

# COMMUNITY CARE ADVISORY COUNCIL

## ANNUAL REPORT TO THE IDAHO LEGISLATURE

### FOR CALENDAR YEAR 2013

**The Community Care Advisory Council** was formed by statutes (Idaho Code §39-3330, §39-3331, §39-3332, §39-3333, and §39-3511) passed in the 2005 legislative session. The statutes combine the former Board and Care Advisory Council and the Residential Care Council for the Elderly into a single entity of 20 members appointed by the organizations and/or agencies represented on the Council. Its chair, Robert Vande Merwe of the Idaho Health Care Association, was elected from the council members at its December 2011 meeting.

**The Council is a forum** for stakeholders in Residential Care or Assisted Living Facilities (RALFs) and Certified Family Homes (CFHs). These programs strive to provide a safe, home-like environment for their residents. Stakeholders consist of providers, residents or resident family members, advocates, and Idaho Department of Health & Welfare staff.

**The Purpose of the Council** is as follows:

1. To make policy recommendations regarding the coordination of licensing and enforcement standards in residential care or assisted living facilities and the provision of services to residents of residential care or assisted living facilities.
2. To advise the agency during development and revision of rules.
3. To review and comment upon any proposed rules pertaining to residential care or assisted living.
4. To submit an annual report to the legislature stating opinions and recommendations which would further the state's capability in addressing residential care or assisted living facility issues.

**The Council met** in 2013 on January 29<sup>th</sup>, April 30<sup>th</sup>, July 30<sup>h</sup>, and October 29<sup>th</sup>.

**The schedule of meetings** for 2014 is January 28<sup>th</sup>, April 29<sup>th</sup>, July 29<sup>th</sup>, and October 28<sup>th</sup>. The Council welcomes and encourages the attendance and input of guests, especially members of the Idaho legislature.

**Significant motions, accomplishments, and decisions** made during the 2012 calendar year are as follows:

- Membership. Kathie Garrett and Leroy Smith joined the Council. Keith Fletcher, Sharol Aranda, Mary Blacker, Elishia Smith, and John Chambers agreed to serve another term.
- IHCA-ICAL Proposed Legislation. The Council recommended consideration by the Department of IHCA-ICAL proposed legislation and encouraged the Department to endorse the same.
- Criminal History Background Checks. Suggested possible solutions to decrease delays in the Department's fingerprinting appointments.

- Meeting Format. The Council piloted a new meeting format, but after the pilot decided to revert to its traditional format.
- Unsubstantiated Complaints. The Council requested that the Department remove unsubstantiated complaints regarding RALF providers from its website.

**Significant unresolved or open issues** are as follows:

- Placements for Clients with Behaviors. The Council appointed a subcommittee that continues to meet with representatives from the Department to find placement solutions for RALF residents who pose a threat to themselves or others.

Enclosures:

1. Correspondence Regarding Criminal History Background Clearance
2. RALF Statistics
3. CFH Statistics
4. Department Update on Council Items

# Attachment 1

# Community Care Advisory Council

Established in Idaho Code  
Title 39, Chapters 33 and 35

ROBERT VANDE MERWE, CHAIR

c/o Steven L. Millward  
Council Coordinator  
Licensing & Certification—DHW  
P.O. Box 83720  
Boise, ID 83720-0009  
(208) 364-1959

January 4, 2013

Mr. David Taylor  
Deputy Director  
Idaho Department of Health & Welfare  
P.O. Box 83720  
Boise, ID 83720-0036

Dear Mr. Taylor:

As vice chair of the Community Care Advisory Council (CCAC), I have been asked to write you about concerns that residential care or assisted living facility (RALF) providers have over frequent delays in completion of criminal history background checks for direct care staff. At times, it is not possible to schedule a fingerprinting appointment through the Department for newly hired staff before the timeframe expires for them to have it done, resulting in these newly hired employees being disallowed to work.

This barrier has caused some employees to seek work elsewhere. Given the labor pool we have to draw from, they have other job opportunities that do not require fingerprinting or delays in earning an income. This creates additional fiscal and recruiting challenges for us in the already challenging environment that we operate in.

I have discussed this issue with Steve Bellomy, who oversees the Criminal History Unit (CHU), and he was very helpful. By way of action steps, the CCAC would like to suggest the following:

- 1) Have a section on the Department's RALF website pointing out some of the things providers can do to prevent delays, like making the appointments for the recruits, and insuring the recruits follow through with the appointment.
- 2) Allow for walk-ins. When the CHU has a no-show for a fingerprinting appointment, they can increase productivity by filling the void with a walk-in.
- 3) We are convinced that Steve Bellomy is doing the best he can with the limited resources available to the CHU, but it is becoming obvious that the demand is overwhelming the system from time to time. We are requesting that the Department consider increasing the assigned full time employees for this unit to avoid having providers miss the criminal history clearance deadlines imposed by rule.
- 4) Finally, we as providers, consumers, and advocates, strongly support a robust criminal history background screening process. However, when we embraced these requirement

Mr. David Taylor  
January 4, 2013  
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years ago, at the time we had no idea that the deadlines would be so hard to meet. We really need more staff on this, but if that is not possible, we would like the Department to formally relax the timeframe requirements to clear a criminal history background check. I understand that Steve Bellomy has done so informally, but that could come back to bite a provider who misunderstood what that meant.

Please let the CCAC know what can be done to ensure RALF providers can meet the deadlines for fingerprinting and thus avoid additional costs and recruiting hassles. Thank you for looking into this matter for us.

Sincerely,

A handwritten signature in cursive script, appearing to read "Scott F. Burpee for".

SCOTT F. BURPEE  
Vice Chair

SFB/slm

cc: Steve Bellomy, Chief, Bureau of Audits and Investigations



IDAHO DEPARTMENT OF  
HEALTH & WELFARE

C.L. "BUTCH" OTTER - GOVERNOR  
RICHARD M. ARMSTRONG - DIRECTOR

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February 19, 2013

Scott F. Burpee  
Vice Chair, Community Care Advisory Council (CCAC)  
[sburpee@safehavenhealthcare.org](mailto:sburpee@safehavenhealthcare.org)

Dear Mr. Burpee:

Thank you for giving me the opportunity to respond to your letter discussing your concerns with the Criminal History Unit. We use feedback such as yours to improve our business processes and practices. You can be assured that we are committed to delivering the best possible product to our stakeholders, and your input is valuable to us.

Please accept my sincere apology for the tardiness of my response to you. It is in no way intended to reflect on the importance of your concern to me; rather, I am seeking to balance the demands of the current legislative session with the daily workload.

I would like to address your concerns one at a time. The summer of 2012 was particularly challenging for the Criminal History Unit (CHU) because they faced staff shortages that affected their overall performance. Their staff levels were restored in the fall. Today, the unit performs at the same level as it did before; and, appointments are available at all of our locations well within the 21 calendar days required to complete the fingerprinting.

I agree that the more information we put within reach of our stakeholders, the better informed they will be. And, with more information at their disposal, RALF managers will be able to maximize background check appointment opportunities. We will partner with the Division of Licensing and Certification to provide more specific guidance regarding background checks in the RALF website. Basic background check program requirements are already available for review at the CHU website: <https://chu.dhw.idaho.gov>. Most RALF managers are already familiar with this website, and its capabilities at their disposal.

One of the adverse factors that prevents us from increasing our appointment availability is the applicant no-show rate. Since July 2012, the no-show rate for CHU appointments has remained steady at 20 percent. To counter this, we incorporated some changes to the website that included the use of text messaging technology to remind the applicant of his/her appointment one calendar day prior to the appointment. It remains to be seen whether this enhancement will render positive results. We constantly review no-show data to determine if further improvements are needed. Second, we certainly can re-evaluate the walk-in policy. Our principal concern when we restricted the handling of walk-ins was the safety of customers and our staff. Some of our waiting areas simply

Scott Burpee  
February 19, 2013  
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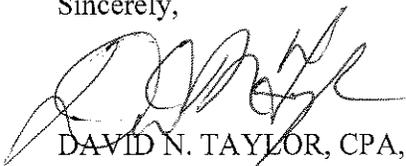
are not designed to accommodate large numbers of applicants. We believe that having large groups in our waiting areas does compromise their own safety as well as that of our employees. At this time, I would like to go back to the point I addressed before regarding no-shows: most of the missed opportunities are no-shows, not cancellations. Truly, we do not know that we have a vacancy until the appointment time is well past. In this context, the reality is that once a fingerprinting opportunity is not used, it is gone forever with no chance of making it up. With a large influx of unscheduled applicants, we cannot guarantee that everyone will be served, should they chose to stay and wait for someone else to be a no-show. We continue to rely on the applicants and their employers to do everything they can to help us not waste those appointment opportunities.

Third, increasing the number of employees for the CHU, as well as any expansion, requires careful planning and more importantly, funding. By statute, the CHU must collect fees for services rendered. Inevitably, expanding the CHU would translate into increased fees for the background check to support increases in personnel, equipment, and operating costs. We are not certain there would be enthusiasm or acceptance in the provider community to absorb an increase of the background check fee, even though providers are not required to pay for the background check. Additionally, we continue to look for opportunities to make our schedules more flexible. In high demand areas, we have shortened our appointment length so we can literally put more appointments on the table for applicants to utilize. And, we are looking at alternative staffing arrangements to handle future growth.

Finally, we are open to consider increasing the time allotted to collect fingerprints for this program. We all must be careful in determining whether the increased risk to your agencies' clients outweighs the benefit of increasing the availability of appointments for your recruit pool. Please understand, there is no specific time limit as to when a person clears the Department's background check. The CHU only requires fingerprints must be collected not later than 21 calendar days from the time the application for the background check is signed and notarized by the applicant. Other Department program rules impose more stringent requirements as to the availability of applicants for employment. Those programs would have to change their requirements to meet your needs as well.

I appreciate you taking the time to thoughtfully present the challenges you have experienced with the CHU and background checks for prospective employees, as well as suggesting improvements. If there are further concerns regarding the Criminal History Unit, please contact Steve Bellomy, Bureau Chief, Bureau of Audits and Investigations, at (208) 334-0609.

Sincerely,



DAVID N. TAYLOR, CPA, CFE  
Deputy Director

c: Steve Bellomy, Chief, Bureau of Audits and Investigations  
Tamara Prisock, Administrator, Division of Licensing and Certification

# Attachment 2

## RALF Report to CCAC Calendar Year 2012

### Surveys Completed

Year	2007	2008	2009	2010	2011	2012
Number of Licensed Beds	7269	7583	8413	8560	8809	8851
Number of Buildings	304	319	333	343	349	348
Surveys Completed						
Initial Surveys	20	40	46	12	13	14
Licensure Surveys (Annual)	42	45	96	97	119	76
Follow-up Surveys	36	32	39	45	44	36
Complaint Investigations	121	163	177	135	171	170
Total Surveys Completed	219	280	358	289	348	296
FTE	10	10	10	8.5	9.5	10

### Most Common Deficiencies

Core Deficiencies	Times Cited
Inadequate Care Acceptable Admission/Retention (12) Resident Rights (5) Safe Living Environment (5) Supervision (4) Assistance and Monitoring of Medications (4) Coordination of Outside Services (3) Emergency Intervention (2)	30
No Administrator for more than 30 days	6
Abuse	13
Neglect	5
Exploitation	5
Surveyors Denied Access	1

	Non-Core (Punch List) Deficiencies	Times Cited
16.03.22.410.02	Fire Drills	49
16.03.22.220.02	Admission Agreement	34
16.03.22.404.01	Fire Life Safety Requirements	34
16.03.22.415.01	Maintenance of systems for Fire and Life Safety	32
16.03.22.415.02	Fuel Fired Heating inspected/cleaned Annually	30
16.03.22.350.02	Investigation of incidents, accidents and complaints	30
16.03.22.300.01	RN assessment @ change of condition and 90 days	29
16.03.22.305.02	Current medication orders	28
16.03.22.320.01	Negotiated Service Agreement	26
16.03.22.405.05	Fire Alarm/smoke detector system	25
16.03.22.300.02	Licensed nurse available	25
16.03.22.009.06.c	Background checks	25

## Enforcement Actions

<b>Enforcement Actions</b>	<b>2011</b>	<b>2012:</b>
Provisional License:	8	13
Required Consultant:	7	5
Civil Monetary Penalties:	4	18
Ban on Admissions:	4	7
Revocation	0	4
Summary Suspension	1	1
Temporary Management	0	1

## Reportable Incidents

<b>Reportable Incidents</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>
Falls	525	672	662
Fall with fracture	316	401	425
Elopements	101	112	127
Incidents other than fall	96	87	119
Injuries of unknown origin	47	62	56
Resident to Resident w/ injury	47	70	45
Vehicle Accident	3	2	7

**Incident, Reportable.** A situation when a facility is required to report information to the Licensing and Certification Unit.

**a.** Resident injuries of unknown origin. This includes any injury, the source of which was not observed by any person or the source of the injury could not be explained by the resident; or the injury includes severe bruising on the head, neck, or trunk, fingerprint bruises anywhere on the body, laceration, sprains, or fractured bones. Minor bruising and skin tears on the extremities need not be reported.

**b.** Resident injury resulting from accidents involving facility-sponsored transportation. Examples: falling from the facility's van lift, wheel chair belt coming loose during transport, or an accident with another vehicle.

**c.** Resident elopement of any duration. Elopement is when a resident who is unable to make sound decisions physically leaves the facility premises without the facility's knowledge.

**d.** An injury due to resident-to-resident incident.

**e.** An incident that results in the resident's need for hospitalization, treatment in a hospital emergency room, fractured bones, IV treatment, dialysis, or death.

## Trends

- a.** Complaints 216 received up from 184 and 66 open at year end, up from 42
- b.** Serial sub-standard care
- c.** Complexity of Ownership and Licensing Applications

## Training and Technical Assistance

- On-line Courses
- Quarterly Newsletters
- Email Notifications
- IHCA: Survey and Hot Button Issues
- IHCA nurses training
- A.M. Administrator Training
- Dr. Hahn – Communicable Diseases in RALFs
- Website: [www.assistedliving.dhw.idaho.gov](http://www.assistedliving.dhw.idaho.gov)

## Awards

### **Gold Awards (deficiency free standard survey):**

New Beginnings #2 Community Living Home – Idaho Falls – Deeon Waters  
Living Springs, Inc. – Post Falls – Alice Thibault  
Ashley Manor-Middleton – Middleton – Maria Torres

### **Silver Awards (3 or fewer punches on standard survey):**

Emerald House – Blackfoot – Rena Blaser  
Gables of Shelley-Gables Management, LLC – Shelley – Caroline Young  
River Rock Assisted Living – Buhl – Tracy Hulse  
The Cottages of Middleton – Middleton – Viki Hunter  
Birchwood Retirement Estate, CEC, Inc. – Twin Falls, Idaho – Steve Farnsworth  
Royal Villa – Payette – Barbara Little  
Indianhead Estates – Weiser – Renae Edwards  
Ashley Manor – Midland, Ashley Manor LLC – Nampa – Rayvin Barclay  
Legends Park Assisted Living Community – Coeur d’Alene – Mary Beth Hassell  
Oasis Shelter Home – Caldwell – Janet Wallace  
Touchmark at Meadowlake Village – Meridian – Lisa Fay  
Generations Assisted Living and Wellness, Inc. – Rathdrum – Heather Gray  
Ashley Manor-Cloverdale, Ashley Manor LLC – Boise – Pam Lenerville  
Community Restorium – Bonners Ferry – Karlene Magee  
Rosewind House – Garden City – Jacquie Varco  
Annabelle House Assisted Living Concepts, Inc. – Caldwell – Vickie McCuiston  
Warren House – Burley – Stacey Ramey

# Attachment 3

# Update on Certified Family Home Bed Capacity and Vacancies

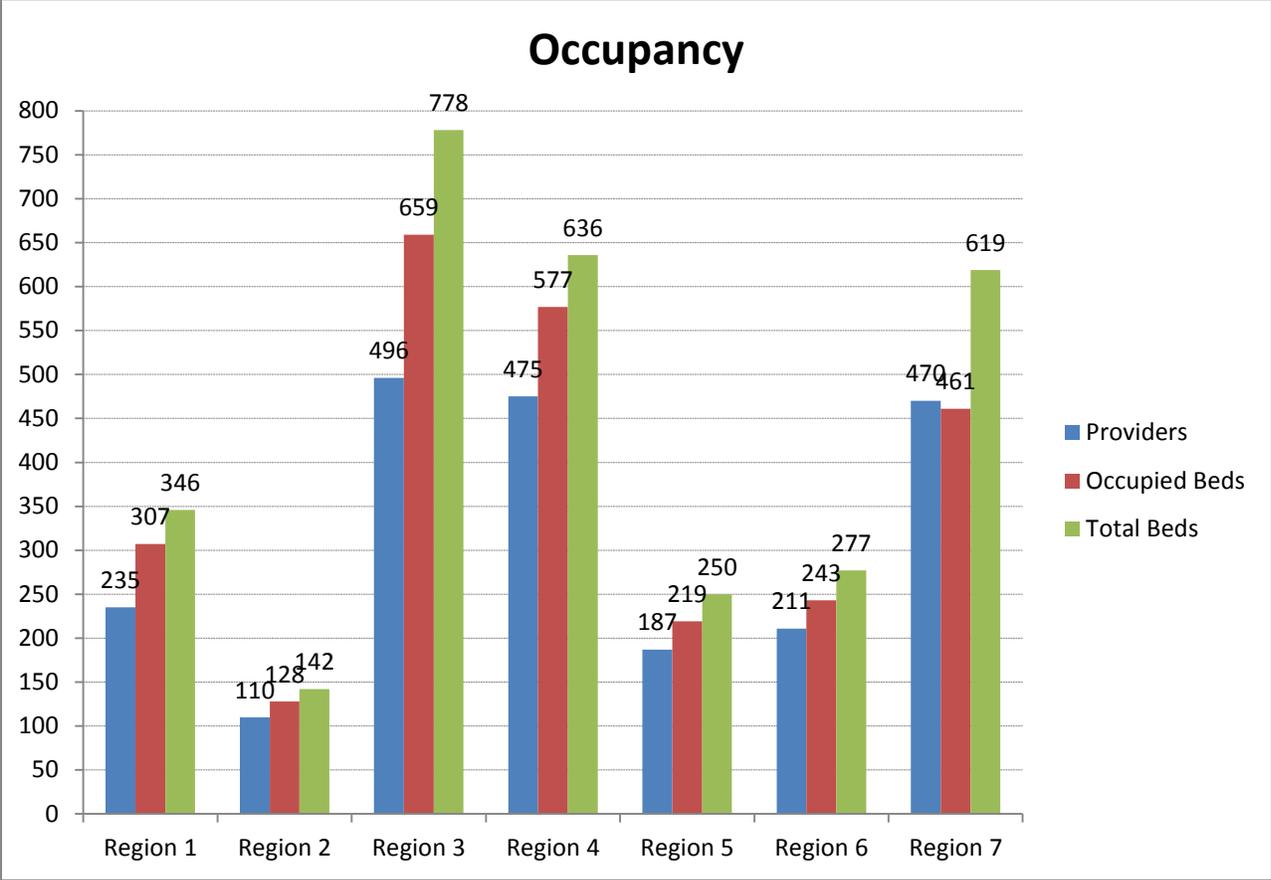


Figure 1 – Occupancy as of 7/25/2013

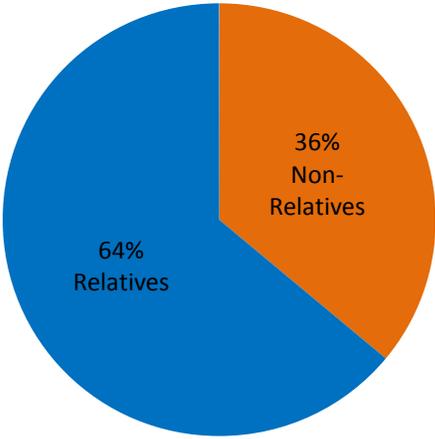


Figure 2 – Relatives as of 7/25/2013

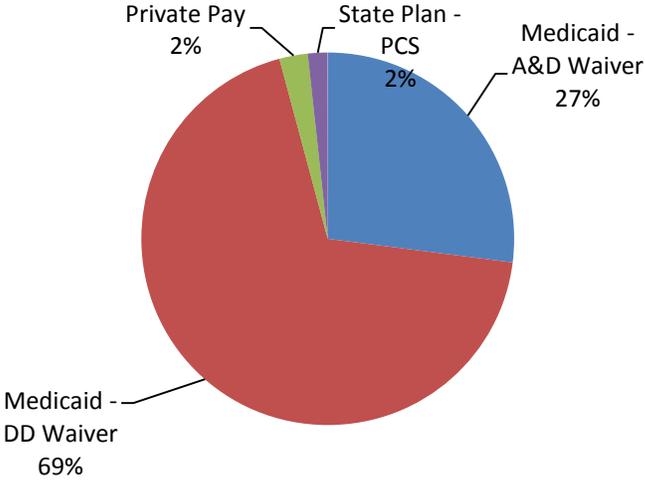
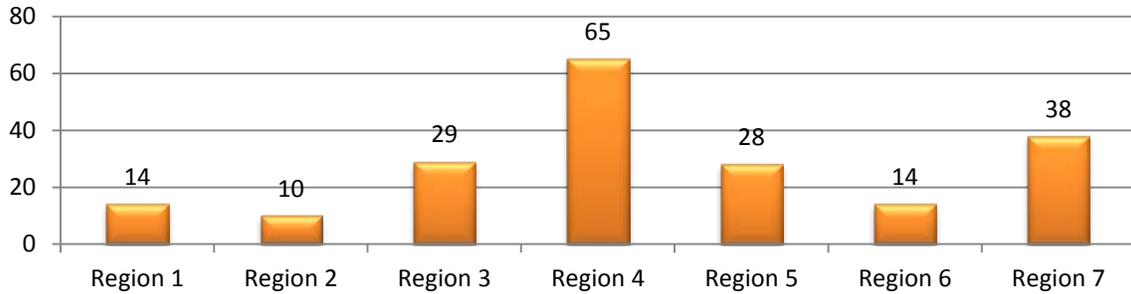


Figure 3 - Payer Source as of 7/25/2013 1

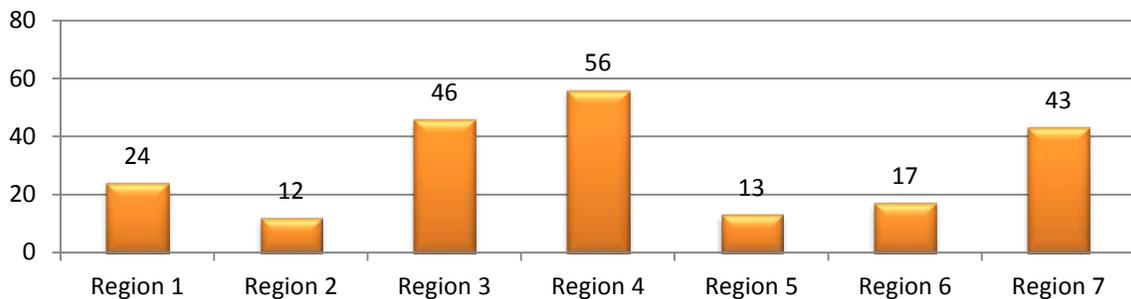
# Certified Family Home Closures

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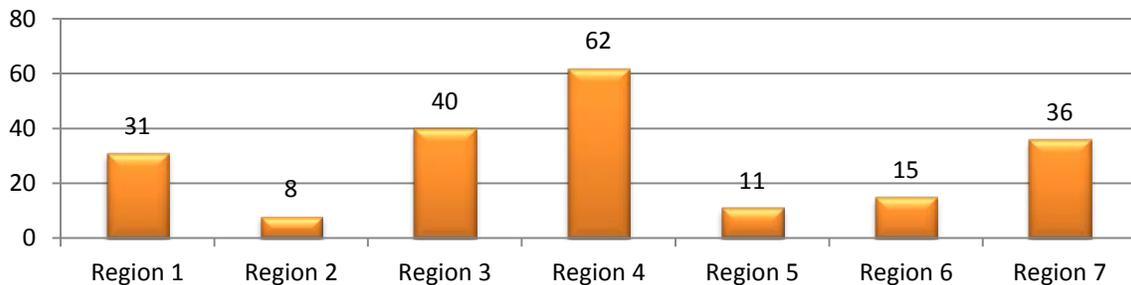
**Oct 2010 - Sep 2011**  
**Total 198**



**Oct 2011 - Sep 2012**  
**Total 211**



**Oct 2012 - Sep 2013**  
**Total 203**

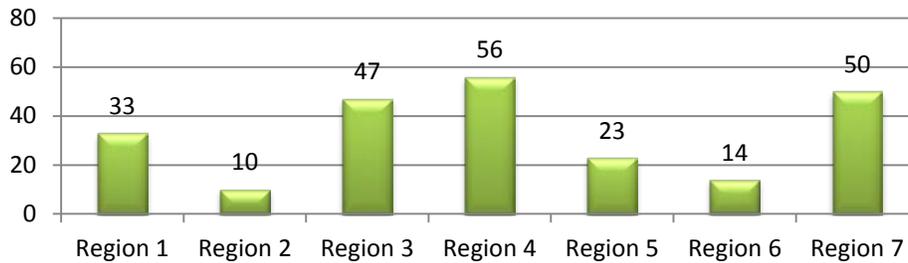


# Certified Family Home New Providers

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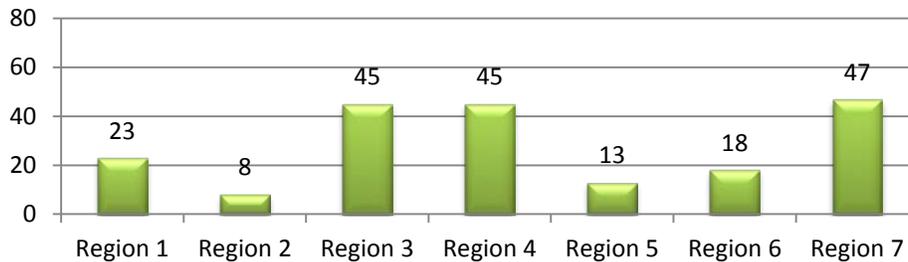
## Oct 2010 - Sep 2011

Total 233



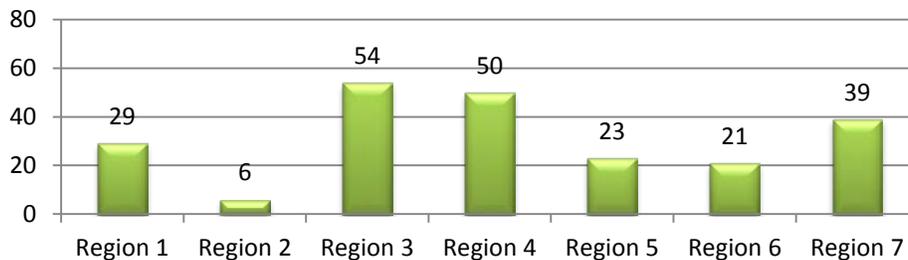
## Oct 2011 - Sep 2012

Total 199



## Oct 2012 - Sep 2013

Total 222



# Attachment 4

## Community Care Advisory Council



Update from open issues raised during the July 2013 council meeting.

### Unsubstantiated Complaints

Some council members raised the issue of unsubstantiated complaints being posted on the Residential Assisted Living Facilities (RALF) Program website along with substantiated complaints. The council voted to make a request to the Department that we discontinue posting unsubstantiated complaints. I examined the issue, and although I completely understand the perspective of facility owners and operators, the Department's practice will continue to be to post the results of all complaint investigations.

There are two primary reasons we will not be changing our practice of posting the complete results of complaint investigations: 1) publishing all results provides residents, residents' families, and the general public with a more complete picture of our regulatory activities and the results of those activities. Part of that picture actually benefits facility owners and operators by allowing the public to see that not all complaints are substantiated and just because complaints are filed doesn't mean the facility isn't adequately caring for its residents, and 2) we frequently receive public record requests for the results of surveys and complaint investigations for specific facilities. Any records we have concerning complaint investigations, whether the complaint is substantiated or unsubstantiated, are considered public record. Our current practice of posting all results allows us to point individuals to our website and allows us to focus our time and resources on survey activities.

### Using Civil Monetary Penalty Funds for Training

During a recent council meeting, I was asked if the Department would consider a statute change related to the use of civil monetary penalties collected by the Department. Currently, the Department is required by statute to use the money only for the following purposes:

- the protection of the health or property of residents of residential or assisted living facilities that the department finds deficient, including payment for the costs of relocation of residents to other facilities,
- maintenance of operation of a facility pending correction of deficiencies or closure, and
- reimbursement of residents for personal funds lost.

In the past year, we have summarily suspended the licenses of two facilities and used civil monetary penalty funds to relocate the residents of those facilities to other living arrangements. At this time, we will not seek a statute change because we feel we need to reserve those funds for their intended purpose. We have, however, earmarked other operating funds to invest in educational opportunities

for assisted living facilities because we believe those activities are important. I have outlined below the educational activities we have planned:

- *On-Line Courses in Development:*
  1. Activities
  2. More Than Diarrhea
  3. Developmental Disabilities
  
- *Speakers:*
  - Idaho Bureau of Occupational Licensing – Dale Eaton
  - OSHA Requirements (locating a speaker)
  - Food Safety – Patrick Guzzle
  - Psychotropic Meds and Dementia Residents – (working on securing the speaker, depending on funding)
  - Restorative Sleep - (working on securing the speaker, depending on funding)

The presentations listed above would be made available via classroom training and video conferencing or by Webinar, followed by posting the recorded session on the Department's YouTube Channel for on-demand access by facility staff.

- *Re-institute Boot Camp for new administrators only*
  
- *Continue Quarterly Newsletter*
  
- *Continue to Maintain FAQs on Web Page*
  
- *IHCA Conference – continue to participate by helping with presentations*

### **Board of Nursing Proposed Rule Changes**

This issue was raised during the July Council meeting. Even though the Council asked nothing of the Department related to this issue, I wanted the Council to be aware that the Department sent written comments to the Board of Nursing expressing our concerns with the proposed rule. Comments were combined from the Division of Licensing and Certification and the Division of Public Health. We outlined several specific concerns, but the main theme of the concerns stems from the potential delegation of nursing tasks to staff who have not been adequately trained to correctly perform the tasks. The Board of Nursing published Rule Docket 23-0101-1301 in the September Administrative Bulletin, and we submitted our comments during the three-week public comment period. To date, we haven't received a response from the Board of Nursing.

### **Behavioral Placements in Assisted Living**

Although the sub-committee hasn't met since the last Council meeting, there has been work continuing by Department staff. Since our July meeting, I have met with a few providers interested in serving the

population we have been discussing. Also, we recognize that any alternative model for caring for this population in assisted living settings must be more cost effective than what Medicaid is currently paying for these individuals for the idea of a higher reimbursement rate to be considered. Pat Martelle, Program Manager in the Division of Medicaid's Office of Mental Health and Substance Abuse, is working with us to see if she can quantify what it costs to care for this population based on the cycle we're seeing in some parts of the state. She believes she may be able to quantify the current cost to the state by pulling claims information.

### **Advance Notice for Initial Surveys**

At the last Council meeting, some members expressed they feel the Department is not following the practice of announcing initial surveys. I committed to looking into the situation and reporting back to the Council. For assisted living facilities, our current practice is to announce when we will be at the facility to conduct an initial survey, unless we are also investigating a complaint as well as conducting the initial survey. If a complaint investigation is combined with the initial survey, we typically do not announce when we will conduct the survey.

### **Application for Assisted Living License – Definition of “Direct Influence”**

A few months ago, the Department implemented a revised application for Residential Care/Assisted Living License. The changes we implemented were intended to help facilitate a new license or change of ownership when corporations are involved. To date, we have experienced that those changes have helped us work more effectively with corporate entities that file applications with us. Council members and other providers, however, expressed difficulty working with the new application and had particular difficulty with the Department's definition of “direct influence.” We have not yet developed an alternative definition, but still intend to work with the Council to develop a better definition. Council members who have ideas about how “direct influence” should be defined are encouraged to contact Jamie Simpson.