each 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.

(d) An emergency electrical power system must supply power adequate at least for lighting all entrances and exits, equipment to maintain the fire detection, alarm, and extinguishing systems, and life support systems in the event the normal electrical supply is interrupted.

(e) When life support systems are used, the facility must provide emergency electrical power with an emergency generator that is located on the premises.

(f) The facility must provide a safe, functional, sanitary, and comfortable environment for residents, staff, and the public. The facility must do the following:

(1) Establish procedures to ensure that water is available to essential areas when there is a loss of normal water supply.

(2) Have adequate outside ventilation by means of windows or mechanical ventilation, or a combination of the two (2).

(3) Equip corridors with firmly secured handrails.

(4) Maintain an effective pest control program so that the facility is free of pests and rodents.

(5) Provide a home-like environment for residents.

(g) Personnel shall handle, store, process, and transport linen in a manner that prevents the spread of infection as follows:

(1) Soiled linens shall be securely contained at the source where it is generated and handled in a manner that protects workers and precludes contamination of clean linen.

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

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

(4) Linens shall be maintained in good repair.

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

(h) The facility must provide comfortable and safe temperature levels.

(i) Each facility shall have an adequate heating and air conditioning system.

(j) The heating and air conditioning systems shall be maintained in normal operating condition and utilized as necessary to provide comfortable temperatures in all resident and public areas.

(k) Resident rooms must be designed and equipped for adequate nursing care, comfort, and full visual privacy of residents.

(l) Requirements for bedrooms must be as follows:

(1) Accommodate no more than four (4) residents.

(2) Measure at least eighty (80) square feet per resident in multiple resident bedrooms and at least one hundred (100) square feet in single resident rooms.

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

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

(5) Have direct access to an exit corridor.

(6) Be designed or equipped to assure full visual privacy for each resident in that they have the means of completely withdrawing from public view while occupying their beds.

(7) Except in private rooms, each bed must have ceiling suspended cubicle curtains or screens of flameproof or flame-retardant material, which extend around the bed to provide total visual privacy, in combination with adjacent walls and curtains.

(8) Have at least one (1) window to the outside with an area equal to one-tenth ($^1/_{10}$) of the total floor area of such rooms, up to eighty (80) square feet per bed for rooms occupied by more than one (1) person and one hundred (100) square feet for single occupancy.

(9) 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.

(m) The facility must provide each resident with the following:

(1) A separate bed of proper size and height for the convenience of the resident.

(2) A clean, comfortable mattress.

(3) Bedding appropriate to the weather, climate, and comfort of the resident.

(4) Functional furniture and individual closet space in the resident's room with clothes racks and shelves accessible to the resident and appropriate to the resident's needs, including the following:

(A) A bedside cabinet or table with hard surface, washable top.

(B) A clothing storage closet (which may be shared), including a closet rod and a shelf for clothing, toilet articles, and other personal belongings.

(C) A cushioned comfortable chair.

(D) A reading or bed lamp.

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

(5) Each resident room shall have clothing storage, which 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. The closet should be tall enough that clothing does not drag on the floor and to provide air circulation. A dresser, or its equivalent in shelf and drawer space equal to a dresser with an area of at least four hundred thirty-two (432) square inches, equipped with at least two (2) drawers six (6) inches deep to provide for clothing, toilet articles, and other personal belongings shall also be provided.

(n) Each resident room must be equipped with or located near toilet or bathing facilities such that residents who are independent in toileting, including chair-bound residents, can routinely have access to a toilet on the unit. As used in this subsection, "toilet facilities" means a space that contains a lavatory with mirror and a toilet. Bathing and toilet facilities shall be partitioned or completely curtained for privacy and mechanically ventilated. Toilets, bath, and shower compartments shall be separated from rooms by solid walls or partitions that extend from the floor to the ceiling.

(o) 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
12 to 37	2
38 to 52	3
53 to 67	4
68 to 82	5
83 to 97	6

Portable bathing units may be substituted for one (1) or more of the permanent fixtures with prior approval of the division.

(p) Toilet facilities shall be provided as set out in the building code at the time the facility was constructed. This section applies to 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. At least one (1) toilet and one (1) lavatory of the appropriate height for a resident seated in a wheelchair shall be available for each sex on each floor utilized by residents.

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

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

(s) Individual towel bars shall be provided for each resident.

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

(u) The nurses' station must be equipped to receive resident calls through a communication system from the following:

(1) Resident rooms.

(2) Toilet and bathing facilities.

(3) Activity, dining, and therapy areas.

(v) The facility must provide sufficient space and equipment in dining, health services, recreation, and program areas to enable staff to provide residents with needed services as required by this rule and as identified in each resident's care plan.

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

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

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

(3) Facilities for which construction plans are submitted for approval after 1984, the total area for resident dining, activity, and lounge purposes shall not be less than thirty (30) square feet per bed.

(4) 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.

(5) 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.

(x) Room-bound residents shall be provided suitable and sturdy tables or adjustable over-bed tables or other suitable devices and chairs of proper height to facilitate independent eating.

(y) Facilities having continuing deficiencies in the service of resident meals directly attributable to inadequacies in the size of the dining room or dining areas shall submit a special plan of correction detailing how meal service will be changed to meet the resident's needs.

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

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

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

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

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

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

(bb) Maintain all essential mechanical, electrical, and resident care equipment in safe operating condition. Each facility shall establish and maintain a written program for maintenance to ensure the continued upkeep of the facility.

(cc) The facility must provide one (1) or more rooms designated for resident dining and activities. These rooms must:

(1) be well-lighted with artificial and natural lighting;

(2) be well-ventilated, with nonsmoking areas identified;

(3) be adequately furnished with structurally sound furniture that accommodates residents' needs, including those in wheelchairs; and

(4) have sufficient space to accommodate all activities.

(dd) Each 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 bathroom facilities	20
Food preparation surfaces and utensil washing facilities	70

(ee) Each facility shall have a policy concerning pets. Pets may be permitted in a facility but shall not be allowed to create a nuisance or safety hazard. Any pet housed in a facility shall have periodic veterinary examinations and required immunizations in accordance with state and local health regulations.

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

(1) subsection (a) is an offense;

(2) subsection (b), (c), (d), (e), (f), (g), (h), (i), (j), (r), (u), or (bb) is a deficiency; and

(3) subsection (k), (l), (m), (n), (o), (p), (q), (s), (t), (v), (w), (x), (z), (aa), (cc), (dd), or (ee) is a noncompliance.

(Indiana State Department of Health; 410 IAC 16.2-3.1-19; filed Jan 10, 1997, 4:00 p.m.: 20 IR 1543, eff Apr 1, 1997; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234; filed Apr 16, 2004, 10:30 a.m.: 27 IR 2715; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA)

410 IAC 16.2-3.1-20 Dietary services

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

Affected: IC 16-28-5-1; IC 25-14.5

Sec. 20. (a) The facility must provide each resident with a nourishing, palatable, well-balanced diet that meets the daily nutritional and special dietary needs of each resident.

(b) The facility must employ a qualified dietitian either full time, part time, or on a consultant basis.

(c) If a qualified dietitian is not employed full time, the facility must designate a qualified person to serve as the director of food service who receives frequently scheduled consultation from a qualified dietitian.

(d) A qualified dietitian is one who is certified under IC 25-14.5. However, a person employed by a health facility as of July 1, 1984, must:

(1) have a bachelor's degree with major studies in food management;

(2) have one (1) year of supervisory experience in the dietetic service of a health care institution; and

(3) participate annually in continuing dietetic education.

(e) The food service director must be one (1) of the following:

(1) A qualified dietitian.

(2) 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 experience in some aspect of institutional food service management.

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

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

(5) An individual with training and experience in food service supervision and management in a military service equivalent in content to the program in subdivisions (2), (3), and (4).

(f) The number of consultant dietitian hours shall be commensurate with number of residents, complexity of resident services, and qualifications of food service director with at least the following number of hours being provided:

(1) Four (4) hours every two (2) weeks for a facility of sixty (60) residents or less.

(2) Five (5) hours every two (2) weeks for a facility of sixty-one (61) to ninety (90) residents.

(3) Six (6) hours every two (2) weeks for a facility of ninety-one (91) to one hundred twenty (120) residents.

(4) Seven (7) hours every two (2) weeks for a facility of one hundred twenty-one (121) to one hundred fifty (150) residents.
(5) Eight (8) hours every two (2) weeks for a facility of one hundred fifty-one (151) residents or more.
(g) Sufficient consultant hours shall be provided to allow the dietitian to correlate and integrate the nutritional aspects of resident care services by directing the following functions:
(1) Reviewing the resident's medical history, the comprehensive assessment, and assessing the resident's nutritional status.
(2) Interviewing and counseling the resident.
(3) Recording pertinent resident information on the record.
(4) Developing nutritional care goals.
(5) Conferring in interdisciplinary care planning.
(6) Sharing specialized knowledge with other members of the resident care team.
(7) Developing the regular diets to meet the specialized needs of residents.
(8) Developing therapeutic diets.
(9) Monitoring institutional food preparation and service.
(h) A facility must employ sufficient support personnel competent to carry out the functions of the dietary service.
(i) Menus must:
(1) meet the nutritional needs of residents in accordance with the recommended dietary allowances of the Food and Nutrition Board of the National Research Council, National Academy of Sciences;
(2) be prepared in advance;
(3) be approved by a qualified dietitian; and
(4) be followed.
(j) A current diet manual shall be available.
(k) The regular menu for the facility must be posted or made available to the residents.
(l) For purposes of IC 16-28-5-1, a breach of:
(1) subsection (a) is a deficiency; and
(2) subsection (b), (c), (d), (e), (f), (g), (h), (i), (j), or (k) is a noncompliance.
(Indiana State Department of Health; 410 IAC 16.2-3.1-20; filed Jan 10, 1997, 4:00 p.m.: 20 IR 1546, 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 16.2-3.1-21 Food
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28-5-1
Sec. 21. (a) Each resident receives and the facility provides the following:
(1) Food prepared by methods that conserve nutritive value, flavor, and appearance.
(2) Food that is palatable, attractive, and at the proper temperature.
(3) Food prepared in a form designed to meet individual needs.
(4) Substitutes offered of similar nutritive value to residents who refuse food served.
(b) Therapeutic diets must be prescribed by the attending physician.
(c) Each resident receives and the facility provides at least three (3) meals daily, at regular times comparable to normal mealtimes in the community.
(d) There must be no more than fourteen (14) hours between a substantial evening meal and breakfast the following day, except as provided in subsection (f).
(e) The facility must offer snacks at bedtime daily.
(f) When a nourishing snack is provided at bedtime, up to sixteen (16) hours may elapse between a substantial evening meal and breakfast the following day if a resident group agrees to this meal span and a nourishing snack is served. A nourishing snack is an offering of a minimum of a food item and a beverage.
(g) If a clear liquid diet is prescribed, the order shall be confirmed with the physician every forty-eight (48) hours, if it is the only source of nutrition unless a different time is specified in the physician's order.
(h) The facility must provide special eating equipment and utensils for residents who need them.
(i) The facility must do the following:
(1) Procure food from sources approved or considered satisfactory by federal, state, or local authorities.
(2) Comply with 410 IAC 7-24.
(3) Store, prepare, distribute, and serve food under sanitary conditions.
(4) Provide available storage space in a room adjacent to or convenient to the kitchen for at least a three (3) day supply of staple food both for normal and emergency needs in keeping dietary standards.
(5) Dispose of garbage and refuse properly.
(j) Any contracted food service to a facility must comply with all rules pertaining to dietary services.
(k) For purposes of IC 16-28-5-1, a breach of:
(1) subsection (b), (g), (h), (i)(2), or (i)(3) is a deficiency; and
(2) subsection (a), (c), (d), (e), (f), (i)(1), (i)(4), (i)(5), or (j) is a noncompliance.
(Indiana State Department of Health; 410 IAC 16.2-3.1-21; filed Jan 10, 1997, 4:00 p.m.: 20 IR 1547, eff Apr 1, 1997; errata filed Apr 10, 1997, 12:15 p.m.: 20 IR 2414; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234; errata filed Mar 28, 2002, 4:35 p.m.: 25 IR 2522; 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 16.2-3.1-22 Physician services
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28-5-1

Sec. 22. (a) A physician must personally approve, in writing, a recommendation that an individual be admitted to a facility. Each resident must remain under the care of a physician.

(b) The facility must ensure the following:

(1) The medical care of each resident is supervised by a physician.

(2) Another physician supervises the medical care of residents when their attending physician is unavailable.

(3) Verbal/telephone orders shall contain the date and time, physician's order, signature of the licensed nurse accepting the order, and the name of the physician giving the order.

(c) The physician must do the following:

(1) Review the resident's total program of care as defined by the comprehensive assessment and care plan, including medications, and treatments, by signing and dating a recap of all current orders at each visit required by subsection (d).

(2) Write, or cause to be written, sign, and date progress notes at each visit. Dictated notes must be filed in the clinical record within seventy-two (72) hours of the visit and signed within seven (7) days of the time the transcription is completed, and notes shall become part of the permanent record within seventy-two (72) hours unless an emergency situation warrants immediate documentation.

(3) Sign and date all orders. Verbal orders shall be countersigned and dated on the clinical record at the physician's next visit. The use of facsimile to transmit physicians orders is permissible. All matters of privacy and confidentiality of records shall be maintained.

(d) Physician visits must conform to the following schedule:

(1) The resident must be seen by a physician at least once every thirty (30) days for the first ninety (90) days after admission, and at least every sixty (60) days thereafter, unless more frequent visits are indicated.

(2) A physician's routine visit is considered timely if it occurs not later than ten (10) days after the date the visit was required.

(3) Except as provided in subsection (f), all required physician visits must be made by the physician personally.

(4) At the option of the physician, required visits after the initial visit may alternate between personal visits by the physician and visits by a physician assistant, nurse practitioner, or clinical nurse specialist in accordance with subsection (f).

(e) The facility must provide or arrange for the provision of physician services twenty-four (24) hours a day, in case of emergency.

(f) A physician may delegate tasks to a physician assistant, nurse practitioner, or clinical nurse specialist who:

(1) is acting within the scope of practice as defined by state law; and

(2) is under the supervision of the physician.

(g) If the physician employs other licensed or certified personnel, the administrator of the facility shall ensure that the means of supervision and duties delegated are filed in writing with the facility. The scope and content of their practice shall be within that specified by appropriate statutes governing each profession.

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

(1) subsection (e) is an offense;

(2) subsection (a), (b), or (f) is a deficiency; and

(3) subsection (c), (d), or (g) is a noncompliance.

(Indiana State Department of Health; 410 IAC 16.2-3.1-22; filed Jan 10, 1997, 4:00 p.m.: 20 IR 1547, 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 16.2-3.1-23 Specialized rehabilitative services
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28-5-1

Sec. 23. (a) If specialized rehabilitative services, such as, but not limited to, physical therapy, speech-language pathology, occupational therapy, and health rehabilitative services for mental illness and mental retardation, are required in the resident's comprehensive care plan, the facility must:

(1) provide the required services; or

(2) obtain the required services from an outside resource from a provider of specialized rehabilitative services.

(b) Specialized rehabilitative services must be provided under the written order of a physician by qualified personnel.

(c) For purposes of IC 16-28-5-1, a breach of subsection (a) or (b) is a deficiency.

(Indiana State Department of Health; 410 IAC 16.2-3.1-23; filed Jan 10, 1997, 4:00 p.m.: 20 IR 1548, 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 16.2-3.1-24 Dental services
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28-5-1

Sec. 24. (a) The facility must assist residents in obtaining routine and twenty-four (24) hour emergency dental care. The facility must provide, or obtain from an outside resource, the following dental services to meet the needs of each resident:

(1) Routine dental services (to the extent covered under the state plan).

(2) Emergency dental services.

(3) Prompt referral of residents with lost or damaged dentures to a dentist.

(b) The facility must assist the resident, if needed, in making appointments and transportation arrangements to and from the source of the services.

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

(1) subsection (a) is a deficiency; and

(2) subsection (b) is a noncompliance.

(Indiana State Department of Health; 410 IAC 16.2-3.1-24; filed Jan 10, 1997, 4:00 p.m.: 20 IR 1548, 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 16.2-3.1-25 Pharmacy services
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28-5-1; IC 25-26-13

Sec. 25. (a) The facility must provide routine and emergency drugs and biologicals to its residents or obtain them under an agreement.

(b) The administration of drugs and treatments, including alcoholic beverages, nutrition concentrates, and therapeutic supplements, shall be as ordered by the attending physician and shall be supervised by a licensed nurse as follows:

(1) Medication shall be administered by licensed nursing personnel or qualified medication aides. When other than licensed personnel administer drugs, the facility shall ensure that the person has been properly qualified in medication administration by a state approved course.

(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 indicating the time, name of drug or treatment, and dosage (if applicable), with name or initials.

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

(5) Setting up of doses for more than one (1) scheduled administration is not permitted.

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

(7) No medication shall be used for any resident other than the resident for whom it was prescribed.

(8) Per required need (PRN) medications may be administered only upon authorization of a licensed nurse or physician. All contacts with a nurse or physician not on the premises for authorization to administer PRNs shall be documented in the nursing notes indicating the time and date of the contact.

(9) 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. The facility must ensure that it is free of medication error rates of five percent (5%) or greater and that residents are free of any medication errors that jeopardize their health, safety, or welfare.

(c) The facility may permit qualified medication aides and student nurses to administer drugs under the general supervision of a licensed nurse following successful completion of the state qualifying test for medication aides.

(d) Student nurses may administer medications when under the direct supervision of the instructor and the activity is part of the student's educational programs.

(e) The facility must employ or obtain the services of a licensed pharmacist who is required to do the following:

(1) Provide consultation and written reports on all aspects of the provision of pharmacy services in the facility.

(2) Establish a system of records of receipt and disposition of all controlled drugs in sufficient detail to enable an accurate reconciliation.

(3) Determine that drug records are in order and that an account of all controlled drugs is maintained and periodically reconciled.

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

(g) The facility shall only utilize a pharmacy that:

(1) complies with the facility policy regarding receiving, packaging, and labeling of pharmaceutical products unless contrary to state and federal laws and rules on pharmacy practices;

(2) provides prescribed drugs, including the availability of a twenty-four (24) hour prescription service on a prompt and timely basis; and

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

(h) The drug regimen of each resident must be reviewed at least once a month by a licensed pharmacist.

(i) The pharmacist must report any irregularities to the attending physician and the director of nursing, and these reports must be acted upon.

(j) 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 when applicable.

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

(1) Resident's full name.

(2) Physician's name.

(3) Prescription number.

(4) Name and strength of drug.

(5) Directions for use.

(6) Date of issue and expiration date (when applicable).

(7) Name and address of the pharmacy that filled the prescription.

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

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

(1) Resident name.

(2) Physician name.

(3) Expiration date.

(4) Name of drug.

(5) Strength.

(m) In accordance with state and federal law, the facility must store all drugs and biologicals in locked compartments under proper temperature controls and permit only authorized personnel to have access to the keys.

(n) The facility must provide separately locked, permanently affixed compartments for storage of controlled drugs listed in Schedule II of the Comprehensive Drug Abuse Prevention and Control Act of 1976 and other drugs subject to abuse, except when the facility uses single unit package drug distribution systems, in which the quantity stored is minimal and a missing dose can be readily detected.

(o) Discontinued, outdated, or deteriorated medication shall not be maintained or used in the facility. Medications shall be disposed of in compliance with federal, state, and local laws.

(p) All unused portions of any properly labeled medications, including controlled substances, shall be released to the discharged resident, along with instructions for their use, upon written order of the physician.

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

(r) Unused portions of medications not released with the resident or returned for credit shall be destroyed on the premises within seven (7) days by the consultant pharmacist or licensed nurse with a witness.

(s) Disposition of any released, returned, or destroyed medication shall be written 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 disposal.
(8) The signatures of the persons conducting the disposal of the drug.
(t) For purposes of IC 16-28-5-1, a breach of:
(1) subsection (a), (b), (c), (f), (g), (i), (j), (k), (l), (m), (n), or (o) is a deficiency;
(2) subsection (d), (e), (h), (p), (r), or (s) is a noncompliance; and
(3) subsection (q) is a nonconformance.
(Indiana State Department of Health; 410 IAC 16.2-3.1-25; filed Jan 10, 1997, 4:00 p.m.: 20 IR 1548, eff Apr 1, 1997; errata filed Apr 10, 1997, 12:15 p.m.: 20 IR 2414; filed May 16, 2001, 2:09 p.m.: 24 IR 3027; 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 16.2-3.1-26 Resident behavior and facility practices
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28-5-1
Sec. 26. (a) Less restrictive measures must have been tried by the interdisciplinary team and shown to be ineffective before restraints are applied.
(b) Restraint or seclusion shall be employed only by order of a physician, and the type of restraint or seclusion shall be specified in the order.
(c) Per required need (PRN) restraint or seclusion shall only be employed upon the authorization of a licensed nurse. All contacts with a nurse or physician not on the premises for authorization to administer PRN restraints shall be documented in the nursing notes indicating the time and date of the contact.
(d) The facility policy manual shall designate who is authorized to apply restraints. The facility shall have written procedures in which the persons authorized to apply restraints have been properly trained.
(e) In emergencies when immediate physical restraint or seclusion is needed for the protection of the resident or others, restraint or seclusion may be authorized by a licensed nurse for a period not to exceed twelve (12) hours. A physician's order to continue restraint or seclusion must be obtained in order to continue the restraint beyond the twelve (12) hour period.
(f) A record of physical restraint and seclusion of a resident shall be kept in accordance with this rule.
(g) Each resident under restraint and seclusion shall be visited by a member of the nursing staff at least once every hour and more frequently if the resident's condition requires.
(h) Each physically restrained or secluded individual shall be temporarily released from restraint or seclusion at least every two (2) hours or more often if necessary except when the resident is asleep. When the resident in restraint is temporarily released, the resident shall be assisted to ambulate, toileted, or changed in position as the resident's physical condition permits.
(i) A resident shall not be placed alone in a room with a full, solid locked door.
(j) Key lock restraints shall not be used or available in the facility.
(k) Chemical restraint shall be authorized in writing by a physician.
(l) An order for chemical restraints shall specify the dosage and the interval of and reasons for the use of chemical restraint.
(m) Administration of chemical restraints shall be documented in accordance with this rule.
(n) Restraints and seclusion shall be used in such a way as not to cause physical injury to the resident.
(o) Restraints of any type or seclusion shall only be used for the protection and safety of residents or others as required by medical symptoms that warrant the restraint, or safety issues that warrant the seclusion, and shall not be used as a punishment. Restraints and seclusion shall be used in such a way as to minimize discomfort to the resident.
(p) Restraints or seclusion shall be applied in a manner that permits rapid removal in case of fire or other emergency.
(q) The resident's legal representative shall be notified of the need for restraint or seclusion at the time of the physician's initial order or within twenty-four (24) hours after emergency restraint or seclusion is applied. Such notification shall be documented in the nursing notes. After the physician's order for restraint or seclusion is initially written, the legal representative may request in writing not to be notified.
(r) The least restrictive restraint must be used. The continued use of the restraint or seclusion must be reviewed at each care plan conference. Least or lesser restrictive measures must be considered at each meeting.
(s) The use of restraints must be reviewed by the interdisciplinary team within one (1) month after the application of the restraint, and every thirty (30) days for the first ninety (90) days of the restraints, and at least quarterly thereafter.
(t) For purposes of IC 16-28-5-1, a breach of:
(1) subsection (j) or (n) is an offense;
(2) subsection (a), (b), (c), (d), (e), (g), (h), (i), (k), (l), (o), (p), or (r) is a deficiency; and
(3) subsection (f), (m), (q), or (s) is a noncompliance.
(Indiana State Department of Health; 410 IAC 16.2-3.1-26; filed Jan 10, 1997, 4:00 p.m.: 20 IR 1550, eff Apr 1, 1997; errata filed Apr 10, 1997, 12:15 p.m.: 20 IR 2414; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234; filed Jul 22, 2004, 10:05 a.m.: 27 IR 3996; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA)

410 IAC 16.2-3.1-27 Abuse and neglect
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28-5-1
Sec. 27. (a) The resident has the right to be free from:
(1) sexual, physical, and mental abuse;
(2) corporal punishment;
(3) neglect; and
(4) involuntary seclusion.

(b) The resident has the right to be free from verbal abuse.
(c) For purposes of IC 16-28-5-1, a breach of:
(1) subsection (a) is an offense; and
(2) subsection (b) is a deficiency.
(Indiana State Department of Health; 410 IAC 16.2-3.1-27; filed Jan 10, 1997, 4:00 p.m.: 20 IR 1551, 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 16.2-3.1-28 Staff treatment of residents
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28-5-1
Sec. 28. (a) The facility must develop and implement written policies and procedures that prohibit mistreatment, neglect, and abuse of residents and misappropriation of resident property.
(b) The facility must:
(1) not employ individuals who have:
(A) been found guilty of abusing, neglecting, or mistreating residents or misappropriating residents' property by a court of law; or
(B) had a finding entered into the state nurse aide registry concerning abuse, neglect, mistreatment of residents, or misappropriation of their property; and
(2) report any knowledge the facility has of actions by a court of law against an employee, which would indicate unfitness for service as a nurse aide or other facility staff to the state nurse aide registry or licensing authority.
(c) The facility must ensure that all alleged violations involving mistreatment, neglect, or abuse, including injuries of unknown source, and misappropriation of resident property, are reported immediately to the administrator of the facility and other officials in accordance with state law through established procedures, including to the state survey and certification agency.
(d) The facility must have evidence that all alleged violations are thoroughly investigated and must prevent further potential abuse while the investigation is in progress.
(e) The results of all investigations must be reported to the administrator or the administrator's designated representative and to other officials in accordance with state law (including to the department) within five (5) working days of the incident, and if the alleged violation is verified, appropriate corrective action must be taken.
(f) For purposes of IC 16-28-5-1, a breach of:
(1) subsection (b), (c), (d), or (e) is a deficiency; and
(2) subsection (a) is a noncompliance.
(Indiana State Department of Health; 410 IAC 16.2-3.1-28; filed Jan 10, 1997, 4:00 p.m.: 20 IR 1551, eff Apr 1, 1997; errata filed Apr 10, 1997, 12:15 p.m.: 20 IR 2414; 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 16.2-3.1-29 Preadmission evaluation
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28-5-1
Sec. 29. (a) The facility is responsible for the evaluation of prospective residents to ensure that only those residents whose medical, cognitive, and psychosocial needs can be met by the facility or through community resources are admitted to the facility.
(b) An evaluation of the prospective residents shall be made prior to admission. The evaluation shall include personal or telephone interviews with:
(1) the resident;
(2) the resident's physician; or
(3) the representative of the facility from which the resident is being transferred if applicable.
A brief record of the evaluation shall be retained by the facility for those residents who are admitted to the facility and shall be used, as applicable, in planning for the care of the resident.
(c) For purposes of IC 16-28-5-1, a breach of:
(1) subsection (a) is an offense; and
(2) subsection (b) is a deficiency.
(Indiana State Department of Health; 410 IAC 16.2-3.1-29; filed Jan 10, 1997, 4:00 p.m.: 20 IR 1551, eff Apr 1, 1997; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234; 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 16.2-3.1-30 Admission orders
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28-5-1
Sec. 30. (a) At the time each resident is admitted, the facility must have physician orders for the resident's immediate care that are based on a physical examination that shall be performed by the attending physician or the attending physician's designee on the day of admission or not earlier than thirty (30) days prior to admission. The physical information shall be updated to include new medical information if the resident's condition has changed since the physical examination was completed. Written admission orders and the physical examination, both signed by the physician, shall be on the resident's record on admission or within forty-eight (48) hours after the resident is admitted to the facility. The use of facsimile is acceptable.
(b) For purposes of IC 16-28-5-1, a breach of subsection (a) is a deficiency.
(Indiana State Department of Health; 410 IAC 16.2-3.1-30; filed Jan 10, 1997, 4:00 p.m.: 20 IR 1552, 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 16.2-3.1-31 Comprehensive assessments
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 12-10-12; IC 16-28-5-1

Sec. 31. (a) The facility must make a comprehensive assessment of each resident's needs that describes the resident's capability to perform daily life functions and significant impairments in functional capacity.

(b) Comprehensive facilities must use an assessment instrument based on the uniform data set specified by the division. Facilities which are not certified by Medicare or Medicaid must comply with this subsection by April 1, 1999.

(c) The comprehensive assessment must include at least the following information:
(1) Medically defined conditions and prior medical history.
(2) Medical status measurement.
(3) Physical and mental functional status.
(4) Sensory and physical impairments.
(5) Nutritional status and requirements.
(6) Special treatments or procedures.
(7) Mental and psychosocial status.
(8) Discharge potential.
(9) Dental condition.
(10) Activities potential.
(11) Rehabilitation potential.
(12) Cognitive status.
(13) Drug therapy.

(d) The facility must conduct initially and periodically a comprehensive, accurate, standardized, reproducible assessment of each resident's functional capacity as follows:
(1) Assessments must be conducted no later than fourteen (14) days after the date of admission, and promptly after a significant change in the resident's physical or mental condition.
(2) Assessments shall be conducted at least once every twelve (12) months.
(3) The nursing facility must examine each resident no less than once every three (3) months, and, as appropriate, revise the resident's assessment to assure the continued accuracy of the assessment.

(e) The results of the assessment are used to develop, review, and revise the resident's comprehensive care plan.

(f) The facility must coordinate assessments with the state required preadmission screening program under IC 12-10-12 to the maximum extent practicable to avoid duplicative testing and effort.

(g) Each assessment must be conducted or coordinated with the appropriate participation of health professionals.

(h) Each assessment must be conducted or coordinated by a registered nurse who signs and certifies the completion of the assessment.

(i) Each individual who completes a portion of the assessment must sign and certify the accuracy of that portion of the assessment.

(j) For purposes of IC 16-28-5-1, a breach of:
(1) subsection (a), (c), (d), or (e) is a deficiency; and
(2) subsection (b), (f), (g), (h), or (i) is a noncompliance.

(Indiana State Department of Health; 410 IAC 16.2-3.1-31; filed Jan 10, 1997, 4:00 p.m.: 20 IR 1552, 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 16.2-3.1-32 Quality of life
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28-5-1

Sec. 32. (a) A facility must care for its residents in a manner and in an environment that promotes maintenance or enhancement of each resident's quality of life.

(b) For purposes of IC 16-28-5-1, a breach of subsection (a) is a deficiency.

(Indiana State Department of Health; 410 IAC 16.2-3.1-32; filed Jan 10, 1997, 4:00 p.m.: 20 IR 1552, 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 16.2-3.1-33 Activities
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28-5-1

Sec. 33. (a) The facility must provide for an ongoing program of activities designed to meet, in accordance with the comprehensive assessment, the interests and the physical, mental, and psychosocial well-being of each resident.

(b) The facility shall have a plan of activities appropriate to the needs of the residents of that facility that include, but is not limited to, the following:
(1) Group social activities.
(2) Indoor and outdoor activities, which may include daily walks.
(3) Activities away from the facility.
(4) Spiritual programs and attendance at houses of worship.
(5) Opportunity for resident involvement in planning and implementation of the activities program.
(6) Creative activities, such as the following:
(A) Arts.
(B) Crafts.
(C) Music.
(D) Drama.
(E) Educational programs.
(7) Exercise activities.

(8) One (1) to one (1) attention.
(9) Promotion of facility/community interaction.
(c) An activities program shall be provided on a daily basis, including evenings and weekends. At least thirty (30) minutes of staff time shall be provided per resident per week for activities duties. Participation shall be encouraged, although the final option remains with the resident.
(d) Responsibilities of the activities director shall include, but are not limited to, the following:
(1) Preparing a monthly calendar of activities written in large print and posted in a prominent location that is visible to residents and visitors.
(2) Assessing resident needs and developing resident activities goals for the written care plan.
(3) Reviewing goals and progress notes.
(4) Recruiting, training, and supervising volunteers when appropriate.
(5) Coordinating the activities program with other services in the facility.
(6) Requesting and maintaining equipment and supplies.
(7) Participation in developing a budget.
(e) The activities program must be directed by a qualified professional who:
(1) is a qualified therapeutic recreation specialist or an activities professional, who is eligible for certification as a therapeutic recreational specialist or an activities professional by a recognized accrediting body on or after October 1, 1990;
(2) has two (2) years of experience in a social or recreational program, approved by the department within the last five (5) years, one (1) of which was full time in a resident activities program in a health care setting;
(3) is a qualified occupational therapist or occupational therapy assistant; or
(4) has satisfactorily completed, or will complete within six (6) months, a ninety (90) hour training course approved by the division and has at least a high school diploma or its equivalent. Current employment as an activities director who completed an approved activities director course prior to the effective date of this rule shall be allowed to maintain a position as an activities director in health care facilities.
(f) After July 1, 1984, any person who has not completed an activities director course approved by the division and is assigned responsibility for the activities program 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' experience.
(g) For purposes of IC 16-28-5-1, a breach of:
(1) subsection (a) or (b) is a deficiency; and
(2) subsection (c), (d), (e), or (f) is a noncompliance.
(Indiana State Department of Health; 410 IAC 16.2-3.1-33; filed Jan 10, 1997, 4:00 p.m.: 20 IR 1553, 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 16.2-3.1-34 Social services
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28-5-1; IC 25-23.6-5-1
Sec. 34. (a) The facility must provide medically-related social services to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident, including the following where appropriate:
(1) Assessment of each resident's psychosocial needs and development of a plan for providing care.
(2) Review of the resident's needs and care plan with progress notes indicating implementation of methods to respond to identified needs.
(3) Assistance to residents and spouses to utilize community resources through referral when the services needed are not provided by the facility.
(4) Assistance to residents in adjusting to the facility, exercising rights as residents, and promoting the continuance of relationships with the family and community.
(5) Advice and appropriate referrals to minimize social and economic obstacles to discharge and coordination of discharge planning.
(6) Coordination of relocation planning, including advice and referral to community resources before and during relocation.
(7) Establishment of a positive and socially therapeutic environment through staff training and input on policies and procedures.
(8) Promotion of facility-community interaction.
(b) At least fifteen (15) minutes of time shall be provided per resident per week by the qualified social worker or social service designee for social service duties.
(c) In facilities of more than one hundred twenty (120) beds, the facility must employ, full time, a qualified social worker. A qualified social worker is one (1) of the following:
(1) Indiana board certification in social work under IC 25-23.6-5-1 with at least one (1) year's experience in a health care setting working directly with individuals.
(2) An individual with a bachelor's or advanced degree, or both, in social work or a bachelor's or advanced degree, or both, in a human services field, including, but not limited to:
(A) sociology;
(B) special education;
(C) rehabilitation counseling; or
(D) psychology; or
(E) gerontology;
and one (1) year of supervised social service experience in a health care setting working directly with individuals.
(d) In facilities of one hundred twenty (120) beds or less, a person who provides social services is an individual with one (1) of the following qualifications:
(1) Indiana board certification in social work under IC 25-23.6-5-1 with at least one (1) year's experience in a health care setting working directly with individuals.
(2) A bachelor's or advanced degree, or both, in social work or a degree in the human services fields, including, but not limited to:
(A) sociology;
(B) special education;
(C) rehabilitation counseling;

(D) psychology; and
(E) gerontology;
and one (1) year of supervised social service experience under the supervision of a qualified social worker in a health care setting working directly with individuals.
(3) A high school diploma or its equivalent who has satisfactorily completed, or will complete within six (6) months, a forty-eight (48) hour social service course approved by the division. Consultation must be provided by a person who meets the qualifications under subdivision (1) or (2). Consultation by a person who meets the qualifications under subdivision (1) or (2) must occur no less than an average of four (4) hours per month.
(4) Ordained minister, priest, rabbi, or sister or brother of religious institutes who has satisfactorily completed a forty-eight (48) hour social service course approved by the division. A person who has not completed a course must have consultation of no less than an average of four (4) hours per month from a person who meets the qualifications of subdivision (1) or (2) until the person has satisfactorily completed the division approved course.
(e) Current employment as a social service designee who completed an approved social service course prior to the effective date of this rule shall be allowed to maintain a position as a social service designee in health care facilities. Consultation shall be provided in accordance with subsection (d).
(f) For purposes of IC 16-28-5-1, a breach of:
(1) subsection (a) is a deficiency;
(2) subsection (b), (c), or (d) is a noncompliance; and
(3) subsection (e) is a nonconformance.
(Indiana State Department of Health; 410 IAC 16.2-3.1-34; filed Jan 10, 1997, 4:00 p.m.: 20 IR 1553, 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 2414; filed May 16, 2001, 2:09 p.m.: 24 IR 3028; 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 16.2-3.1-35 Comprehensive care plan
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28-5-1
Sec. 35. (a) The facility must develop a written comprehensive care plan for each resident that includes measurable objectives and timetables to meet a resident's medical, nursing, mental, and psychosocial needs that are identified in the comprehensive assessment.
(b) The care plan must describe the following:
(1) The services that are to be furnished to attain or maintain the resident's highest practicable physical, mental, and psychosocial well-being.
(2) Any services that would otherwise be required, but are not provided due to the resident's exercise of rights, including the right to refuse treatment.
(c) A comprehensive care plan must be:
(1) developed within seven (7) days after the completion of the comprehensive assessment; and
(2) prepared by an interdisciplinary team that includes:
(A) the attending physician;
(B) a registered nurse with responsibility for the resident; and
(C) other appropriate staff in disciplines as determined by the resident's needs;
and to the extent practicable with the participation of the resident and the resident's family.
(d) The written care plan shall indicate the following:
(1) Resident care priorities.
(2) Plans of action to achieve identified goals as follows:
(A) For each goal, the disciplines responsible for assisting in achieving these goals.
(B) Periodically reviewed and revised at a care plan conference by a team of qualified persons, with the participation of the resident and the resident's family to the extent practicable, after each assessment or assessment review.
(e) Documentation of care plan reviews shall indicate the date of the review and the initials of each reviewer present and that the goals and approaches have been updated in accordance with the resident's condition.
(f) The resident's care plan shall be available for use by all personnel caring for the resident.
(g) The services provided or arranged by the facility must:
(1) meet professional standards of quality; and
(2) be provided by qualified persons in accordance with each resident's written care plan.
(h) For purposes of IC 16-28-5-1, a breach of:
(1) subsection (a), (b), (f), or (g) is a deficiency; and
(2) subsection (c), (d), or (e) is a noncompliance.
(Indiana State Department of Health; 410 IAC 16.2-3.1-35; filed Jan 10, 1997, 4:00 p.m.: 20 IR 1554, 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 16.2-3.1-36 Discharge summary
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28-5-1
Sec. 36. (a) When the facility anticipates discharge, a resident must have a discharge summary that includes the following:
(1) A recapitulation of the resident's stay.
(2) A final summary of the resident's status to include the components of the comprehensive assessment, at the time of the discharge that is available for release to authorized persons and agencies with the consent of the resident or legal representative.
(3) A postdischarge care plan that is developed with the participation of the resident and his or her family, which will assist the resident to adjust to his or her new living environment. The postdischarge plan must be presented both orally and in writing and in a language that the resident and family understand.
(b) A postdischarge plan identifies specific resident needs after discharge, such as personal care, sterile dressings, and physical therapy, and describes resident/caregiver education needs and provides instructions where applicable, to prepare the resident for discharge.
(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 16.2-3.1-36; filed Jan 10, 1997, 4:00 p.m.: 20 IR 1555, eff Apr 1, 1997; errata filed Apr 10, 1997, 12:15 p.m.: 20 IR 2414; 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 16.2-3.1-37 Quality of care
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28-5-1

Sec. 37. (a) Each resident must receive and the facility must provide the necessary care and services to attain or maintain the highest practicable physical, mental, and psychosocial well-being in accordance with the comprehensive assessment and care plan.

(b) To ensure each resident receives proper care and treatment, the facility shall assist the resident in making appropriate appointments and in arranging for transportation to and from the office of the practitioner specializing in the needed treatment.

(c) For purposes of IC 16-28-5-1, a breach of subsection (a) or (b) is a deficiency.

(Indiana State Department of Health; 410 IAC 16.2-3.1-37; filed Jan 10, 1997, 4:00 p.m.: 20 IR 1555, 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 16.2-3.1-38 Activities of daily living
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28-5-1

Sec. 38. (a) Based on the comprehensive assessment of a resident and the care plan, the facility must ensure the following:

(1) The resident's abilities in activities of daily living (ADL) do not diminish unless circumstances of the resident's clinical condition demonstrate that diminution was unavoidable. Conditions demonstrating unavoidable diminution in ADLs include the following:

(A) The natural progression of the resident's disease.

(B) Deterioration of the resident's physical condition associated with the onset of a physical or mental disability while receiving care to restore or maintain functional abilities.

(2) A resident is given the appropriate treatment and services to maintain or improve his or her abilities, including, but not limited to, the following:

(A) Bathing, dressing, and grooming.

(B) Transfer and ambulation.

(C) Toileting.

(D) Eating.

(E) Speech, language, or other functional communication systems.

(3) A resident who is unable to carry out ADL receives the necessary services to maintain good nutrition, grooming, and personal and oral hygiene. Each resident shall show evidence of good personal hygiene, including, but not limited to, the following:

(A) Care of the skin.

(B) Shampoo and grooming of the hair.

(C) Oral hygiene and care of the lips to prevent dryness and cracking.

(D) Shaving and beard trimming.

(E) Cleaning and cutting of the fingernails and toenails.

(b) Consistent with the care plan and the resident's right to refuse care, the following services shall be provided:

(1) Each resident shall be given or assisted in oral care, at least daily, to promote clean and healthy gums and teeth. Dentures, when present, shall be properly cared for and cleaned at least daily.

(2) Each resident shall be bathed or assisted to bathe as frequently as is necessary, but at least twice weekly.

(3) Each resident shall have at least one (1) shampoo every week and more often if needed or requested as part of the resident's normal bathing schedule.

(4) Each resident shall be dressed in clean garments.

(5) Residents who are not bedfast shall be encouraged to be dressed each day.

(6) A resident who is bedfast or chair-fast shall have his or her body position changed in accordance with the resident's need as stated in the care plan. Proper body alignment shall be maintained in accordance with the capabilities of each resident.

(c) The resident shall be encouraged or assisted to be as independent as possible, including having self-help and ambulation devices readily available to meet the current needs of the resident with the devices in good repair.

(d) Each resident shall have personal care items such as combs and brushes, cleaned as appropriate.

(e) Each resident may retain personal care items if in the original container labeled by the manufacturer.

(f) The resident has the right to refuse care and treatment to restore or maintain functional abilities after efforts by the facility to counsel and/or offer alternatives to the resident. Refusal of such care and treatment should be documented in the clinical records.

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

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

(2) subsection (d) or (e) is a noncompliance.

(Indiana State Department of Health; 410 IAC 16.2-3.1-38; filed Jan 10, 1997, 4:00 p.m.: 20 IR 1555, 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 16.2-3.1-39 Vision and hearing
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28-5-1

Sec. 39. (a) To ensure that residents receive proper treatment and assistive devices to maintain vision and hearing abilities, the facility must, if necessary, assist the resident as follows:

(1) In making appointments.

(2) By arranging for transportation to and from the office of a practitioner specializing in the treatment of vision or hearing impairment or the office of a professional specializing in the provision of vision or hearing assistive devices.

(b) For purposes of IC 16-28-5-1, a breach of subsection (a) is a deficiency.

(Indiana State Department of Health; 410 IAC 16.2-3.1-39; filed Jan 10, 1997, 4:00 p.m.: 20 IR 1556, 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 16.2-3.1-40 Pressure sores
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28-5-1

Sec. 40. (a) Based on the comprehensive assessment of a resident and the care plan, the facility must ensure the following:

(1) A resident who enters the facility without pressure sores does not develop pressure sores unless the individual's clinical condition demonstrated that they were unavoidable. A determination that the development of a pressure sore was unavoidable may be made only if routine preventative and daily care was provided.

(2) A resident having pressure sores or other sign of skin breakdown receives prompt necessary treatment, pressure reducing devices and services to promote healing, prevent infection, and prevent new sores from developing.

(3) The resident's physician shall be notified at the earliest sign of a pressure sore or other skin breakdown. Such notification shall be documented in the clinical record.

(b) For purposes of IC 16-28-5-1, a breach of subsection (a) is a deficiency.

(Indiana State Department of Health; 410 IAC 16.2-3.1-40; filed Jan 10, 1997, 4:00 p.m.: 20 IR 1556, 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 16.2-3.1-41 Urinary incontinence
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28-5-1

Sec. 41. (a) Based on the resident's comprehensive assessment and care plan, the facility must ensure the following:

(1) A resident who enters the facility without an indwelling catheter is not catheterized unless the resident's clinical condition demonstrates that catheterization was necessary.

(2) A resident who is incontinent of bladder receives appropriate treatment and services to prevent urinary tract infections and to restore as much normal bladder function as possible.

(b) For purposes of IC 16-28-5-1, a breach of subsection (a) is a deficiency.

(Indiana State Department of Health; 410 IAC 16.2-3.1-41; filed Jan 10, 1997, 4:00 p.m.: 20 IR 1556, 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 16.2-3.1-42 Range of motion
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28-5-1

Sec. 42. (a) Based on the comprehensive assessment and care plan of a resident, the facility must ensure the following:

(1) A resident who enters the facility without a limited range of motion does not experience reduction in range of motion unless the resident's clinical condition demonstrates that a reduction in range of motion is unavoidable.

(2) A resident with a limited range of motion receives appropriate treatment and services to increase range of motion and/or to prevent further decrease in range of motion.

(b) For purposes of IC 16-28-5-1, a breach of subsection (a) is a deficiency.

(Indiana State Department of Health; 410 IAC 16.2-3.1-42; filed Jan 10, 1997, 4:00 p.m.: 20 IR 1557, 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 16.2-3.1-43 Mental and psychosocial functioning
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28-5-1

Sec. 43. (a) Based on the comprehensive assessment and care plan of the resident, the facility must ensure the following:

(1) A resident who displays mental or psychosocial adjustment difficulty receives appropriate treatment and services to correct the assessed problem.

(2) A resident whose assessment did not reveal a mental or psychosocial adjustment difficulty does not display a pattern of decreased social interaction and/or increased withdrawn, angry, or depressive behaviors unless the resident's clinical condition demonstrates that such a pattern was unavoidable.

(b) For purposes of IC 16-28-5-1, a breach of subsection (a) is a deficiency.

(Indiana State Department of Health; 410 IAC 16.2-3.1-43; filed Jan 10, 1997, 4:00 p.m.: 20 IR 1557, 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 16.2-3.1-44 Naso-gastric tubes
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28-5-1

Sec. 44. (a) Based on the comprehensive assessment and comprehensive care plan of a resident, but subject to the resident's right to refuse, the facility must ensure the following:

(1) A resident who has been able to eat enough alone or with assistance is not fed by naso-gastric tube unless the resident's clinical condition demonstrates that use of a naso-gastric tube was unavoidable.

(2) A resident who is fed by a naso-gastric or gastrostomy tube receives the appropriate treatment and services to prevent aspiration pneumonia, diarrhea, vomiting, dehydration, metabolic abnormalities, and nasal-pharyngeal ulcers and to restore, if possible, normal eating skills.

(b) For purposes of IC 16-28-5-1, a breach of subsection (a) is a deficiency.

(Indiana State Department of Health; 410 IAC 16.2-3.1-44; filed Jan 10, 1997, 4:00 p.m.: 20 IR 1557, 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 16.2-3.1-45 Accidents
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28-5-1

Sec. 45. (a) The facility must ensure the following:
(1) The resident's environment remains as free of accident hazards as is reasonably possible.
(2) Each resident receives adequate supervision and assistive devices to prevent accidents.
(b) For purposes of IC 16-28-5-1, a breach of subsection (a) is a deficiency.

(Indiana State Department of Health; 410 IAC 16.2-3.1-45; filed Jan 10, 1997, 4:00 p.m.: 20 IR 1557, 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 16.2-3.1-46 Nutrition and hydration
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28-5-1

Sec. 46. (a) Based on a resident's comprehensive assessment and care plan, but subject to the resident's right to refuse, the facility must ensure the following:
(1) That a resident maintains acceptable parameters of nutritional status, such as body weight and protein levels, unless the resident's clinical condition demonstrates that this is not possible.
(2) Receives a therapeutic diet when there is a nutritional problem.
(b) Based on the resident's comprehensive assessment and care plan, the facility must provide each resident with sufficient fluid intake to maintain proper hydration and health. Fresh drinking water shall be provided to each resident and be available to each resident at all times, and a clean drinking glass and covered water pitcher shall be provided at least daily to each resident unless contraindicated by the resident's care plan. Ice shall be available to the residents at all times.
(c) For purposes of IC 16-28-5-1, a breach of subsection (a) or (b) is a deficiency.

(Indiana State Department of Health; 410 IAC 16.2-3.1-46; filed Jan 10, 1997, 4:00 p.m.: 20 IR 1557, 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 16.2-3.1-47 Special needs
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28-5-1

Sec. 47. (a) The facility must ensure that the residents receive proper treatment and care by qualified personnel for the following special services if offered:
(1) Injections.
(2) Parenteral and enteral fluids.
(3) Colostomy, ureterostomy, or ileostomy care.
(4) Tracheostomy care.
(5) Tracheal suctioning.
(6) Respiratory care.
(7) Foot care.
(8) Prostheses.
(b) For purposes of IC 16-28-5-1, a breach of subsection (a) is a deficiency.

(Indiana State Department of Health; 410 IAC 16.2-3.1-47; filed Jan 10, 1997, 4:00 p.m.: 20 IR 1558, 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 16.2-3.1-48 Drug therapy
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28-5-1

Sec. 48. (a) Each resident's drug regimen must be free from unnecessary drugs. An unnecessary drug is any drug when used:
(1) in excessive dose (including duplicate drug therapy);
(2) for excessive duration;
(3) without adequate monitoring;
(4) without adequate indications for its use;
(5) in the presence of adverse consequences that indicate the dose should be reduced or discontinued; or
(6) any combination of the reasons in this subsection.
(b) Based on a comprehensive assessment and care plan of a resident, the facility must ensure the following:
(1) Residents who have not used antipsychotic drugs are not given these drugs unless antipsychotic drug therapy is necessary to treat a specific condition as diagnosed and documented in the clinical record.
(2) Residents who use antipsychotic drugs receive gradual dose reductions and behavioral interventions, unless clinically contraindicated, in an effort to discontinue these drugs.
(c) The facility must ensure the following:
(1) It is free of medication error rates of five percent (5%) or greater.
(2) Residents are free of any medication errors that jeopardize their health, safety, or welfare.
(d) For purposes of IC 16-28-5-1, a breach of subsection (a), (b), or (c) is a deficiency.

(Indiana State Department of Health; 410 IAC 16.2-3.1-48; filed Jan 10, 1997, 4:00 p.m.: 20 IR 1558, 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 16.2-3.1-49 Laboratory, radiology, and other diagnostic services
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28-5-1

Sec. 49. (a) The facility must provide or obtain laboratory services to meet the needs of its residents. The facility is responsible for the quality and timeliness of the services.

(b) If the facility provides its own laboratory services, the services must meet the applicable requirements for coverage of the services furnished by independent laboratories specified in 42 CFR 493.

(c) If the facility provides blood bank and transfusion services, it must meet the requirements for laboratories specified in 42 CFR 493.

(d) If the laboratory chooses to refer specimens for testing to another laboratory, the referral laboratory must be approved or licensed to test specimens in the appropriate specialties and/or subspecialties of service in accordance with the requirements of 42 CFR 493.

(e) If the facility does not provide laboratory services on-site, it must have an agreement to obtain these services only from a laboratory that meets the requirements of 42 CFR 493.

(f) The facility must:
(1) provide or obtain laboratory services only when ordered by the attending physician;
(2) assure that the attending physician is promptly notified of the findings;
(3) assist the resident in making transportation arrangements to and from the source of service, if the resident needs assistance; and
(4) file in the resident's clinical record laboratory reports that are dated and contain the name and address of the testing laboratory.

(g) The nursing facility must provide or obtain radiology and other diagnostic services to meet the needs of its residents. The facility is responsible for the quality and timeliness of the services.

(h) If the facility provides its own diagnostic services, the services must meet the applicable rules for licensure of these services.

(i) If the facility does not provide its own diagnostic services, it must have a written agreement to obtain these services from a provider or supplier that is licensed under applicable state rules.

(j) The facility must do the following:
(1) Provide or obtain radiology and other diagnostic services only when ordered by the attending physician.
(2) Promptly notify the attending physician of the findings.
(3) Assist the resident in making transportation arrangements to and from the source of the service if the resident needs assistance.
(4) File in the resident's clinical record signed and dated report of x-ray and other diagnostic services.

(k) For purposes of IC 16-28-5-1, a breach of:
(1) subsection (a), (b), (c), (d), (e), (f)(1), (f)(2), (g), (h), (j)(1), or (j)(2) is a deficiency; and
(2) subsection (f)(3), (f)(4), (i), (j)(3), or (j)(4) is a noncompliance.

(Indiana State Department of Health; 410 IAC 16.2-3.1-49; filed Jan 10, 1997, 4:00 p.m.: 20 IR 1558, 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 16.2-3.1-50 Clinical records
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28-5-1

Sec. 50. (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. Any consultation must be provided by a medical records practitioner in accordance with accepted professional standards and practices. 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 for:
(1) 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) If a facility ceases operation, the director shall be informed within three (3) business days by the licensee of the arrangements made for the preservation of the residents' clinical records.

(d) The facility must safeguard clinical record information against loss, destruction, or unauthorized use.

(e) The facility must keep confidential all information contained in the resident's records, regardless of the form or storage method of the records, except when release is required by one (1) or more of the following:
(1) Transfer to another health care institution.
(2) Law.
(3) Third party payment contract.
(4) The resident or legal representative.

(f) The clinical record must contain the following:
(1) Sufficient information to identify the resident.
(2) A record of the resident's assessments.
(3) The care plan and services provided.
(4) The results of any preadmission screening conducted by the state.
(5) Progress notes.

(g) Each facility shall have a well-defined policy that ensures the staff has sufficient progress information to meet the residents' needs.

(h) A transfer form shall include:
(1) Identification data.
(2) Name of the transferring institution.
(3) Name of the receiving institution and date of transfer.
(4) Resident's personal property.

(5) Nurses' notes relating to the resident's:
(A) functional abilities and physical limitations;
(B) nursing care;
(C) medications;
(D) treatment;
(E) current diet; and
(F) condition on transfer.
(6) Diagnosis.
(7) Presence or absence of decubitus ulcer.
(8) Date of chest x-ray and skin test for tuberculosis.
(i) Current clinical records shall be completed promptly and those of discharged residents shall be completed within seventy (70) days of the discharge date.
(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) For purposes of IC 16-28-5-1, a breach of:
(1) subsection (a), (d), (e), (f), (g), (h), or (j) is a noncompliance; and
(2) subsection (b), (c), or (i) is a nonconformance.
(Indiana State Department of Health; 410 IAC 16.2-3.1-50; filed Jan 10, 1997, 4:00 p.m.: 20 IR 1559, eff Apr 1, 1997; errata, 20 IR 1738; errata filed Apr 10, 1997, 12:15 p.m.: 20 IR 2414; 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 16.2-3.1-51 Disaster and emergency preparedness
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28-5-1
Sec. 51. (a) The facility must have detailed written plans and procedures to meet all potential emergencies and disasters.
(b) The facility must train all employees in emergency procedures when they begin to work in the facility, periodically review the procedures with existing staff, and carry out unannounced staff drills using those procedures.
(c) Fire exit drills in facilities shall include the transmission of a fire alarm signal and simulation of emergency fire conditions except that the movement of infirm or bedridden residents to safe areas or to the exterior of the building is not required. Drills shall be conducted at least four (4) times a year at regular intervals throughout the year, 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.
(d) At least annually, a facility shall attempt to hold a 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.
(e) For purposes of IC 16-28-5-1, a breach of:
(1) subsection (a) is an offense;
(2) subsection (b) or (c) is a deficiency; and
(3) subsection (d) is a noncompliance.
(Indiana State Department of Health; 410 IAC 16.2-3.1-51; filed Jan 10, 1997, 4:00 p.m.: 20 IR 1559, 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 16.2-3.1-52 Quality assessment and assurance
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28-5-1
Sec. 52. (a) A facility must maintain a quality assessment and assurance committee consisting of the following:
(1) The director of nursing services.
(2) A physician designated by the facility.
(3) At least three (3) other members of the facility's staff.
(b) The quality assessment and assurance committee shall do the following:
(1) Meet at least quarterly to identify issues with respect to which quality assessment and assurance activities are necessary.
(2) Develop and implement appropriate plans of action to correct identified issues.
(c) For purposes of IC 16-28-5-1, a breach of:
(1) subsection (a) is a deficiency; and
(2) subsection (b) is a noncompliance.
(Indiana State Department of Health; 410 IAC 16.2-3.1-52; filed Jan 10, 1997, 4:00 p.m.: 20 IR 1560, eff Apr 1, 1997; errata filed Apr 10, 1997, 12:15 p.m.: 20 IR 2414; 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 16.2-3.1-53 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. 53. (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 16.2-3.1-53; filed Aug 11, 2004, 11:00 a.m.: 28 IR 192; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA)

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.

(Indiana State Department of Health; 410 IAC 16.2-5-1.1; filed Jan 10, 1997, 4:00 p.m.: 20 IR 1560, eff Apr 1, 1997; errata filed Apr 10, 1997, 12:15 p.m.: 20 IR 2415; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234; filed Jan 21, 2003, 8:34 a.m.: 26 IR 1912, eff Mar 1, 2003; filed Aug 19, 2004, 3:15 p.m.: 28 IR 185; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA)

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.

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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

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

(b) The licensee shall 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 inservice education and training program for all employees.

(3) Provision of supervision for all employees.

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

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

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

(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 employee's full name and the 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:

(1) the range of services offered;

(2) residents' rights;

(3) personnel administration; and

(4) facility operations.

Such 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:

(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; and

(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.

(l) 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 meet the needs or preferences, or both, of cognitively impaired residents and to 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 personnel assigned to the unit receive required inservice training.

(3) Ensure that care provided to Alzheimer's and dementia care unit residents is consistent with inservice training, current Alzheimer's and dementia care practices, and 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)

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-410070141RFA)

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 ($^1/_{10}$) 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
Sec. 3. (a) Each child shall be given nursing care and supervision based on individual needs.
(b) Nursing care shall include, but is not limited to, providing the following:
(1) Each child shall be bathed or assisted to bathe as frequently as is necessary but at least daily, unless contraindicated by the physician.
(2) Each child shall be dressed in clean clothing at least daily or more often as needed to keep the child clean.
(3) Each child shall be given or assisted in oral care daily.
(4) Each child shall be checked at least every two (2) hours and shall be given a diaper change and clothing change if soiled. Skin care shall be given with each diaper change to prevent pressure sores, heat rashes, or other skin breakdown.
(5) A minimum of two (2) supervised play periods shall be provided daily. Each child shall be taken out of the bed for the play periods unless in the judgment of the charge nurse or physician it is contraindicated due to conditions or medical treatment.
(6) Helpless children shall be protected from active children.
(7) Each child shall be held or placed in a chair for feeding unless otherwise ordered by the attending physician.
(c) The growth and development of each child shall be monitored and encouraged by the following:
(1) Adopting food habits as near as possible to those of normal children.
(2) Obtaining specific diet orders for each child that include the kind, consistency, and quantity of food required. Children shall receive solid foods whenever possible.
(3) Evaluation of the diet order by the physician or dietitian at least every six (6) months.
(4) Obtaining and recording the weight and height on admission.
(5) Subsequent to admission, weights shall be taken and recorded monthly and height measured and recorded as ordered by the physician.

(d) No child shall be restrained except to prevent injury to himself or others, and then, only upon the written order of the physician.
(e) According to his needs, each child shall be taught the activities of daily living, including:
(1) toilet training;
(2) hand washing;
(3) self-feeding; and
(4) social skills.
(f) A program shall be provided for children to participate in daily living activity, that is, household tasks, which is not dangerous or injurious to the health or general welfare of the child.
(g) For purposes of IC 16-28-5-1, a breach of:
(1) subsection (d) is a deficiency;
(2) subsection (b), (c), (e), or (f) is a noncompliance; and
(3) subsection (a) is a nonconformance.
(Indiana State Department of Health; 410 IAC 16.2-6-3; 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 16.2-6-4 Counseling and educational services
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28-5-1
Sec. 4. (a) Group and parent counseling and education shall be provided as indicated in the facility's policy manual to aid in promoting the education of and consultation with the parents. The facility shall notify the educational authority of the admission of a child to the facility and shall comply with applicable state department of public instruction statutes and rules.
(b) For purposes of IC 16-28-5-1, a breach of subsection (a) is a nonconformance.
(Indiana State Department of Health; 410 IAC 16.2-6-4; 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 16.2-6-5 Personnel
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28-5-1
Sec. 5. (a) Each person employed to care for, train, and supervise children shall be capable of exercising good judgment in the handling of children and have knowledge and understanding of the care required for children with special mental, emotional, and physical problems.
(b) All staff shall participate in staff development training programs designed to address the specific problems of the children housed in the facility.
(c) Each employee's health record shall contain evidence of current immunization against polio, diphtheria, rubella, and tetanus unless contraindicated by a physician who must state that the employee is free of such conditions and qualifies for employment.
(d) If the facility has more than one (1) unit, one (1) nurse or attendant shall be on duty at all times on each unit or section of the building in which children are housed.
(e) Adequate numbers of additional nursing staff shall be on duty at all times to provide proper care, such as frequent change of position, frequent diapering, bathing, careful observation to prevent injury, and for other nursing care responsibilities.
(f) For purposes of IC 16-28-5-1, a breach of:
(1) subsection (d) or (e) is a deficiency;
(2) subsection (b) or (c) is a noncompliance; and
(3) subsection (a) is a nonconformance.
(Indiana State Department of Health; 410 IAC 16.2-6-5; filed May 2, 1984, 2:50 p.m.: 7 IR 1500; filed Jan 10, 1997, 4:00 p.m.: 20 IR 1586, 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 16.2-6-6 Physical plant standards
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28-5-1
Sec. 6. (a) Housing space shall be provided as follows:
(1) At least eighty (80) square feet of floor space shall be provided for each adult-size bed or adult-size crib in sleeping rooms.
(2) At least fifty (50) square feet of floor space shall be provided for each child-size crib in sleeping rooms.
(3) There shall be a minimum of three (3) feet between heads, sides, or feet of beds or cribs.
(4) No more than eight (8) children shall sleep in one (1) bedroom. In facilities or additions to facilities for which plans are submitted for approval after July 1, 1984, no more than four (4) children shall sleep in one (1) bedroom.
(5) Separate bedrooms shall be provided for children of each sex over the age of six (6) years (except where the physician indicates otherwise).
(6) Size and type of beds, bedside cabinets, tables, and chairs shall be appropriate to the age, size, and needs of the children. Double-deck beds, trundle beds, rollaway beds, or cots shall not be used.
(7) There shall be a minimum of one (1) lavatory and one (1) toilet for each eight (8) children, or fraction thereof, and one (1) bathtub, shower, or bathing sink for each twelve (12) children. The fixtures shall be of proper design and installed so as to satisfactorily serve the types of children who will be using them.
(8) There shall be a minimum of one (1) complete bathroom on each floor occupied by children.
(9) Separate toilet rooms shall be provided for boys and girls over six (6) years of age. Partitions between toilet stools shall be provided. Nursery seats and steps shall be provided for use by small children if junior toilets are not available.
(10) Toilet facilities shall be provided for the staff and shall be separate from those provided for the children.
(b) Play or exercise area shall be provided as follows:
(1) An indoor play and exercise area shall be provided for all children over the age of one (1) year. This area shall be separate from the bedrooms and shall provide floor space sufficient to allow a minimum of thirty-five (35) square feet per licensed bed.

(2) An adequate outdoor play or exercise area shall be provided. The area shall be fenced, adequately equipped, and supervised at all times when children are present.
(3) Washable toys and other developmental and training equipment meeting sanitary and safe design standards shall be provided for both indoor and outdoor play or exercise areas.
(4) All play equipment shall be maintained in a constant state of good repair.
(5) Playpens shall be provided for children as required.
(6) A storage area shall be provided for all movable play equipment.
(c) Appropriate and safe padding of cribs, beds, playpens, and other equipment shall be provided as needed to prevent injury.
(d) At least one (1) room shall be available for isolation of a child suspected or diagnosed as having a communicable disease.
(e) A visitors' room shall be provided for visitors and group and parent counseling. Visiting shall be encouraged at any reasonable time.
(f) For purposes of IC 16-28-5-1, a breach of:
(1) subsection (c) is a deficiency;
(2) subsection (b) is a noncompliance; and
(3) subsection (a), (d), or (e) is a nonconformance.
(Indiana State Department of Health; 410 IAC 16.2-6-6; filed May 2, 1984, 2:50 p.m.: 7 IR 1500; filed Jan 10, 1997, 4:00 p.m.: 20 IR 1586, 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)

Rule 7. Health Facilities for Developmentally Disabled Persons

410 IAC 16.2-7-1 Applicability
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 licensed under IC 16-28-2 that serve three (3) or more developmentally disabled individuals.
(Indiana State Department of Health; 410 IAC 16.2-7-1; filed May 2, 1984, 2:50 p.m.: 7 IR 1501; filed Jan 10, 1997, 4:00 p.m.: 20 IR 1587, 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 16.2-7-2 Admission policies and program statements
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28-5-1
Sec. 2. (a) Each facility shall have a written program statement and policies to assure that the facility admits only those individuals whose needs can be met. The policies shall be available to staff, residents, sponsors, and members of the public. The policies and program statement include, but are not limited to, the following:
(1) Classification of services offered.
(2) Arrangements to assure that the facility, in cooperation with community resources, can meet the needs of the individuals.
(3) The conditions of the people to be served.
(4) Admission, retention, and discharge policy.
(b) For purposes of IC 16-28-5-1, a breach of subsection (a) is a noncompliance.
(Indiana State Department of Health; 410 IAC 16.2-7-2; filed May 2, 1984, 2:50 p.m.: 7 IR 1501; filed Jan 10, 1997, 4:00 p.m.: 20 IR 1587, 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 16.2-7-3 Staff training and development programs
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28-5-1
Sec. 3. (a) Each facility shall provide in service training and shall require all staff working with developmentally disabled residents to attend staff development programs concerning developmental disabilities. Written records of such training shall be kept in the facility.
(b) For purposes of IC 16-28-5-1, a breach of subsection (a) is a noncompliance.
(Indiana State Department of Health; 410 IAC 16.2-7-3; filed May 2, 1984, 2:50 p.m.: 7 IR 1501; filed Jan 10, 1997, 4:00 p.m.: 20 IR 1587, 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 16.2-7-4 Resident programs
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28-5-1
Sec. 4. (a) The facility shall provide a program for developmentally disabled individuals, which assures the following:
(1) There is a designated staff member qualified by a minimum of two (2) years experience with developmentally disabled individuals, or through completion of the council approved training program on developmental disabilities, responsible for the program. If the designated staff member does not qualify as a qualified mental retardation professional, as defined in 410 IAC 16.2-1-32, the designee must be supervised by a qualified mental retardation professional or the facility must have a consultant qualified mental retardation professional.
(2) The designated staff member is responsible for the development and implementation of the habilitation program which shall include an assessment of need for community services and a care habilitation plan based upon a diagnostic screening.
(3) The habilitation plan which comprises the developmental component of the care plan, or in residential care the individual needs assessment, shall be reviewed and updated in accordance with the scheduled review of the overall care plan or as changes in the resident's condition indicate.
(4) Sheltered workshop programs, adult day activity programs, work activity programs, and work adjustment programs designed to meet the developmental program needs of developmentally disabled persons shall be provided outside the facility and in other community settings. These programs shall be provided by community resources whose programs are approved by the Indiana state department of public welfare in consultation with the Indiana department of mental health. A facility is in compliance with this rule, even if it is unable to obtain developmental programs from approved community resources, if:

(A) the facility has documented that it will arrange for the provision of the services from a community resource, and the community resource is willing to provide the programs and has developed a plan for implementation within a mutually agreed upon time frame; or

(B) the facility has documented that a community resource is unavailable or is unwilling to provide the services.

(b) For purposes of IC 16-28-5-1, a breach of subsection (a) is a noncompliance.

(Indiana State Department of Health; 410 IAC 16.2-7-4; filed May 2, 1984, 2:50 p.m.: 7 IR 1501; errata, 7 IR 1941; filed Jan 10, 1997, 4:00 p.m.: 20 IR 1587, 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 16.2-7-5 Diagnostic screening

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

Affected: IC 16-28-5-1

Sec. 5. (a) A diagnostic screening shall be performed within the twelve (12) month period prior to admission by a physician, or diagnostic and evaluation teams designated by the department of mental health, unless medically contraindicated by the attending physician.

(b) Permission for the diagnostic screening must be received from the resident (or sponsor where appropriate).

(c) The diagnostic screening performed after admission shall include the following:

(1) An annual medical evaluation to determine the general medical status of an applicant, and to identify any medical factors which limit client activity or ability in such areas as vocational training and residential placement in less restrictive settings.

(2) A psychological evaluation to measure the applicant's potential across a wide range of skills, for example, intellectual and adaptive functioning level, aptitude, and interests. After the initial psychological evaluation, a reevaluation shall be completed at least every three (3) years for children and every five (5) years for adults or more frequently as identified by the QMRP.

(3) An annual developmental assessment which measures what the applicant is doing in a wide range of skill areas, for example, ability to dress self, tell time, and move freely in the community without assistance.

(4) A social history and an annual social services update which provides information on services and programs the applicant has received in the past, as well as what services the applicant was receiving at the time of the diagnostic screening.

(d) If the attending physician after consultation with, and the concurrence of, the QMRP has stated in writing that there is no known effective treatment or training program likely to produce significant improvement or be necessary to maintain existing skills, the facility may exclude the resident from the developmental training program. The facility shall document the reasons for exclusion and make such documentation available to survey staff. However, the facility shall continue to meet the care planning requirements of 410 IAC 16.2-3.1-35.

(e) For purposes of IC 16-28-5-1, a breach of subsection (a), (b), (c), or (d) is a noncompliance.

(Indiana State Department of Health; 410 IAC 16.2-7-5; filed May 2, 1984, 2:50 p.m.: 7 IR 1502; filed Jan 10, 1997, 4:00 p.m.: 20 IR 1588, 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; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA)

Rule 8. Incorporation by Reference

410 IAC 16.2-8-1 Incorporation by reference

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

Affected: IC 16-28

Sec. 1. (a) When used in this article, references to the publications in this subsection shall mean the version of that publication listed below. The following publications are hereby incorporated by reference:

(1) National Fire Protection Association (NFPA) 101, Life Safety Code Handbook (2000 Edition). Copies may be obtained from the National Fire Protection Association, 1 Batterymarch Park, P.O. Box 9101, Quincy, Massachusetts 02269-9904.

(2) 42 CFR 493 (October 1, 1995 Edition).

(3) 42 CFR 483.75(e)(1) (October 1, 1995 Edition).

(b) Federal rules that have been incorporated by reference do not include any later amendments than those specified in the incorporated citation. Sales of the Code of Federal Regulations are handled exclusively by the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. All incorporated material is available for public review at the Indiana state department of health.

(Indiana State Department of Health; 410 IAC 16.2-8-1; filed Jan 10, 1997, 4:00 p.m.: 20 IR 1588, 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 Apr 16, 2004, 10:30 a.m.: 27 IR 2718; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA)