Residential Care/Assisted Living (RALF) Rule Changes 2015

Presented by:
Jamie Simpson, RCA, MBA
RALF Program Supervisor

IHCA 10/29/2014
Topics for Today

• Who is the RALF L&C program and how to contact them
• Rules – where they come from and how they get changed
• 2015 proposed RALF rule changes
• Q&A
• Other updates and areas of focus for the coming year
# Residential Care/Assisted Living Program

**Jamie Simpson – Program Supervisor**  
**Shane Carlton – Program Support**

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<th>SURVEYORS:</th>
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RALF Program’s Mission

To ensure the residents of Idaho’s RALFs receive quality care in a safe, humane, home-like living environment where their rights are protected.
Licensing & Certification
Residential Care Assisted Living Program

3232 Elder Street
Boise, ID 83705
Phone: (208) 364-1962
Fax: (208) 364-1888

E-mail: RALF@dhw.idaho.gov

Website: www.assistedliving.dhw.idaho.gov
RALF Rules and Statute

- Idaho Statute: Title 39 Chapter 33
- 39-3305. Rules. (1) The board shall have the authority to adopt, amend, repeal and enforce such rules as may be necessary or proper to carry out the purpose and intent of this chapter which are designed to protect the health, safety and individual rights of residents in residential care or assisted living facilities.
- IDAPA 16.03.22...
How to Stay Informed

- Administrative Bulletin
- Email – make sure L&C has your current email address
- Website
  - Automatic notices
  - Announcements
  - Community Care Advisory Council (CCAC) Minutes
- Newsletters

History of this Rule Change

- 2013 - Operators approach L&C about changing CHB & shared administrator requirements
- Jan-May 2014 - Discussions held with operators, advocates and CCAC
- May 2014 - Notice of negotiated rule making posted in administrative bulletin & on RALF website, negotiated rule making meeting held and written comments accepted through 5/31
- July 2014 - Email all providers draft proposed changes, comments and disposition
- August 2014 - Proposed changes published in Admin Bulletin
- November 2014 – Proposed Rules to Board of Health and Welfare
- January 2014 – Proposed Rules to Legislature
- July 1, 2015 – Rules Take Effect (if approved)
Administrative Rules

Administrative Rules have the force and effect of law and as such are subject to a comprehensive process that includes review and approval by the Idaho Legislature in order to become final and enforceable.

Idaho Administrative Code

> Idaho Administrative Code - A compilation of all legally-promulgated administrative rules that are currently in effect and fully enforceable.

Idaho Administrative Code Archive

> Idaho Administrative Code Archive

Idaho Administrative Procedure Act

> Idaho Administrative Procedure Act - Title 67, Chapter 52, Idaho Code

Idaho Administrative Bulletin

> Idaho Administrative Bulletin - The monthly publication of amendments to or
16.03.22. Residential Care or Assisted Living Facilities in Idaho

16-0322-9901 Temporary and Proposed Rulemaking, Bulletin Vol. 09-5 (eff. 7-1-09)
16-0322-9901 Notice of Public Hearing, Bulletin Vol. 00-D
16-0322-9901 Adoption of Pending Rule and Amendment to Temporary Rule, Bulletin Vol. 06-1 (7-1-09)
16-0322-9901 OAR Omnibus Notice of Legislative Action - Approval of Pending Fee Rule by SCR 128, Bulletin Vol. 00-5 (eff. 3-10-00)
16-0322-0101 Adoption of Temporary Rule, Bulletin Vol. 01-11 (eff. 7-1-01)
16-0322-0101 OAR Omnibus Notice of Legislative Action - Extension of Temporary Rule by SCR 130, Bulletin Vol. 02-5
16-0322-0102 Adoption of Pending Rule, Bulletin Vol. 03-7 (eff. PLR 2003)
16-0322-0201 Proposed Rulemaking, Bulletin Vol. 02-10
16-0322-0201 Adoption of Pending Rule, Bulletin Vol. 01-1 (eff. PLR 2003)

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OFFICE OF ADMINISTRATIVE RULES

Cumulative Rulemaking Index

("Rulemaking renames chapter from: "Rules for Licensed Residential and Assisted Living Facilities in Idaho" to: "Rules for Licensed Residential or Assisted Living Facilities in Idaho")
16-0322-0101 OAR Omnibus Notice of Legislative Action - Approval of Pending Rule, Bulletin Vol. 03-6 (eff. 3-3-03)
16-0322-0101 OAR Omnibus Notice of Legislative Action - Approval of Pending Rule, Bulletin Vol. 03-6 (eff. 3-3-03)
16-0322-0101 Proposed Rulemaking, Bulletin Vol. 02-10
16-0322-0301 Adoption of Pending Rule, Bulletin Vol. 04-1 (eff. PLR 2004)
16-0322-0401 Proposed Rulemaking, Bulletin Vol. 04-9
16-0322-0401 Notice of Vacation of Proposed Rulemaking, Bulletin Vol. 05-1
16-0322-0501 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 05-6
16-0322-0501 Proposed Rulemaking (Chapter Repeal), Bulletin Vol. 05-10
16-0322-0501 Proposed Rulemaking (Chapter Rewrite), Bulletin Vol. 05-10
16-0322-0501 Adoption of Pending Rule (Fee Rule) (Chapter Repeal), Bulletin Vol. 06-1 (eff. PLR 2005)
16-0322-0501 Adoption of Pending Rule (Fee Rule) (Chapter Rewrite), Bulletin Vol. 06-1 (eff. PLR 2005)

("Rulemaking renames chapter from: "Rules for Licensed Residential and Assisted Living Facilities in Idaho" to: "Residential Care or Assisted Living Facilities in Idaho")
16-0322-0601 OAR Omnibus Notice of Legislative Action - Approval of Pending Rule Repeal, Bulletin Vol. 06-5 (eff. 4-11-06)
16-0322-0602 OAR Omnibus Notice of Legislative Action - Partial Rejection of Pending Fee Rule by SCR 128, Bulletin Vol. 06-5 (eff. 3-30-06)
16-0322-0602 Notice of Final Rule - Agency Filing - Partial Rejection of Pending Fee Rule by SCR 128, Bulletin Vol. 06-6
16-0322-0601 Temporary and Proposed Rulemaking, Bulletin Vol. 06-6 (eff. 7-1-06)
16-0322-0601 Adoption of Pending Rule, Bulletin Vol. 07-1 (eff. PLR 2007)
16-0322-0601 OAR Omnibus Notice of Legislative Action - Approval of Pending Rule, Bulletin Vol. 07-5 (eff. 3-30-07)
16-0322-0701 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 07-6
16-0322-0701 Temporary and Proposed Rulemaking, Bulletin Vol. 07-6 (eff. 10-1-07)
16-0322-0701 Adoption of Pending Fee Rule, Bulletin Vol. 08-1 (eff. PLR 2008)
16-0322-0701 OAR Omnibus Notice of Legislative Action - Approval of Pending Fee Rule by SCR 138, Bulletin Vol. 08-5 (eff. 1-28-08)
16-0322-0801 Proposed Rulemaking, Bulletin Vol. 08-10
16-0322-0801 Notice of Vacation of Proposed Rulemaking, Bulletin Vol. 08-1
16-0322-0901 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 09-4
16-0322-0901 Proposed Rulemaking, Bulletin Vol. 09-6
16-0322-0901 Adoption of Pending Rule, Bulletin Vol. 10-1 (eff. PLR 2010)
16-0322-0901 OAR Omnibus Notice of Legislative Action - Approval of Pending Rule, Bulletin Vol. 10-5 (eff. 3-29-10)
16-0322-1001 Proposed Rulemaking, Bulletin Vol. 10-10
16-0322-1001 Notice of Vacation of Proposed Rulemaking, Bulletin Vol. 10-12
03. Availability to Work. Any direct patient access individual hired or contracted with on or after October 1, 2007, must self-disclose all arrests and convictions before having access to residents.

   a. The individual is allowed to only work under supervision until the criminal history and background check is completed, unless:

      i. The individual has completed an alternative criminal history and background check that includes a search of the record sources listed in Subsections 009.02.b. through 009.02.e. of this rule; and

      ii. The facility determines there is no potential danger to residents.

   b. This alternative criminal history and background check is only in effect until the Department has issued a clearance or denial based on the Department’s completed fingerprint based background check.
License Applicants in Good Standing

110. FACILITY LICENSE APPLICATION.

01. Facility License. License application forms are available upon written request or online at the Licensing and Survey Agency’s website at http://wwwfacilitystandards.idaho.gov. The applicant must provide the following information:

a. A written statement that the applicant has thoroughly read and reviewed the statute, Title 39, Chapter 33, Idaho Code, and IDAPA 16.03.22, “Rules for Residential Care or Assisted Living Facilities in Idaho,” and is prepared to comply with both;

b. The applicant must provide a written statement and documentation that discloses any demonstrate no license revocation or other disciplinary enforcement action has been taken or is in the process of being taken, against a license held or previously held by the entity applicant in Idaho or any other state or jurisdiction.

126. EFFECT OF ENFORCEMENT ACTION AGAINST A LICENSE. The Department will not review an application of an applicant who has an action, either current or in process, against a license held by the applicant either in Idaho or any other state or jurisdiction.
Acceptable Admissions & Retention

152. ADMISSION POLICIES.

05. Policies of Acceptable Admissions. Written descriptions of the conditions for admitting residents to the facility must include:

b. No resident will be admitted or retained who requires ongoing skilled nursing or care not within the legally licensed authority of the facility. Such residents include:

v. A resident who is on a mechanically supported breathing system, except for residents who use CPAP (continuous positive airway pressure) devices only for sleep apnea, such as CPAP or BiPAP;

xi. A resident who has MRSA (methicillin-resistant Staphylococcus aureus) in an active stage of infection.
215. REQUIREMENTS FOR A FACILITY ADMINISTRATOR
Each facility must be organized and administered under one (1) licensed administrator assigned as the person responsible for the operation of the facility. Multiple facilities under one (1) administrator may be allowed by the Department based on an approved plan of operation described in Section 216 of these rules. (3-30-06)

04. Representation of Residents. The owner or administrator, his her relatives, or employees cannot act as or seek to become the legal guardian of, or have power of attorney for any resident. Specific limited powers of attorney to address emergency procedures where competent consent cannot otherwise be obtained are permitted. (3-30-06)

09. Identify and Monitor Patterns of Incidents and Accidents. The administrator must identify and monitor patterns related to incidents and accidents and develop interventions to prevent recurrences.

350. REQUIREMENTS FOR HANDLING ACCIDENTS, INCIDENTS, OR COMPLAINTS.
The administrator must assure that the facilities policies and procedures are implemented. (3-30-06)

08. Identify and Monitor Patterns. The administrator or person designated by the administrator must identify and monitor patterns of accidents, incidents, or complaints to assure the facility’s policies and procedures protect the safety of the residents.
Defining Administrator Designee

06. Administrator Designee. An administrator’s designee is a person authorized to act in the absence of the administrator and who is knowledgeable of facility operations, the residents and their needs, emergency procedures, the location and operation of emergency equipment and how the administrator can be reached in the event of an emergency.

101. Administrator's Designee. A person authorized in writing to act in the absence of the administrator and who is knowledgeable of facility operations, the residents and their needs, emergency procedures, the location and operation of emergency equipment, and how the administrator can be reached in the event of an emergency. An administrator’s designee may act in the absence of the administrator for no longer than thirty (30) consecutive days when the administrator:

a. Is on vacation.

b. Has days off.

c. Is ill; or

d. Is away for training or meetings.

(3-30-06)
216. REQUIREMENTS FOR A MULTIPLE FACILITY ADMINISTRATOR.

Each facility must have a Department approved plan of operation to have one (1) administrator assigned as the person responsible for the operation of multiple facilities.

01. Approved Plan of Operation. Under Section 39-3321, Idaho Code, multiple facilities under one (1) administrator may be approved when the following is provided in the plan of operation:

a. The multiple facility administrator must provide proof of a current license in Idaho with no actions or pending actions taken against licensee:

b. The plan must provide for full-time on-site supervision by trained and experienced staff, including:

i. Who is responsible for on-site management of each facility when administrator is not on-site; and

ii. How each individual responsible for on-site management of each facility is qualified to perform those duties.

02. Facility Change To An Approved Plan of Operation. A new plan of operation must be submitted to the Department and approved before any facility in the plan is changed.
03. **Number of Facilities or Beds Allowed Under One Administrator.** Based on an approved plan of operation, the Department will allow one (1) licensed administrator to oversee:

a. Up to three (3) facilities when each of the facilities has sixteen (16) beds or fewer;

b. Two (2) facilities when either of the facilities has more than sixteen (16) beds but less than fifty (50) beds, and the combined number of beds for both facilities cannot exceed eighty (80) beds; or

c. One (1) facility with fifty (50) beds or more. A plan of operation for a multiple facility administrator will not be approved for a facility with fifty (50) beds or more.

04. **No Unresolved Core Issues.** None of the multiple facilities operated under one (1) administrator can have any unresolved core issue deficiencies described in Section 010 of these rules. The administrator approved to oversee more than one (1) facility must have an established record of compliance, which includes:

a. No repeat deficiencies;

b. No enforcement actions;

c. A history of submitting acceptable plans of corrections within the time frame established in Subsection 130.08 of these rules;

d. A history of submitting acceptable evidence of resolution of deficiencies within the time frame established in Subsection 130.09 of these rules; and

e. The administrator’s record must show that he has two (2) years or more of experience working as a licensed residential care administrator in Idaho.
Multiple Facility Administrator cont.

05. Administrator Hours On-site in Each Facility. The administrator must be on-site at each facility for at least:
   a. Ten (10) hours per week in facilities with fewer than sixteen (16) beds;
   b. Fifteen (15) hours per week in facilities with more than (16) beds; and
   c. Each facility’s record must include documentation of the number of hours per week the administrator is on-site. For each week the Administrator is not on-site, the documentation must include the reasons for his absence such as illness, vacation, or training.

06. Administrator Response Time for Each Facility. A multiple facility administrator must not have a primary residence more than seventy-five (75) miles from any of the facilities. Each facility with a multiple facility administrator must be within two (2) hours driving distance from each other.

07. On-Site Supervision in Each Facility. The plan of operation must include full-time on-site supervision by trained and experienced staff.

08. Dually Licensed Administrator. A skilled nursing facility and an assisted living facility with less than fifty (50) beds may have a multiple facility administrator with an approved plan of operation. A dually licensed administrator, who is licensed in Idaho as both a Nursing Home Administrator and a Residential Care Facility Administrator, may be approved as a multiple facility administrator only when the two (2) facilities are on the same property or campus.
RESCIND APPROVAL FOR MULTIPLE FACILITY ADMINISTRATOR

01. Rescind Plan of Operation Approval. When the conditions in the approved plan of operation are not met, the ability to have one (1) administrator for multiple facilities will be rescinded by the Department.

02. Reasons for Rescission or Denial of a Multiple Facility Administrator. Any and all facilities with a multiple facility administrator included in its approved plan of operation that receives repeat deficiencies, enforcement actions, or fails to submit acceptable plans of correction and evidence of resolution within the time frames established in Subsections 130.08 and 130.09 of these rules, may have its multiple facility administrator approval rescinded.

03. Rescission Review of Department Action. When the facility disagrees with the reasons for the rescission of the ability to have a multiple facility administrator, the administrator can request a rescission review. This request does not stay the rescission. The request must:

a. Be in writing;

b. Be received within fourteen (14) days of the date the Department's rescission letter was issued; and

c. State the specific reasons for disagreement with the Department's rescission action.

04. Review Decision. Within thirty (30) days from the date the review request is received, the Department will review and issue a decision. This decision is not appealable.
305. LICENSED PROFESSIONAL NURSE RESPONSIBILITY REQUIREMENTS.
The licensed professional nurse must assess and document, including date and signature, for each resident as described in Subsections 305.01 through 305.08 of these rules. (3-30-06)

02. Current Medication Orders and Treatment Orders. Assure the residents' medication and treatment orders are current by verifying:

a. That the medication listed on the medication distribution container, including over-the-counter medications as appropriate, are consistent with physician or authorized provider orders. (___)

b. That the physician or authorized provider orders related to therapeutic diets, treatments, and medications for each resident are followed; and (___)

c. A copy of the actual written, signed and dated orders must be present in each resident's care record. (3-30-06) (___)
Variances for Bulk OTCs & Vitamins

310. REQUIREMENTS FOR MEDICATION.

01. Medication Distribution System. Each facility must use medi-sets or blister packs for prescription medications. The facility may use multi-dose medication distribution systems that are provided for resident’s receiving medications from the Veterans Administration or Railroad benefits. The medication system must be filled
600. REQUIREMENTS FOR STAFFING STANDARDS.

01. On-Duty Staff During Residents' Sleeping Hours for Facilities of Fifteen Beds or Less. For facilities licensed for fifteen (15) beds or less, there must be at least one (1), or more qualified and trained staff, up, awake, and immediately available, in the facility during resident sleeping hours. If any resident has been assessed as having night needs or is incapable of calling for assistance staff must be up and awake. (3-30-06)

02. On-Duty Staff Up and Awake During Residents' Sleeping Hours for Facilities Licensed for Sixteen Beds or More. For facilities licensed for sixteen (16) beds or more, qualified and trained staff must be up and awake and immediately available, in the facility during resident sleeping hours. (3-30-06)

03. Detached Buildings or Units. Facilities with residents housed in detached buildings or units, must have at least one (1) staff present, and available in each building or unit when residents are present in the building or unit. The facility must also assure that each building or unit complies with the requirements for on-duty staff during resident sleeping hours to be up, awake, and immediately available in accordance with the facility's licensed bed capacity as provided in Subsections 600.01 and 600.02 of these rules. The Licensing and Survey Agency will consider a variance based on the facility's written submitted plan of operation. (3-30-06)
Timeframes for Staff Training

640. CONTINUING TRAINING REQUIREMENTS.
Each employee must receive a minimum of eight (8) hours of job-related continuing training per year. (3-30-06)

01. Staff Not Trained in Appropriate Areas. When a resident is admitted with a diagnosis of dementia, mental illness, developmental disability, or traumatic brain injury, or a resident acquires one (1) of these diagnoses, if staff have not been trained in the appropriate areas outlined in Section 630 of these rules, staff must be trained within thirty (30) calendar days. In the interim the facility must meet the resident’s needs. (3-30-06)

02. Additional Training Related to Changes. When policies or procedures are added, modified, or deleted staff must receive additional training relating to the changes. (3-30-06)

625. ORIENTATION TRAINING REQUIREMENTS.

01. Number of Hours of Training. A minimum of sixteen (16) hours of job-related orientation training must be provided to all new personnel before they are allowed to provide unsupervised personal assistance to residents. The means and methods of training are at the facility’s discretion. (3-30-06)

02. Timeline for Completion of Training. All orientation training must be completed within one (1) month thirty (30) days of hire. (3-30-06)

630. TRAINING REQUIREMENTS FOR FACILITIES ADMITTING RESIDENTS WITH DIAGNOSIS OF DEMENTIA, MENTAL ILLNESS, DEVELOPMENTAL DISABILITY, OR TRAUMATIC BRAIN INJURY.
A facility admitting and retaining residents with diagnosis of dementia, mental illness, developmental disability, or traumatic brain injury must train staff to meet the specialized needs of these residents. Staff must receive specialized training within thirty (30) days of hire or of admission of a resident with one (1) of these conditions. The means and methods of training are at the facility’s discretion. The training should address the following areas: (3-30-06)
Interest on Monetary Penalties

925. ENFORCEMENT REMEDY OF CIVIL MONETARY PENALTIES.

04. Payment of Penalties. The facility must pay the full amount of the penalty within thirty (30) calendar days from the date the notice is received, unless the facility requests an administrative review of the decision to assess the penalty. The amount of a civil monetary penalty determined through administrative review must be paid within thirty (30) calendar days of the facility's receipt of the administrative review decision unless the facility requests an administrative hearing. The amount of the civil monetary penalty determined through an administrative hearing must be paid within thirty (30) calendar days of the facility's receipt of the administrative hearing decision unless the facility files a petition for judicial review. Interest accrues on all unpaid penalties at the legal rate of interest for judgments. Such interest accrual will begin one (1) calendar day after:

- the date of the initial assessment of the penalty, (3-30-06)
- the date of the issuance of the administrative review, administrative hearing or the final judicial review.
02. **Reasons for Revocation or Denial of a Facility License.** The Department may revoke or deny any facility license for any of the following reasons:

(3-30-06)

m. The licensee has *been convicted of previously operating* any health facility or residential care or assisted living facility without a license or certified family home without a certificate. **(3-30-07)**
Questions?

Award Winning Facilities

Gold Award
Ashley Manor Buttercup Trail - Dionne Bullock

Silver Awards
Edgewood Springcreek – Meridian – Marilyn Beutler
Ashley Manor 8th Street – Bridgett Snyder
Hayden Valley Assisted Living, Inc – Tom Tanner
Meyer Manor II – Shirlie Meyer
Desano Place Suites – Gooding – Kimberly Hill
Alpine Meadows – Meridian – Scott Halladay
Ashley Manor Highmont – Boise – Pam Lenerville
Rampart House – Boise – Adi Mihalache
Lakeside – Winchester – Brian Bagley

Silver Awards
Antelope Creek – Darlington – Trenna Bohay
Harmony House II – Hayden – Jenifer Christensen
B&B – Kooskia – William Shobe
Glenwood House – Boise – Erika Weber
Karcher Estates – Nampa – Shelley Henderson
Hillcrest Manor – Boise – Melissa Wolfe
Updates and Hot Topics

• Board of Nursing Rule Changes
• Licensing System
• Annual Reports
• Administrator and Nurse As Worked Schedules
Website Information
www.assistedliving.dwh.idaho.gov

- State Statutes - Idaho Code (IC)
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