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**IDAPA 16  
TITLE 03  
CHAPTER 11**

**16.03.11 – RULES GOVERNING INTERMEDIATE CARE FACILITIES FOR INDIVIDUALS  
WITH INTELLECTUAL DISABILITIES (ICF/ID)**

**000. LEGAL AUTHORITY.**

The Idaho Legislature has given the Department and the Board of Health and Welfare the authority to adopt rules for the operation in the state of Idaho of "Intermediate Care Facilities" for the treatment of intellectual disabilities and related conditions, under Sections 39-1303a, 39-1307, and 67-6532, Idaho Code. For determining applicable zoning restrictions, Sections 67-6530 through 67-6532, Idaho Code, apply.

**001. TITLE AND SCOPE.**

These rules contain the official legal requirements and licensing standards for the administration of intermediate care facilities for the treatment of intellectual disabilities. These rules are to be cited as Idaho Department of Health and Welfare Rules, IDAPA 16.03.11, "Rules Governing Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF/ID)."

**002. POLICY.**

As a component of the service delivery system in Idaho for individuals with intellectual disabilities and related conditions, small community-based facilities and programs will provide intermediate care and Active Treatment. Services in such facilities must enhance each individual's self-sufficiency and must provide for health needs and personal development. These services will stem from a variety of efforts including deinstitutionalization, normalization, and individual programming and will be chosen from among the least restrictive alternatives. The array of services at the small ICF/ID level must include services available to all citizens, as well as those of a special nature required by individuals.

**003. PURPOSE.**

It is the purpose of these rules to establish standards for the licensing of facilities and to promote the provision of adequate care and treatment through enforcement of these rules. The primary purpose of intermediate care facilities for individuals exhibiting intellectual disabilities and related conditions is to provide and to promote services that will enhance the development of those individuals and that will maximize their achievement of independence and self-determination. Programs must be interdisciplinary, based on developmental principles; ensure the maintenance of health care; and use means which are as culturally normative as possible in order to establish and/or maintain personal and social behaviors and characteristics which are as typical of the surrounding culture as possible.

**004. DEFINITIONS AND ABBREVIATIONS.**

For the purpose of the rules contained in this chapter the following terms are used, as defined herein:

- 01. Active Treatment.** Regular participation in accordance with the Individual Program Plan.
- 02. Administrator.** The person delegated the responsibility for management of a facility.
- 03. Advocate.** A person who assists the individual in exercising their rights within the facility and as a citizen of the United States.
- 04. Alteration.** Any change or modification to the building or property affecting Life Safety Code compliance or a change in space usage or utilization of the facility, including additions, remodeling or systems modifications.
- 05. Enclosure.** Any barrier designed, constructed, or used to contain an individual within a designated area for the purposes of behavior modification, and does not meet the definition of a time out room as stated in 42 CFR 483.450(c)(1).

- 06. Change of Ownership.** The sale/purchase, exchange, or the lease of an existing facility.
- 07. Department.** The Idaho Department of Health and Welfare.
- 08. Director.** The Director of the Idaho Department of Health and Welfare or their designee.
- 09. Discharge.** The permanent movement of an individual to another facility or setting which operates independently from the ICF/ID.
- 10. Governmental Unit.** The state of Idaho, any county, municipality, or other political subdivision, or any department, division, board, or other agency thereof.
- 11. Initial License.** The first license issued to a facility.
- 12. Interdisciplinary Team (IDT).** Those individuals (professionals, paraprofessionals, and non-professionals) who possess the knowledge, skills and expertise necessary to accurately identify the comprehensive array of the individual's needs and design a program which is responsive to those needs. The IDT must include the individual (unless inability or unwillingness is documented), their parent, guardian, and/or representative (unless documented to be inappropriate or unobtainable), a physician, a social worker, and other appropriate professional and non-professional staff, at least one (1) of whom is a Qualified Intellectual Disability Professional.
- 13. Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF/ID).** A facility whose primary purpose is to provide habilitative services and maintain optimal health status for the intellectually disabled individuals or persons with related conditions, which is organized and operated to provide services to four (4) or more individuals, not related to the proprietor.
- 14. Legal Guardian.** A court appointed surrogate designated to advocate on behalf of the individual. The guardian's role is to encourage self-reliance and independence as well as make decisions on behalf of the individual.
- 15. Licensee.** Any person, firm, partnership, corporation, company, association, joint stock association, governmental unit, legal entity, legal successor thereof, or organization to whom a license is issued.
- 16. Licensed Environmental Health Specialist.** A person registered by the Bureau of Licensing, Idaho State Police, whose job is to inspect small water systems, individual and underground sewage disposal systems, general sanitation, vector, control, swimming pool sanitation and solid waste management.
- 17. Minor Alterations or Minor Remodeling Changes.** Any alterations or changes which do not affect the structural integrity of the building, change the space, change the functional operation, affect fire safety, or add beds or facilities over those for which the facility is licensed.
- 18. NFPA.** The National Fire Protection Association, from whom copies of applicable safety standards referenced herein are available at cost. Requests should be addressed to NFPA Publication Department, 1 Batterymarch Park, Quincy, Massachusetts 02169-7471 or [www.NFPA.org](http://www.NFPA.org).
- 19. Noxious Stimuli.** A startling, unpleasant, or painful action used in response to an individual's behavior that has a potentially aversive or harmful effect.
- 20. On Duty.** Those personnel working with or available to meet individuals' needs.
- 21. Outside Service.** Any service provided at a location other than the premises for which the license was issued, pursuant to Section 39-1305, Idaho Code., including but not limited to off-site treatment locations regardless of ownership or operating party, schools, vocational programs, and separately licensed Developmental Disabilities Agencies.

**22. Owner.** Any recognized legal entity or governmental unit or person having legal ownership of the facility.

**23. Parent.** A person who by birth, through adoption, or through fostering is considered legally responsible for a child under the age of 18.

**24. Participate.** Providing input through whatever means necessary to ensure an individual's Individual Program Plan is responsive to the individual's needs.

**25. Physician.** Any person licensed by the Idaho Board of Medicine to diagnose, prescribe and treat human illness.

**26. Provisional License.** A license issued to a facility that conforms substantially with these rules, during which time deficiencies are to be corrected, or to implement administrative or major structural changes.

**27. Qualified Intellectual Disabilities Professional (QIDP).** An individual who (1) has at least one year of experience working directly with individuals with intellectual disabilities or other developmental disabilities; and (2) is one of the following: (i) a doctor of medicine or osteopathy; (ii) a registered nurse; (iii) an individual who holds at least a bachelor's degree in a professional category specified in paragraph (b)(5) of section 483.430 of the Code of Federal Regulation.

**28. Related to the Proprietor.** An individual who is related to an owner of an intermediate care facility by a relationship including, but not limited to: spouse, parent, child, sibling, extended family, and those related by adoption, marriage, fostering or legal guardianship.

**29. Skilled Nursing Facility.** A health facility providing, at a minimum, in-patient care and services to individuals with unstable health problems requiring daily professional and licensed nursing care and supervision; restorative and rehabilitative care and providing assistance in meeting daily living needs. Medical supervision is provided on a regular, but not daily, basis.

**30. Sufficient Staff.** Sufficient numbers of staff to meet the individual's needs and to implement the active treatment program as defined in the Individual Program Plan.

**31. Threat.** Any expression, condition, situation, or indication of impending danger or harm which could cause or result in severe, temporary or permanent injury or harm to the mental or physical condition of an individual, or in their death.

**32. Transfer.** The temporary movement of an individual between facilities, the temporary movement from the ICF/ID to a psychiatric or medical hospital for medical reasons, the permanent movement of an individual between living units of the same facility, or the permanent movement of an entire facility (including individuals served, staff and records) to a new location.

**33. Waiver.** To refrain from enforcing a rule.

**005. WRITTEN INTERPRETATIONS.**

In accordance with Section 67-5201(19)(b)(iv), Idaho Code, this agency may have written statements that pertain to the interpretations of the rules of this chapter. These documents are available for public inspection as described in Sections 008 and 010 of these rules.

**006. ADMINISTRATIVE APPEALS.**

Administrative appeals are governed by provisions of IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings."

**007. INCORPORATED BY REFERENCE.**

The Department is adopting by reference the Code of Federal Regulation Title 42, Chapter IV, Subchapter G, Part 483, Subpart I – Conditions of Participation for Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF/ID). A certified copy of this publication may be reviewed at the main office of the Department of Health and Welfare. It is also available online at <http://www.cms.gov/index.html>. This publication is being adopted with modifications and additions as follows:

**01. 42 CFR 483.410 – 483.410(e) Condition of Participation: Governing Body and Management.** Additions and modifications have been made to this chapter. See Sections 100 - 199 of these rules.

**02. 42 CFR 483.420 – 483.420(d)(4) Condition of Participation: Client Protections.** Additions and modifications have been made to this chapter. See Sections 200 - 299 of these rules.

**03. 42 CFR 483.430 – 483.430(e)(4) Condition of Participation: Facility Staffing.** This chapter has been adopted with no modifications.

**04. 42 CFR 483.440 – 483.440(f)(4) Condition of Participation: Active Treatment Services.** This chapter has been adopted with no modifications.

**05. 42 CFR 483.450 – 483.450(e)(4)(iii) Condition of Participation: Client Behavior and Facility Practices.** Additions and modifications have been made to this chapter. See Sections 500 - 599 of these rules.

**06. 42 CFR 483.460 – 483.460(n)(2) Condition of Participation: Health Care Services.** This chapter has been adopted with no modifications.

**07. 42 CFR 483.470 – 483.470(1)(4) Condition of Participation: Physical Environment.** Additions and modifications have been made to this chapter. See Sections 700 - 799 of these rules.

**08. 42 CFR 483.480 – 483.480(d)(5) Condition of Participation: Dietetic Services.** Additions and modifications have been made to this chapter. See Sections 800 - 899 of these rules.

#### **008. CONFIDENTIALITY OF RECORDS AND PUBLIC RECORDS REQUEST.**

**01. Confidential Records.** Any information about an individual covered by these rules and contained in the Department's records must comply with IDAPA 16.05.01, "Use and Disclosure of Department Records."

**02. Public Records.** The Department will comply with Sections 9-337 through 9-350, Idaho Code, when requests for the examination and copying of public records are made. Unless otherwise exempted, all public records in the custody of the Department are subject to disclosure.

**03. Disclosure of an Individual's Identity.** Information received by the Department through filed reports, inspections, or as otherwise authorized under the law, will not be disclosed publicly in such a manner as to identify individuals except as necessary in a proceeding involving a question of licensure.

**04. Public Availability of Deficiencies.** The survey documents relating to a facility will be available to the public upon written request to the Department and posted on the Licensing and Survey Agency Web site.

#### **009. CRIMINAL HISTORY AND BACKGROUND CHECK REQUIREMENTS.**

**01. Criminal History and Background Check.** An intermediate care facility for the treatment of individuals with intellectual disabilities must complete a criminal history and background check on employees, interns, volunteers, and contractors hired or contracted with after October 1, 2007, who have direct patient access to individuals in the intermediate care facility. A Department check conducted under IDAPA 16.05.06, "Criminal History and Background Checks," satisfies this requirement.

**010. OFFICE HOURS -- MAILING ADDRESS -- STREET ADDRESS -- TELEPHONE -- WEBSITE.**

**01. Office Hours.** Office hours are 8 a.m. to 5 p.m., Mountain Time, Monday through Friday, except holidays designated by the State of Idaho.

**02. Mailing Address.** The mailing address for the business office is Idaho Department of Health and Welfare, P.O. Box 83720, Boise, Idaho 83720-0036.

**03. Street Address.** The business office of the Idaho Department of Health and Welfare is located at 450 West State Street, Boise, Idaho 83702.

**04. Telephone.** The telephone number for the Idaho Department of Health and Welfare is (208) 334-5500.

**05. Department Website.** The Department's internet website is found at <http://www.healthandwelfare.idaho.gov>.

**06. Division of Medicaid.** The Department's Division of Medicaid is located at 3232 Elder Street, Boise, Idaho 83705; Phone: (208) 334-5747.

**07. Licensing and Survey Agency.** The Department's Licensing and Survey Agency is located at 3232 Elder Street, Boise, Idaho 83705; Phone: (208) 334-6626.

**08. Licensing and Survey Agency Website.** The Licensing and Survey Agency's internet website is found at <http://www.facilitystandards.idaho.gov>.

**011. – 019. (RESERVED)**

**020. LICENSURE.**

Before any person can operate a facility under these rules, he must make an application for and receive a license for the operation of the facility. No individual can be admitted or cared for in a facility for which licensure is required by law until a license is obtained. General requirements for the licensure of an ICF/ID facility are as follows:

**01. Licensees Bound by Department Rules.** Licensees must conform to all applicable rules of the Department.

**02. Inspection Privileges.** An ICF/ID facility or buildings associated with its operation, as well as all records required under this chapter, must be accessible at all reasonable times to the Department for the purpose of inspection, with or without prior notification, pursuant to Sections 39-108(1) and 39-108(2), Idaho Code. The Department can utilize the services of any legally-qualified person or organization, either public or private, to examine and inspect any facility requesting licensure.

**03. Size Limitations.** The maximum size of ICF/ID facilities must be no more than fifteen (15) beds except as specified below. Facilities serving eight (8) or fewer intellectually disabled individuals are not required to secure conditional use permits, zoning variances, or zoning clearance, pursuant to Sections 67-6530 through 67-6532, Idaho Code. Facilities licensed on the initial effective date of these rules have a maximum of two (2) years from that effective date to comply with this provision. Facilities licensed as ICFs/IID six (6) months or more prior to July 1, 1980 will be exempted from the requirements of Subsection 300.03 so long as they continue under current ownership. Upon transfer of the facility, this subsection will apply.

**04. Restrictions Regarding Name of Applicant Facility.** Every facility must use a distinctive name in applying for a license, and the name cannot be changed without first notifying the Department in writing at least thirty (30) days prior to the date that the proposed change in name is to be effective.

**05. Compliance with Water and Sanitation Rules.** A statement from a licensed environmental health specialist indicating that the water supply and sewage disposal systems meet the requirements of the Department must be kept on file.

**06. Approval of Facility Plans.** Before any building is constructed or altered for use as a facility, written approval of construction or alteration plans must be obtained from the Department.

**021. – 029. (RESERVED)**

**030. APPLICATION FOR INITIAL LICENSE.**

Application for an initial license to operate an ICF/ID facility will be governed by the following rules:

**01. Form of Application.** All persons planning the operation of a facility must apply to the Department for an initial license on a form provided by the Department. This application must be submitted to the Department at least ninety (90) days prior to the planned opening date.

**02. Additional Documents Required.** In addition to the application form, the following must be submitted prior to occupancy:

- a.** A certificate of occupancy from the local building and fire authority.
- b.** Acceptable policies and procedures governing the facility, as well as a sample individual record, as required by the Department.
- c.** If the facility is owned by a corporation, the names and addresses of all officers and stockholders having more than five percent (5%) ownership.

**03. Change of Ownership.** Before a new owner can operate a facility, they must submit a new application for a license and must receive the license from the Department.

**031. – 039. (RESERVED)**

**040. ISSUANCE OF LICENSE.**

The issuance of licenses for ICF/ID facilities will be governed by the following requirements:

**01. License Issued Only to Named Applicants.** Each license will be issued only for the premises and persons or governmental units named in the application, pursuant to Section 39-1305, Idaho Code.

**02. License Must Specify Maximum Allowable Beds.** Each license must specify the maximum allowable number of beds in each facility, which number cannot be exceeded, except on a time-limited emergency basis, with the authorization of the Department.

**03. License Valid and Renewable for Twelve Month Periods.** A license will be valid for a period of twelve (12) months from the date of issuance by the Department, and unless sooner suspended or revoked, will be renewable annually without application or charge.

**04. Provisional License.** A provisional license will be valid for a period not to exceed six (6) months from the date of issuance by the Department. Provisional licenses can be issued:

- a.** To implement administrative changes; or
- b.** For four (4) additional six (6) month periods if major structural changes to the facility are required for licensure, provided written plans are furnished showing approximate dates when areas of nonconformance will be corrected.

c. To a facility that does conform substantially with these rules, during which time deficiencies are to be corrected.

**05. Temporary License.** A license issued for a period not to exceed six (6) months and issued initially upon application when the Department determines that all application information is acceptable. A temporary license allows the Department time to evaluate the facility's on-going capability to provide services and to meet these rules.

**041. – 049. (RESERVED)**

**050. DISPLAY OF LICENSE.**

The facility license must be framed and posted in a conspicuous place on the licensed premises so as to be visible to the general public, pursuant to Section 39-1305, Idaho Code.

**051. – 059. (RESERVED)**

**060. DENIAL OR REVOCATION OF LICENSE.**

Pursuant to Section 39-1306, Idaho Code, following notice to the licensee by registered mail or personal service and following an opportunity for hearing (see Idaho Department of Health and Welfare Rules Sections 05.03.300 et seq., and Section 05.03.302, “Rules Governing Contested Case Proceedings and Declaratory Rulings”), the Department can deny an application for a license or revoke a license under the following circumstances:

**01. Major Deficiency.** An application for a license can be denied or an existing license can be revoked if there exists a major deficiency in the facility’s compliance with the provisions of the Idaho Code or of these rules, including but not limited to:

- a. Any deficiency that would endanger the health or safety or welfare of any individual.
- b. Any repeated violations of any requirements of these rules or of the Idaho Code.
- c. The accumulation of minor violations that, taken as a whole, would endanger the health, safety, or welfare of any individual.

**02. Prior Record Related to Licensure.** An application for a license can be denied or an existing license can be revoked if the owner or administrator:

- a. Has been denied or has had revoked any health or personal care license; or
- b. Has been convicted of operating any health or personal care facility without a license; or
- c. Has been enjoined from operating such facility in an action related to improper operation of a facility.

**03. Personnel Inadequacies.** An application for a license can be denied or an existing license can be revoked if the owner or administrator lacks personnel sufficient in number or qualification by virtue of training, experience, or temperament to properly care for the proposed or actual number and type of individuals.

**04. Inadequate or False Disclosure.** An application for a license can be denied or an existing license can be revoked if the owner or administrator has misrepresented or failed to fully disclose any facts or any items in any application or any other document requested by the Department.

**05. Prior Criminal Record.** An application for a license can be denied or an existing license can be revoked if the owner or administrator has been convicted of any crime or infraction associated with the operation of a licensed health or personal care facility. Criminal History and Background Checks must be conducted in accordance with IDAPA 16.03.11.009: Criminal History And Background Check Requirements.

**06. Actions Posing Threat to Individuals.** An application for a license can be denied or an existing license can be revoked if the welfare of individuals is substantially adversely affected in the operation of the facility.

**061. – 069. (RESERVED)**

**070. SUMMARY SUSPENSION OF LICENSE.**

In the event of any emergency endangering the life or safety of an individual, the Director can summarily suspend any facility license. As soon thereafter as is practical, the Director must provide an opportunity for a hearing, as specified in Idaho Department of Health and Welfare Rules, IDAPA 16.05.03, Section 300, et seq., and Section 302, "Rules Governing Contested Case Proceedings and Declaratory Rulings."

**071. – 079. (RESERVED)**

**080. RETURN OF SUSPENDED, REVOKED, OR RELINQUISHED LICENSE.**

Each facility license is the property of the State of Idaho and must be returned to the Department immediately upon its suspension, revocation, or the voluntary closure of the facility.

**081. – 089. (RESERVED)**

**090. WAIVERS.**

Pursuant to Section 39-1306, Idaho Code, waivers to these rules, either temporary or permanent, can be issued by the Department as necessary provided that granting the waiver does not endanger the health or safety of any individual. Granting a waiver must not be considered as a precedent or be given any force or effect in any other proceeding.

**091. – 099. (RESERVED)**

**100. GOVERNING BODY AND MANAGEMENT.**

Section 100 through 199 of these rules will be used for modifications and additions to 42 CFR 483.410 – 483.410(e)Condition of Participation: Governing Body and Management as incorporated in Section 007 of these rules.

**101. Administrator:**

**01. Unrelated to Proprietor.** The governing body must assure individuals residing at the ICF/ID are unrelated to the proprietor.

**02. Appointment of Administrator.** The governing body of each licensed ICF/ID must appoint an administrator who:

- a.** Must be at least twenty-one (21) years of age; and
- b.** Must be responsible and accountable for implementation of the policies established by the governing body; and
- c.** Must have a minimum three (3) years direct experience working in an ICF/ID setting; and
- d.** Has satisfactorily completed a criminal history check in accordance with IDAPA 16.03.11.009, "Criminal History and Background Checks;" and
- e.** Meets all other qualifications as set forth by the facility's Governing Body.

**03. Administrator's Duties.** The administrator's duties will be as follows:

a. The administrator will be responsible for establishing and implementing written policies and procedures for each service of the facility and the operation of its physical plant. The Administrator must see that these policies and procedures are adhered to and must make them available to authorized representatives of the Department.

b. The administrator will be responsible for the completion, keeping, and submission of such reports and records as may be required by the Department.

c. The administrator must have available for review by the Department a copy of the lease (if a building or buildings are leased to a person or persons to operate as a facility) showing clearly which party to the agreement will be held responsible for the maintenance and upkeep of the property in conformance with minimum standards.

d. The facility administrator must notify the Department immediately of anticipated or actual termination of any service vital to the continued safe operation of the facility or the health and safety of its individuals and personnel.

e. The administrator cannot leave the premises without delegating necessary authority in writing to a competent employee. The Administrator must advise the designee as to where they can be reached in event of an emergency.

**102. Client Record:**

**01. Records on Admission.** Information placed in each individual's record on admission must include:

a. Name, date of admission, date of birth, place of birth, citizenship status, marital status, and social security number; and

b. Father's name and birthplace, mother's maiden name and birthplace, and parents' marital status; and

c. Name and address of parents, legal guardian, and/or next of kin; and

d. Sex, race, height, weight, color of hair, color of eyes, identifying marks, and recent photograph; and

e. Reason for admission or referral problem; and

f. Legal status of admission; and

g. Record of immunizations; and

h. Language spoken or understood; and

i. Sources of support, including social security, veterans' benefits, and insurance;

j. Information relevant to religious affiliation;

k. Report(s) of the preadmission evaluation(s); and

l. Documented evidence that a conference has been held, pursuant to Subsection \*\*\*; and

m. Name and address of personal physician and dentist.

**02. Census Register.** A census register must be kept, listing in chronological order, the names of individuals, dates of admission and discharge, and daily census. (The total individual days and average yearly census are required in the annual report.)

**103. Personnel.**

The facility will recruit and employ qualified personnel, provide initial orientation for new employees, provide a continuing inservice training program for all employees, and provide competent supervision designed to improve individual care and employee efficiency.

**01. Personnel Rules.** Explicit and uniform rules will be established for each classification of employees concerning hours of work, paydays, overtime and related personnel matters. A statement of all such rules will be provided to each employee.

**02. Administrative Requirements.** The administrator of an ICF/ID facility will be responsible for ensuring that the following statements, schedules, charts and records are completed and kept up to date:

**a.** The administrator must have on file a current, written statement outlining authority, responsibilities, and duties of all personnel in the facility, including the administrator. A copy of each employee's particular job description must be provided each employee.

**b.** Daily work schedules, reflecting the daily adjustments of employees, shall be kept in writing, showing the personnel on duty at any given time for the previous three (3) month period. Personnel shall be identified by first and last names, including professional designation (Registered Nurse (RN), Licensed Practical Nurse (LPN), QIDP, etc.), and position.

**c.** The administrator must have posted or available to view by all employees, or in the employees' possession, a current organizational chart which clearly indicates lines of authority within the facility's organizational structure.

**d.** A complete record of each employee's hours of work, paydays, overtime, and related personnel matters.

**03. Personnel Records.** An individual record must be maintained for each employee. Personnel records must contain the following information:

**a.** Name, current address, and telephone number of employee; and

**b.** Social Security number; and

**c.** Education; and

**d.** Experience;

**e.** Other qualifications (if licensure in Idaho is required, the facility must have written verification of the original license number and date the current registration expires); and

**f.** Date of employment; and

**g.** Position in the facility (description of work performed); and

**h.** Date of termination of employment and reason for resignation or termination.

**04. Health and Age Requirements.** All personnel employed by an ICF/ID facility must meet and observe the following requirements:

- a. Each employee must be free of communicable disease or infected skin lesions while on duty.
- b. Each employee must have a tuberculin skin test consistent with current tuberculosis control procedures.
- c. No employee who is less than eighteen (18) years of age can provide direct individual care.

**104. – 199. (RESERVED)**

**200. CLIENT PROTECTIONS.**

Section 200 through 299 of these rules will be used for modifications and additions to 42 CFR 483.420 – 483.420(d)(4) Condition of Participation: Client Protections as incorporated in Section 007 of these rules.

**201. Individual Advocate.**

The primary responsibility of the individual advocate is to help assure the individual's rights are not violated and to act in the best interest of the individual.

- 01.** An advocate must be appointed by the administrator with input from the individual's IDT when:
  - a. The individual's parent or legal guardian is unable or unwilling to participate or is unavailable after reasonable efforts to contact them; and
  - b. An individual "lacks capacity to make informed decisions" as defined in Title 66, Chapter 4 of Idaho Code: or
  - c. The IDT has determined and documented in the individual's record the specific impairment that has rendered the individual incapable of understanding their own rights; or
  - d. An advocate is requested by the individual or their parent or guardian.
- 02.** The fact that an individual has been determined to be incompetent or incapable does not absolve the facility from advising the individual of these rights to the extent that the individual is able to understand them.
- 03.** The administrator must assure that all individuals will be represented by persons who are not employed by the facility. The priority for selection of advocates will be in the following order:
  - a. Parent(s);
  - b. An interested family member;
  - c. Other interested parties.
- 04.** The advocate has the right:
  - a. To be informed of activities related to the individual that may be of interest to them or of significant changes in the individual's condition; and
  - b. To visit the individual at any reasonable hour and without prior notice unless contraindicated by the individual's needs and such practice does not infringe upon the privacy and rights of others; and
  - c. To receive prompt replies to any communication sent to the facility regarding the individual; and
  - d. To visit all parts of the facility that provide services to individuals; and

**e.** To be given a written interpretation of the interdisciplinary evaluation that is conducted for the individual within thirty (30) days after admission to the facility and for all subsequent evaluations, such interpretations to be provided by the administrator of the facility; and

**f.** To be counseled as to the advantages and disadvantages of discharging an individual from the facility, including admission to another facility; and

**g.** To be notified promptly in the event of any unusual occurrence, including serious illness or accident, impending death, or death; and in the case of death, to be told of autopsy findings if an autopsy is performed; and

**h.** To be given access to all of the individual's records that pertain to their active treatment, subject to the requirements specified in Idaho Department of Health and Welfare Rules, IDAPA 16, Title 05, Chapter 01, "Use and Disclosure of Department Records," Sections 300 through Subsection 301.06, and Sections 310 through 339.

**202. – 299. (RESERVED)**

**300. FACILITY STAFFING.**

Section 300 through 399 of these rules will be used for modifications and additions to 42 CFR 483.430 – 483.430(e)(4) Condition of Participation: Facility Staffing as incorporated in Section 007 of these rules.

**301. – 399. (RESERVED)**

**400. ACTIVE TREATMENT SERVICES.**

Section 400 through 499 of these rules will be used for modifications and additions to 42 CFR 483.440 – 483.440(f)(4) Condition of Participation: Active Treatment Services as incorporated in Section 007 of these rules.

**401. – 499. (RESERVED)**

**500. CLIENT BEHAVIOR AND FACILITY PRACTICES.**

Section 500 through 599 of these rules will be used for modifications and additions to 42 CFR 483.450 – 483.450(e)(4)(iii) Condition of Participation: Client Behavior and Facility Practices as incorporated in Section 007 of these rules.

**501. Management of inappropriate individual behavior.**

The application of painful or noxious stimuli and the use of enclosures are prohibited.

**502 – 599. (RESERVED)**

**600. HEALTH CARE SERVICES.**

Section 600 through 699 of these rules will be used for modifications and additions to 42 CFR 483.460 – 483.460(n)(2) Condition of Participation: Health Care Services as incorporated in Section 007 of these rules.

**601. – 699. (RESERVED)**

**700. PHYSICAL ENVIRONMENT.**

Section 700 through 799 of these rules will be used for modifications and additions to 42 CFR 483.470 – 483.470(1)(4) Condition of Participation: Physical Environment as incorporated in Section 007 of these rules.

**701. ENVIRONMENTAL SANITATION STANDARDS.**

The facility must ensure the environment promotes the health, safety, independence, and learning of the individuals, as well as prevent disease and maintain sanitary conditions.

**01. Water Supply.** The water supply for the facility must be adequate, of a safe, sanitary quality and:

- a. An approved public or municipal water supply must be used wherever available.
- b. In areas where an approved public or municipal water supply is not available, a private water supply must be provided, and it must meet the standards approved by the Department.
- c. If water is from a private supply, water samples must be submitted to the Department through the District Public Health Laboratory for bacteriological examination at least once every three (3) months. Copies of the laboratory reports must be kept on file at the facility.
- d. There must be a sufficient amount of water under adequate pressure to meet the sanitary requirements of the facility at all times.

**02. Sewage Disposal.** All sewage and liquid wastes must be discharged into a municipal sewage system where such a system is available. Where a municipal sewage system is not available, sewage and liquid wastes must be collected, treated, and disposed of in a manner approved by the Department.

**03. Garbage and Refuse Disposal.** Garbage and refuse disposal must be provided by the facility.

- a. All containers used for storage of garbage and refuse must be constructed of durable, nonabsorbent material and shall not leak or absorb liquids. Containers must be provided with tight-fitting lids.
- b. Garbage containers stored outside the facility must be stored on a concrete slab or on a rack above the ground.
- c. Garbage containers must be maintained in good repair. Sufficient containers must be afforded to hold all garbage and refuse which accumulates between periods of removal from the premises. Storage areas must be kept clean and sanitary.

**04. Insect and Rodent Control.** The facility must be maintained free from insects, rodents and other pests. Chemicals (pesticides) used in the control program must be selected, used, and stored in the following manner:

- a. The chemical must be selected on the basis of the pest involved and used only in the manner prescribed by the manufacturer, who must be registered with the Idaho Department of Agriculture.
- b. All toxic chemicals must be properly labeled and stored under lock and key.
- c. No toxic chemicals can be stored in individual areas, with drugs, or in any area where food is stored, prepared, or served.
- d. The storage and use of pesticides must be in accordance with local, state, or federal directives.

**05. Linen – Laundry Facilities and Service.** Adequate facilities and procedures must be provided for the proper and sanitary washing of linen, clothing and other washable goods laundered at the facility.

- a. The facility must:
  - i. Have available at all times a quantity of linen essential to the proper care and comfort of individuals. Linens must be handled, processed, and stored in a manner that prevents contamination and the transmission of infections.
  - ii. Have laundry facilities situated in an area separate and apart from any area or room where food is stored, prepared, or served.

iii. Have laundry facilities that are well-lighted and ventilated, adequate in size for the needs of the facility, maintained in a sanitary manner, and kept in good repair.

b. The handling of linen and clothing, both clean and soiled, is subject to the following:

i. Soiled linen and clothing must be collected and transported to the laundry area in covered, washable containers that do not leak.

ii. Clean linen and clothing must be handled in a sanitary manner during sorting, drying, ironing, transportation, distribution, and storage.

iii. Individuals' laundry cannot be washed with bed linens and must be labeled to ensure proper return to the owner.

**06. Housekeeping Services and Equipment.** Sufficient housekeeping and maintenance personnel and equipment must be provided to maintain the interior and exterior of the facility in a safe, clean, orderly and attractive manner.

a. Floors, walls, ceilings, and other interior surfaces, equipment, and furnishings must be maintained in a clean and sanitary manner.

b. Procedures for cleaning of surfaces and equipment must be written and explained to all persons engaged in housekeeping duties. The individuals who are engaged in facility housekeeping duties as part of their training program must be supervised by facility program personnel.

c. After discharge of an individual, the room must be thoroughly cleaned, including the bed, bedding, and furnishings.

d. Deodorizers cannot be used to cover odors caused by poor housekeeping or unsanitary conditions.

e. Storage areas, attics, basements, and grounds must be kept free from refuse, litter, weeds, or other items detrimental to the health, safety, or welfare of the individuals.

f. All housekeeping equipment must be in good repair and maintained in a clean and sanitary manner.

## **702. PHYSICAL FACILITY STANDARDS.**

All facilities must meet the following minimum standards related to physical construction and maintainance:

**01. General Building Requirements.** All buildings to be used for ICF/ID facilities, including Facility Operated Day Program locations, must be of such character to be suitable for such usage. These buildings will be subject to approval by the Department. Other requirements, as applicable, are as follows:

a. The building and all equipment must be in good repair. The walls and floors must be of such character as to permit frequent cleaning. Walls and ceilings in kitchens, bathrooms, and utility rooms must have smooth enameled or equally washable surfaces. The building must be kept clean and sanitary, and every reasonable precaution must be taken to prevent the entrance of insects and rodents.

b. All stairways must be provided with sturdy handrails on both sides of the stairs, and all open stairwells must be protected with guardrails. All stairways must be provided with nonskid tread covering the entire surface of the stair.

c. All open porches and verandas must be protected by sturdy guardrails of an adequate height.

**d.** There must be a telephone in the building which is accessible to all individuals for private conversations.

**02. Individual Accommodations.** Accommodations for individuals in an ICF/ID facility must include the following:

- a.** Not more than two (2) individuals can be housed in any multi-bedroom.
- b.** No window area in an individual's room can be less than one-eighth (1/8) of the floor area must be openable. Suitable window shades or drapes must be provided as a means of controlling light. Windows must be so located as to permit individuals a view through the windows from a sitting position allowing for natural light and individual room ventilation. Windows must be of such construction as to prevent any drafts when closed.
- c.** No individual's bedroom can be located:
  - i.** In such a way that its outside walls are below grade.
  - ii.** In any attic story, trailer house or in any other room other than an approved room.
  - iii.** So that it can be reached only by passing through another individual's room, a utility room, or any other room.
- d.** Rooms must be of dimensions which allow not less than three (3) feet between beds.
- e.** Ceiling heights in individual rooms must be a minimum of seven and one-half (7 1/2) feet.
- f.** Toilet rooms and hand washing facilities must be constructed as follows:
  - i.** Toilet rooms and bathrooms for individuals and personnel must not open directly into any room in which food, drink, or utensils are handled or stored. They must not be so located that the kitchen or other rooms where food is cooked, stored, or served are used as a thoroughfare.
  - ii.** Toilet and bathrooms must be separated from all rooms by solid walls or partitions. Adequate provisions to insure the individual's privacy must be made.
  - iii.** All toilet rooms and bathrooms must be of easily cleanable construction.
  - iv.** Where individuals requiring the use of wheelchairs reside, there must be at least one (1) toilet room and one (1) bathing area large enough to accommodate wheelchairs.
  - v.** All inside bathrooms and toilet rooms must have forced ventilation to the outside.
  - vi.** Toilet rooms for individual use must be so arranged that it is not necessary for an individual to pass through another individual room to reach the toilet facilities.
  - vii.** If the facility serves individuals with physical impairments, handrails or grab-bars must be provided in individual toilet rooms and bathrooms and must be located so as to be functionally adequate.
  - viii.** Each individual must be provided with an individual towel and washcloth.
- g.** Each individual must be provided with his own bed which will:
  - i.** Be at least thirty-six (36") inches wide, be substantially constructed, and in good repair. Roll-away type beds, cots, and folding beds cannot be used.

ii. Have satisfactory springs in good repair and a clean, comfortable mattress that is standard in size for the bed. Each mattress must be rendered and maintained water repellent for residents known to be incontinent.

h. The interior design of each facility must simulate as closely as possible the functional arrangement of a home to encourage a personalized atmosphere for individuals.

i. All furniture and equipment must be maintained in a sanitary manner, kept in good repair, and must be so located to permit convenient use by individuals.

j. Accessory equipment cannot be located so that it projects into corridors and constitutes a hazard or impedes easy passage.

**03. Dining Areas.** Facilities, including Facility Operated Day Program locations, must provide one (1) or more attractively furnished, multi-purpose areas of adequate size for individuals' dining, diversional, and social activities. The areas must be well-lighted, ventilated, and equipped with tables and chairs with easily-cleanable surfaces.

**04. Storage Areas.** The facility must provide general storage areas and a medical storage area as follows:

a. General storage areas (minimum of ten (10) square feet per licensed bed) must be provided, in addition to suitable storage provided in the individual's bedrooms for personal clothing, possessions and individual adaptive equipment.

b. The facility must provide safe and adequate storage of medical supplies and equip a space appropriate for the preparation of medications.

**05. Lighting.** Lighting standards for the facility will be as follows:

a. In addition to natural lighting, artificial lighting is required to provide an average illumination of 10 foot-candles (107 lux) over the area of a room at 30 inches (standard household lighting level) above the floor level. All artificial lighting shall be controllable by switches in accordance with the electrical code. Exception: Emergency Egress Lighting.

b. Task lighting and reading lights shall be available for residents as needed.

**06. Ventilation.** The facility must be ventilated and precautions must be taken to prevent offensive odors.

**07. Heating and Air Conditioning.** A heating and air conditioning system must be provided for the facility that is capable of maintaining a temperature range of no less than sixty-eight (68) and no more than eighty-one (81) degrees Fahrenheit in all weather conditions. Oil space heaters, recessed gas wall heaters, and floor furnaces cannot be used as heating systems for any facility.

**08. Plumbing.** Plumbing at the facility and Facility Operated Day Program locations must be as follows:

a. All plumbing fixtures must be clean and in good repair.

b. Vacuum breakers must be installed where necessary to prevent backsiphonage.

c. The temperature of hot water at plumbing fixtures used by the individuals must be between one hundred (100) to one hundred twenty (120) degrees Fahrenheit.

### **703. NEW CONSTRUCTION AND PHYSICAL FACILITY STANDARDS.**

In addition to the construction and the physical facility standards set forth in this section, new construction must comply with the locally adopted Building Code; or the International Building Code, 2006 Edition, when none is adopted locally. Additions to existing facilities, conversions of existing building to facilities, and portions of facilities undergoing remodeling or alterations other than repairs will also be required to meet these standards.

**01. Plans, Specifications, and Inspections.** Plans, specifications, and inspections of any new facility construction or any addition, conversion or remodeling of an existing structure are governed by the following rules:

**a.** Plans for new construction of facilities must be prepared by an architect licensed in the State of Idaho. The employment of an architect can be waived by the Department in connection with certain minor alterations.

**b.** Prior to commencing work pertaining to construction of new buildings, any additions or structural changes to existing facilities, or conversion of existing buildings to be used as a facility, plans and specifications must be submitted to, and approved by, the Department to assure compliance with the applicable construction standards, codes, rules, and regulations.

**c.** Preliminary plans must be submitted and must include at least the following:

i. The assignment of all spaces, size of areas and rooms, and indication in outline of the fixed and movable equipment and furniture.

ii. Drawings of each floor including, but not limited, to the basement, approach or site plan, roads, parking areas, sidewalks.

iii. The total floor area and number of beds.

iv. Outline specifications describing the general construction, including interior finishes, acoustical materials, heating, electrical, and ventilation systems.

v. The plans must be drawn to scale of sufficient size to clearly present the proposed design, but not less than a scale of one-eighth (1/8) inch to one (1) foot.

**d.** Before the commencement of construction, working drawings must be developed in close cooperation and with approval by the Department and other appropriate agencies and:

i. The drawings and specifications must be well prepared and of accurate dimensions and must include all necessary explanatory notes, schedules and legends. They must be stamped with the architect's seal.

ii. The drawings must be complete and adequate for contract purposes.

**e.** Prior to occupancy, the facility must be inspected and approved by the Department. The Department must be notified at least six (6) weeks prior to completion in order to schedule a final inspection.

**f.** Construction features of all facilities must meet local, state, and national codes applicable to ICFs/IID.

**g.** In the event of a conflict in requirements between codes, the most restrictive will apply.

**02. Site Requirements.** The location of all ICF/ID facilities is controlled by the following rules:

**a.** The facility must be served by an all-weather road kept open to motor vehicles at all times of the year; and

- b.** It must be accessible to physician, professional, and habilitation services, medical facilities, shopping centers, and population centers where employees may be recruited and retained; and
- c.** It must be remote from railroads, factories, airports, and similar noise, odor, smoke, dust, or other nuisances; and
- d.** It must be accessible to public utilities such as electrical power, telephone service, and fire protection; and
- e.** Adequate off-street parking must be available; and
- f.** It must be physically separate from any Skilled Nursing Facility, Intermediate Care Facility, ICF/ID, Residential Assisted Living Facility or Shelter Care Facility by sufficient distance--not less than five hundred (500) feet--to preclude the adjacent or nearby location of two (2) or more facilities. Allowance for such arrangements would be counter to basic principles of normalization.

**03. Individual Accommodations.** In addition to requirements at 16.03.11.702.02, all construction related to individual accommodations after [date of reviewed IDAPA] must be as follows:

- a.** Individual bedrooms must be of sufficient size to allow at least eighty (80) square feet of usable floor space per bed in multiple-occupancy bedrooms. Single occupancy bedrooms must have at least one hundred (100) square feet of usable floor space.
- b.** There must be at least one (1) toilet, one (1) tub or shower, and one (1) lavatory bowl for every four (4) licensed beds. Tubs, showers, and lavatory bowls must be connected to hot and cold running water.
- c.** Every facility must provide a minimum of thirty (30) square feet per licensed bed for living and/or recreational activities. It must be for the sole use of the individual, and under no circumstances can these rooms be used as bedrooms by individuals or personnel. A hall or entry is not acceptable as a living room or recreation room.
- d.** Closet space must be provided in each individual bedroom (minimum of four (4) square feet per bed). If a common closet is used for two (2) persons, there must be a physical separation of clothing for each person.

**704. FIRE AND LIFE SAFETY STANDARDS.**

Buildings on the premises used as facilities must meet all the requirements of local, state and national codes concerning fire and life safety standards that are applicable to ICF/ID facilities.

**01. General Requirements.** General requirements for the fire and life safety standards for an ICF/ID facility are that:

- a.** The facility must be structurally sound and must be maintained and equipped to assure the safety of individuals, employees and the public.
- b.** On the premises of all facilities where natural or man-made hazards are present, suitable fences, guards, and railings must be provided to protect individuals, employees and the public.

**02. Existing Life Safety Code Requirements.** The facility must meet provisions of the 2000 Edition of the National Fire Protection Association (NFPA) Standard 101, the Life Safety Code, published by the NFPA as are applicable to an ICF/ID facility, as specified below:

- a.** Existing licensed facilities housing 16 or less residents on a single story; shall meet the requirements of Chapter 33, Existing Residential Board and Care Occupancies, Small Facilities, Impractical Evacuation Capabilities, specifically the sections found within 33.1, 33.2 and 33.7, and the applicable provisions of Chapters 1 through 10 of the 2000 Edition of the NFPA Standard 101, the Life Safety Code.

i. Existing fire sprinkler systems shall be permitted to be continued in service until building footprint modifications are made, or a change of ownership, provided the lack of conformity with these standards does not present a serious hazard to the occupants as determined by the authority having jurisdiction.

ii. Sprinkler systems shall be interconnected to the building fire alarm system and be supervised.

b. Existing licensed facilities housing 17 or more residents, or any number of residents residing in multiple story buildings, shall meet the requirement so Chapter 19, Existing Health Care Occupancies, limited Care Facilities, and the applicable provision of Chapters 1 through 10 of the 2000 Editions of NFPA Standard 101, the Life Safety Code.

c. Portable fire extinguishers must be installed throughout the facility in accordance with applicable provisions of NFPA Standard #10, Standard for "Portable Fire Extinguishers," 1998 Editions.

d. The use of portable comfort space heating devices of any kind is prohibited.

e. Each facility must provide emergency electrical service for at least the exit passageway lighting, hall lighting, and the fire alarm system.

**03. Emergency Plans for Protection and Evacuation of Residents.** In cooperation with the local fire authority, the administrator must develop a prearranged written plan for employee response for protection of individuals and for orderly evacuation of individuals in case of an emergency. These plans must include procedures to meet all potential emergencies and disasters relevant to the facility, such as fire, severe weather, and missing individuals.

a. A diagram of the building showing emergency protection equipment, evacuation routes, and exits must be conspicuously posted in a common area within the facility. An outline of emergency instructions must be posted with the diagram.

b. Emergency plans must be communicated to staff, periodically reviewed, thoroughly tested, available, trained, and used as necessary to assure rapid and efficient function.

c. Unannounced evacuation drills must be held at least quarterly for each shift of personnel for a total of no less than twelve (12) per year. The evacuation drills must be irregularly scheduled throughout all shifts and under varied conditions. In addition, at least one (1) drill per shift must be held on a Sunday or holiday. The facility must actually evacuate residents during at least one drill each year on each shift.

d. All evacuation drills must be documented, problems investigated, and appropriate corrective action must be taken for identified problems.

**04. Report of Fire.** A separate report of each fire incident occurring within the facility must be submitted to the Department within thirty (30) days of the occurrence. The reporting form, "Facility Fire Incident Report," will be issued by the Department, to secure specific data concerning date, origin, extent of damage, method of extinguishment, and injuries, if any.

**05. Maintenance of Equipment.** The facility must establish routine test, check, and maintenance procedures for alarm systems, extinguishment systems, and all essential electrical systems. The following rules apply to all ICF/ID facilities:

a. The use of any defective equipment on the premises of any facility is prohibited.

b. The administrator must have all equipment and appliances inspected for safe condition and function prior to use by any individual, employees, or visitor of the facility.

c. The administrator must show written evidence of adequate preventive maintenance procedures for equipment directly related to the health and safety of the individuals.

d. The fire alarm system and smoke detection system must be serviced at least annually by an authorized servicing agency. Servicing must be in accordance with the applicable provision of NFPA Standard 72, the National Fire Alarm Code, 1999 Edition.

e. Automatic sprinkler systems, if installed, must be serviced at least annually by an authorized servicing agency. Servicing must be in accordance with the applicable provisions of NFPA Standard 25, Standard for the Inspection, Testing and Maintenance of Water Based Fire Protection Systems, 1998 Edition. Facilities protected by an NFPA 13D sprinkler system shall be serviced and tested annually by an authorized servicing agency to include a visual inspection of all heads, testing of all water flow and tamper devices at a minimum.

f. Portable fire extinguishers must be serviced annually in accordance with the applicable provisions of NFPA Standard 10 (1998 Edition), "Portable Fire Extinguishers."

g. The facility must establish routine in-house test and check procedures covering alarm systems, extinguishment systems, and essential electrical systems.

**705. Vehicles.**

Vehicles used by the facility and Facility Operated Day Program locations must be as follows:

01. Each facility that transports individuals must develop, implement, and monitor a written vehicle safety policy which includes:

a. The establishment of a preventative maintenance program for each vehicle owned, leased or used by the facility, including vehicle inspections and other regular maintenance to insure individuals' safety;

b. The use and inspection of wheelchair lifts, securing devices, and other devices necessary to ensure individuals' safety; and

c. The adherence to all laws, rules, and regulations, including licensing, registration and insurance requirements applicable to drivers and vehicles of the type used.

**706 – 799. (RESERVED)**

**800. DIETETIC SERVICES.**

Section 800 through 899 of these rules will be used for modifications and additions to 42 CFR 483.480 – 483.480(d)(5) Condition of Participation: Dietetic Services as incorporated in Section 007 of these rules.

**801. Purchasing and Storage.**

The purchase and storage of food must be as follows:

a. A current file of food purchase invoices must be kept at least for the preceding thirty (30) day period.

b. Supplies of staple foods for a minimum of a one (1) week period and of perishable foods for a two (2) day period must be maintained on the premises.

**802. Food Sanitation.** The acquisition, preparation, storage and serving of all food and drink in a facility must adhere to the following:

a. All food and drink must be obtained from an approved source as identified in IDAPA 16.02.19.100.

**b.** Adequate facilities, equipment, utensils and training must be provided for the safe preparation, storage, and serving of food and drink to individuals and personnel.

**c.** Ice must be manufactured from potable water in a sanitary manner, and must be handled, stored and transported in such a manner as to prevent contamination.

**d.** In facilities with 10 or more beds, the administrator of the facility must ensure that appropriate personnel have completed food handling requirements, and must comply with IDAPA 16.02.19, "Food Sanitation Standards for Food Establishments."

**804. – 999. (RESERVED)**

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