Negotiated Rulemaking Meeting and Comment Summary

July 17th, 2019 // 2:00pm -4:00pm

Negotiated Rulemaking DOCKET NO. 0322-1901

Meeting location: 3232 Elder Street, Boise, Idaho 83705 as published in the Administrative Bulletin

Facilitator: Tamara Prisock
Bureau: Licensing & Certification
Program: Residential Assisted Living

Call to Order and Outline Meeting Format

I. Purpose of Meeting

a. To provide an opportunity for public comment on the rule draft for IDAPA Chapter 16.03.22.

II. Discussion Points

a. We will be collecting comments of the rule docket for an entire chapter rewrite. We are interested in modernizing and updating the chapter. In 2018, we partnered with Idaho Health Care Association to work on several initiatives – there have been workgroups addressing specific issues related to Assisted Living. This rule docket reflects some of that work done by workgroup.

Subject Matter Experts Present: Ashley Henscheid, Jamie Simpson & Nate Elkins

III. Follow Up

a. Written comments for Docket No. 0322-1901 were submitted on or before Wednesday, July 17th to:

Tamara Prisock DHW - Administrative Procedures Section
450 W. State Street - 10th Floor
P.O. Box 83720
Boise, ID 83720-0036
Phone: (208) 334-5564; Fax: (208) 334-6558
E-mail: dhwrules@dhw.idaho.gov

Negotiated Rulemaking - Comment Summary
DOCKET NO. 0322-1901

Comments from 07/16/2019, Written Comments Submitted Post-Meeting, and Responses

Verbal and written comments were submitted by the following individuals/organizations:

W-Written V- Verbal	Comments	Responses	Policy Change
V – Keith Fletcher with Ashley Manor	In section 130.1 page 21, it appears that it is written in such a way that two follow-up surveys that could be done - verses just one follow-up. Based upon the possible response time to core verses a non-core; that gap between the 45 days verses the 60 days could require two surveys.	This not a new rule or requirement. The Department has always conducted follow-up surveys. The Department will put an explanation of how follow-up surveys are completed in a newsletter along with other rule changes.	N/A
V – Keith Fletcher with Ashley Manor	Also, CCAC and Work Committees have an opportunity - regarding the public availability of survey results on FLARES. I would like to address how many surveys get posted and over what amount of time.	The Department worked with the CCAC and IHCA work groups, which determined survey results would be removed from the public portal of FLARES after 5 years and two surveys.	Survey results will be removed from the public portal of FLARES after 5 years and two surveys.
V – Keith Fletcher with Ashley Manor	Informal Dispute Resolutions. That category does no lend itself to cover non-core issues that might come up – specifically non-core repeat deficiencies and their enforcement. I would like to see that process be made available in rule.	Over the last year, work groups consisting of the Department, CCAC, IHCA and advocates met and discussed issues. All the parties recommended a process for disputing non-core	New process has been implemented.

W-Written V- Verbal	Comments	Responses	Policy Change
		issues. The process was posted on the RALF program's website and there was an article written in a newsletter. After a 6-month period, the implementation of the process was reviewed by the workgroup and CCAC was found to be effective.	
V – Keith Fletcher with Ashley Manor	Finally, would like to look in enforcements and the definition of deficiency. Originally a core was much more severe than a punch. In the enforcement, there's confusion because it only uses the word "deficiency" which could imply either one. My suggestion would be to clarify what a core, verses non-core, verses repeat. With a repeat: is that twice – ten times. Where does it get itself to the level that it needs to be enforced? That term is in the verbiage repeatedly…. Most deficiencies deserve a couple kicks at the cans.	The enforcement section is clearer in the proposed rules, and still allows the Department the flexibility it requires when applying enforcement actions. The Department did revise rule 925 based on this comment.	The Department removed rule 925.02.a, which took away the ability to apply civil monetary penalties for an initial deficiency.
V – Keith Fletcher with Ashley Manor	**Comment added later: Pertaining to background checks, Pastors need private time with residents. There's a lot of room for clarification between what a visitor is verses a volunteer. I don't think that the rules (as currently presented) make a clear enough distinction.	The Department believes the comment was referencing rule 010.27, direct patient access individual definition. The Department revised the rule to incorporate this comment.	The Department removed "any individual, who volunteers at…" and reworded rule 010.27, so the rule would not impact volunteers.
V - Doug Park –	You should be commended for the work on these rules. I would recommend using more "shalls" than "shoulds" throughout these changes for clarification.	At the direction of the Division of Financial	

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Resident Advocate		Management, all "shall" words were replaced with "must" or "may".	
V – Robert Vande Merwe – Executive Director of Idaho Health Care Association	Existing language that is not changing is language that allows a facility to be penalized with a monetary penalty after one citation. Would like to see that moved to multiple/repeats or core issues (as with Keith).	This was not a change from the 2006 rule requirements; however, the Department revised the rule to incorporate this comment.	The Department removed the initial deficiency CMP from rule 925.02.a
V – Robert Vande Merwe – Executive Director of Idaho Health Care Association	Facilities are required to give records to patients. The rules aren't consistent between providing electronic and paper copies– we would like to see this be more consistent. We would like it to be 5 days (more than 2).	The Department revised the rule to incorporate this comment. The Department believes that a two-day period to obtain a copy of a resident record is critical to a resident's continuity of care.	The Department clarified rule 217.02, so that it clearly includes paper and electronic records.
V – Robert Vande Merwe – Executive Director of Idaho Health Care Association	Section 305.01 – Is requiring a nurse to be the only one who can speak to a physician. In small facilities it is different than large facilities. Many times, it is the caregiver or owner who knows the drugs and residents better than the nurse.	This is not a new rule. The 2006 rule at 305.07, was merged into 305.01. The facility nurse has always been required to notify the physician or authorized provider of medication interaction or usage concerns. The nurse would be the only qualified professional to assess a resident's response or	

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		interaction to a medication at the facility. The Department did not revise the rule based on this comment.	
V – Robert Vande Merwe – Executive Director of Idaho Health Care Association	305.04 – We do not like the word "potential" because it is too broad.	The Department revised the rule to incorporate this comment.	Rule 305.04 was rewritten and the word "potential" was removed.
V – Robert Vande Merwe – Executive Director of Idaho Health Care Association	Comprehensive assessment – interim care is for 14 days...but on the day of admission, what's happening right away as an Initial Assessment. Maybe call it an Initial Assessment instead of a Comprehensive Assessment because it's difficult to do until you know the patient.	The Department revised the rule to incorporate this comment.	The Department clarified rule 319. Now the rule includes direction on what components are required initially and what components are required within 14 days.
V – Robert Vande Merwe – Executive Director of Idaho Health Care Association	310.04 g – Regarding Intent for Elopement – Expressing intent. Does it mean that they are at risk if they express it? A desire to be home would allow all residents to be a risk. Every resident is at risk if they express a desire to be home. This may be casting too wide of a net.	The rule references may have changed between drafts. The Department believes this is referencing rule 319.04.g. The Department realized this was a duplicate.	The Department deleted 319.04.g
V – Robert Vande Merwe – Executive Director of Idaho	3.30.04 – Again the word "potential" needs to be looked at because it's too broad. I don't know that it's possible to document all "potential" consequences.	This is not a clear rule reference and the Department could not respond to this comment.	The Department removed the word "potential" from 305.04

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Health Care Association			
V – Robert Vande Merwe – Executive Director of Idaho Health Care Association	03.30.C.VI – "Any change" is too broad – for example, a 1lb drop in weight isn't a big deal, but would need to be reported.	The Department believes this is referencing rule 330.04.d.vi. The Department revised the rule to incorporate this comment.	The Department removed the word "any" from rule 330.04.c.vi.
V – Robert Vande Merwe – Executive Director of Idaho Health Care Association	335.02 Regarding employees who are sick. A best practice would be to come back wearing a mask. Otherwise, stay at home. What does "better" mean? Does it require nurse note or a nurse's assessment?	This is not a new rule. The 2006 rules at 335.01 stated, "Staff with an infectious disease must not work until the infections stage ~~is corrected~~…." The proposed rules replaced "~~is corrected~~" with no longer exists". This wording change did not change the rule meaning. The Department mission is to ensure residents health and safety is protected who reside in ALFs. Residents cannot be protected when staff with active infections are caring for residents. Therefore, the Department did not revise the rule based on this comment. The Department could not find the term "better" in	

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		the proposed rules and could not respond to this portion of the comment.	
V – Robert Vande Merwe – Executive Director of Idaho Health Care Association	Multiple story needs to be clearer regarding age or time. It's too aggressive to just give a year and then no patient could live on the 2nd floor who is not ambulatory. There should be some grandfathered language there. Also, we would like guidance on what the 'primary diagnosis' is.	The Department believes this comment is associated with rule 402 and 404. The Department stands by its mission to protect residents who reside in assisted living facilities. Residents who are non-ambulatory and reside on second or third stories are at risk to their health and safety, as there would be no way to quickly evacuate them. The Department would like to clarify that the proposed rule would only affect new residents who are admitted after the 1/1/21 date.	The Department did not revise the rule and the proposed language will stand.
V – Robert Vande Merwe – Executive Director of Idaho Health Care Association	Resident Trust Account: Makes it seem like all residents are required to have an account whereas that shouldn't be required for all.	This is not a new rule. The trust account language was in the 2006 rules. However, the Department revised the rule to incorporate this comment.	The Department removed trust account language found at rules 012.32 and 505.01. In Addition, the Department removed "separate trust accounts" from

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			rule 153.01.c, and added language, "…funds must be separate from any facility accounts;"
V – Robert Vande Merwe – Executive Director of Idaho Health Care Association	550.50.13 – Remove the "fear" of retaliation. OK to remove retaliation, but how to remove "fear".	The Department recognizes that fear of retaliation is a real phenomenon that residents express to advocates and surveyors. Although, the feeling has been expressed and documented, the Department concedes that fear is hard to quantify and revised the rule to incorporate this comment.	The Department replaced "fear of retaliation" with "threat of retaliation" for rule 550.13.
V – Robert Vande Merwe – Executive Director of Idaho Health Care Association	Regarding the word "Consultant" – we would like to see more specificity so that it's not so broad. No one can pick up the rules and know what is going to happen from this one thing.	A consultant is an important enforcement action, which is applied when administration and staff do not understand the IDAPA requirements. The Department must impose enforcement actions when applicable. As a result, the rule was not revised based on this comment.	The Department must impose enforcement actions when applicable. As a result, the rule was not revised based on this comment.
V – Robert Vande Merwe – Executive	Multi-Administrator should remain the same because it has already been learned and everyone understands it. Maybe keep it to making variances.	The rule requires one licensed administrator to be over one	The Department added language to rule 215, that incorporated the

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Director of Idaho Health Care Association		facility. When an administrator is over more than one facility, it would require a variance. Per Department policy guidelines, the variance requirements should not be in rule, but in policy. After discussion with the industry, the Department agreed to leave in a portion of 216.	previous requirements in rule 216.03.
V – Robert Vande Merwe – Executive Director of Idaho Health Care Association	Considering the Red-Tape Reduction Act, we were hoping for more reduction than there has been.	The Department's role is to ensure residents of Idaho RALFs receive quality care in a safe, humane, home-like living environment where their rights are protected. The Department streamlined, clarified, relaxed and eliminated rules; while still upholding our mission to protect Idahoans who live in Idaho RALFs.	There was a total reduction of 5,949 words and 51 restrictive words.
V – Kris Ellis – Idaho Health Care Association	Part of our concern is with the definition of "non-ambulatory". The word 'unable' within the definition is ambiguous and could use some clarification. Who is going to decide if you're likely to be 'unable'? It's problematic.	The Department revised the rule to incorporate this comment.	The Department removed the words "…or likely to be unable…" from rule 011.18.
V – Kris Ellis – Idaho	Things that are added: Requiring employees, who self-discloses their background check, to be in line of sight is very restrictive.	The 2006 rules stated, ""the individual is allowed to only	The Department clarified rule 009.03.b., in-line of sight

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Health Care Association		work under ~~supervision~~ until the criminal history and background check is completed". The term "supervision" was vague and unclear to providers and surveyors. In the proposed rules, we wanted this rule to be clarified, so providers would understand the expectation. After receiving this comment and balancing it with the Department's mission to ensure residents are protected, we revised the rule to incorporate this comment.	requirement to read, "…The cleared employee must keep the individual waiting for clearance, in line-of-sight when the individual has direct resident access…."
V – Kris Ellis – Idaho Health Care Association	Also, it should be considered that a Facility that is purchased, shouldn't have to do all background checks all over again. It could potentially affect care because with bigger facilities, it creates a bottle neck... Maybe streamline the process?	This is not a new rule. This Department Criminal History rule requirements found at 16.05.06, state a new employer, including a change of ownership, must complete background checks.	
V – Kris Ellis – Idaho Health Care Association	Adding finances to definitions of daily living. Doesn't really fit and maybe shouldn't be added there.	The 2006 rule definitions of Instrumental activities of daily	The Department removed "managing finances" and

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		living (IADLs) and rule 010.04. activities of daily living (ADLs) were merged into one definition. However, the Department revised the rule to incorporate this comment.	"preparing meals" from the definition of Activities of Daily Living found at rule 010.04.
V – Kris Ellis – Idaho Health Care Association	Section 10.30. The definition of 'exploitation' needs a disqualifier. For example: If someone refuses breakfast, they should still get charges without it being labeled as exploitation.	The definition of exploitation previously had subsections, which were collapsed into one rule.	The Department did not revise the rule based on the suggested disqualifier, as a refusal would not be considered exploitation.
V – Kris Ellis – Idaho Health Care Association	010.27. Direct Access: Background check. Concerning kids going to sing Christmas carols for example, would they need background checks too. How far will this rule change go?	The Department revised the rule to incorporate this comment.	The Department removed "any individual, who volunteers at…" and reworded rule 010.27, so the rule would not impact volunteers.
V – Kris Ellis – Idaho Health Care Association	150 Policies and procedures, 150.05. Detailed list of people who can't be admitted. "But not limited to…." It might be too vague.	The Department revised the rule to incorporate this comment.	The Department removed the words, "but not limited to…" from rule 152.03.b.
V – Kris Ellis – Idaho Health Care Association	Section 154.03 – Voluntary generators. If it's voluntary (beyond the rules) it shouldn't be a rule.	Facilities have the choice to install the generator of their choice. However, if they choose to install a generator, the generator must meet specific standards, which have been added to the proposed rules. "	The Department did not revise the rule and the proposed language will stand.

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V – Kris Ellis – Idaho Health Care Association	215.08a. Notifying administrator. "all complaints, incidents etc. "All" is a very big word. Example: If the green beans were cold, how severe does it need to be? We would like to see some quantifiers here to help determine the severity.	This is not a new rule. The 2006 rule at 350.01 was moved to 215.08.a. However, the Department revised the rule to incorporate this comment.	The Department clarified the rule by allowing 1 business day to notify the administrator of complaints.
V – Kris Ellis – Idaho Health Care Association	154. Remove the 'level evacuations' as Robert said.	The Department believes this comment is associated with rule 402 and 404. The Department stands by its mission to protect residents who reside in assisted living facilities. Residents who are non-ambulatory and reside on second or third stories are at risk to their health and safety, as there would be no way to quickly evacuate them. The Department would like to clarify that the proposed rule would only affect new residents who are admitted after the 1/1/21 date.	The Department did not revise the rule and the proposed language will stand.
V/W – Francoise Cleveland - AARP	In definitions for Relatives: We could like to change the word caretaker to caregiver.	The Department revised the rule to incorporate this comment.	The Department replaced the word "caretaker" with "caregiver in rule 215.07.a.

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V/W – Francoise Cleveland - AARP	Previous criminal history. Background check – The word "IF" isn't consistent as it doesn't align with the bullets below it.	The Department revised the rule to incorporate this comment.	The Department reworded 009.06.b and e. to align with the use of "if" at rule 009.06.
V/W – Francoise Cleveland - AARP	Section 110. Requirements for a complete set of operations and procedures were removed. We would like to see that those are listed out so that they are all included.	The Department reviewed this comment and left the strike out reference at rule 110.01.i. However, The Department revised rule 150 to incorporate this comment.	The Department added a list of policies the facility must have to rule 150.
V/W – Francoise Cleveland - AARP	150 (p22.). We are concerned with 'examples of policies are not limited'….it sounds like they are not required. Add the words "Must include but are not limited to those areas".	The Department revised the rule to incorporate this comment.	The Department added a list of policies the facility must have to rule 150.
V/W – Francoise Cleveland - AARP	Emergency Preparedness (p26). At the end of the first paragraph, we would like to see some additional language: "The plan should be well developed, feasibly and practiced, and should include initial training of new hires, a periodical review of existing and unannounced drills." This seemed like a better place to add the training of staff.	The Department requires the facilities to participate in emergency drills rule section 410. at rule… The Department did not revise the rule based on this comment.	Each facility must include emergency preparedness requirements in their policies and procedures. The Department encourages facilities to look at their current plan and evaluate its effectiveness.
V/W – Francoise Cleveland - AARP	An 04 added to Files. "Facility shall file emergency plans with the state priory to licensure and shall share with all residents upon admission. When a facility makes a change to the plan, it shall update the file with the State and share the activity plan with the resident members."	Each resident's admission agreement must include conditions of when they may have to be moved in an emergency. The Department also requires the emergency preparedness plan	The Department added language to rule 155.01, requiring facilities to update their emergency plan annually.

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		to be updated annually.	
V/W – Francoise Cleveland - AARP	215.11. Discrepancy between definition of the administrator's designee; it's authorized in writing, but in the definitions of the first part, it doesn't say it needs to be in writing.	The Department revised the rule to incorporate this comment.	The Department removed the words "authorized in writing" from 215.11 and placed the words in 010.06, under the definition of administrator designee.
V/W – Francoise Cleveland – AARP	330. Evidence that on (or prior) to that "IF" the facility does not carry liability insurance – have the word "if". I assume that some do, and some don't, so the word "if" would be helpful.	The Department revised the rule to incorporate this comment.	The department replaced the word "that" with "if" for rule 330.13.c.
V/W – Francoise Cleveland - AARP	510, 515, and 520. Would like to see more specific guidelines in this part. Protection from abuse, neglect etc. We would like to see more specific guidelines here. There is potential for huge problems and could use more policy to protect those residents.	The Department received further written comments from Francoise Cleveland from AARP. Please see the detailed written comments below from AARP.	The Department added requested language to rule 510. The Department added requested language to rule 515. The Department added requested language to rule 520. The Department added requested language to rule 525.
V – Kathy Brink with Ashley Manor	152.05b. "limited to" …. Thanks for taking care of this!	The Department revised the rule to incorporate this comment.	The Department removed the words, "but not limited to…" from rule 152.03.b.
V – Kathy Brink with Ashley Manor	320.05. Developing and handling and making a copy of the service agreement to residents. Should address giving them to Alzheimer's residents. Sometimes they get upset by these and take offense. Maybe include language that a resident can receive it if they are capable of	This is not a new rule. Each resident, no matter their diagnosis, should be involved in	The Department did not revise the rule based on this comment.

W-Written V- Verbal	Comments	Responses	Policy Change
	understanding...if guardian or conservator thinks they're capable, etc.	determining their cares and services.	
V – Kathy Brink with Ashley Manor	320.07. "Resident can make those choices" Some clarification is needed there. Some of the services that they would like to have, the facilities aren't cap It's a lot of paperwork, and this rule doesn't make any sense. capable of helping with.	This is not a new rule. The facility is required in rules (2006 and proposed) to include descriptions of services provided and not provided in each resident's admission agreement. A resident should always be able to make their choices known to the facility. It is up to the facility to let the resident know when services cannot be provided.	The Department did not revise the rule and the proposed language will stand.
V – Kathy Brink with Ashley Manor	216. I believe that should be in rules and not policy.	The rule requires one licensed administrator to be over one facility. When an administrator is over more than one facility, it would require a variance. Per Department policy guidelines, the variance requirements should not be in rule, but in policy. After discussion with the industry, The Department	The Department added language to rule 215, that incorporated the previous requirements in rule 216.03.

W-Written V- Verbal	Comments	Responses	Policy Change
		revised the rule to incorporate a portion of rule 216.	
V – Bridgett Rudisill with Ashely Manor	Regarding Relocation Agreements. Concerns about 3 pieces: Having a secondary location, that can provide the same level of care is unrealistic in smaller communities. It could be challenging if your location is a church or school. In our case, staff have go with residents. This section needs a more thorough review as it is unrealistic.	a. The Department mission is to ensure residents health and safety is protected in Idaho RALFs. Relocation agreements require a place where the facility can evacuate to in case of an emergency. Facilities must consider the patient population needs as well as their care and treatment. Providing an alternate or second location allows the facility to safely evacuate in case roads or other unforeseen circumstances prohibits a certain area or route. The Department did not revise the rule and the proposed language will stand. b. After careful consideration, we recognize that requiring facilities to have agreements with other providers that provide the	The Department removed the words “that can provide the same level of care” for rule 155.01. The Department revised the rule to incorporate this comment.

W-Written V- Verbal	Comments	Responses	Policy Change
		same level of care may be a burden on the facility and the gaining facility.	
V – Bridgett Rudisill with Ashely Manor	I would really support the 14-day phone call follow-up.	The Department believes this comment is related to rule 130.09, where the Department proposes to remove the condition of submitting evidence of resolution for non-core issue deficiencies. The Department appreciates the comment of support.	
V – Pamela Lernerville with Ashley Manor	I wanted to expand on Kris's comment concerning line of sight for people without backgrounds. This is unrealistic especially in smaller communities. You're setting up the resident to have an audience when they don't want one like during personal cares. Would like to see this section clarified or expanded upon.	The Department mission is to ensure residents health and safety is protected who reside in ALFs.	Each facility must carefully consider how they utilize staff who have not completed a background check, as the facility is obligated to protect residents who are in their care.
V- Caroline Moore with Brightstar Care	I have concerns with 216. We now have nothing and don't know what those guidelines would look like. We would like some guidelines because I don't know what that will look like. Because I'm new, I have no idea of what this should look like.	The rule requires one licensed administrator to be over one facility. When an administrator is over more than one facility, it would require a variance. Per Department policy guidelines,	The Department added language to rule 215, that incorporated the previous requirements in rule 216.03.

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		the variance requirements should not be in rule, but in policy. After discussion with the industry, the Department agreed to leave in a portion of 216.	
V- Caroline Moore with Brightstar Care	I would like to see a strike of 216.04. We have some additional regulations that aren't required for large facilities that would limit small facility growth.	The Department revised the rule to incorporate this comment.	The Department removed section 216.
V - Kris Ellis with Idaho Health Care Association	Idaho Health Care Association: 310.2 dealing with meds. The new language says if it's changed, it needs to be immediately removed. "Immediately" needs to be better described. Immediate could mean one second.	The Department revised the rule to incorporate this comment.	The Department removed the word "immediately" from rule 310.02.
V – Robert Vande Merwe with Idaho Health Care Association	I think there was a similar rule about medications in the facility. The use of the word "Immediately" is not practical in rules.	The Department could not find another "immediately" related to medications.	The Department removed the word "immediately" from rule 310.02. The word could not be located to replace in Section 305 or 310 apart from 310.02.
V - Cathy Hart - Ombudsman	I think that Robert's point is good, sometimes we see weeks and we need to answer that.	The Department appreciates the comment of why medication availability is important to the health and safety of residents.	The Department removed the word "immediately" from rule 310.02. The word could not be located to replace in Section 305 or 310 apart from 310.02.
V – Doug Park – Resident Advocate	I have a disabled brother. If he goes without his heart med for 12 hours, it puts him at risk.	The Department appreciates the comment of why medication availability is important to the health and safety of residents.	The Department removed the word "immediately" from rule 310.02. The word could not be located to replace in Section 305 or 310 apart from 310.02.

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V – Doug Park – Resident Advocate	Every resident (that is capable of being handled by facilities), should be driven by the Resident Care Plan; which is a promise made to the resident on the day they move in. If there needs to be a certain kind of training, then you need a policy or procedure to accommodate that individual. An exhaustive list lets the facility off the hook. The advertisement on FLARES drives the type of resident who would be at the facility.	The Department appreciates the comments supporting residents' health and safety who live in Idaho RALFs.	
V – Mark Maxfield with Cottages	I was late because I was celebrating a 10-year anniversary with my employees. It's a big deal. My caregivers asked if I would say that we have enough rules. They think that they are the only ones who care about the residents, but they're not. Let them just do their jobs. They are the ones who are most impacted. If the rewrite is supposed to be a reduction, please let it reduce. Clarification and condensing…isn't reducing. Reducing is reducing the burden to allow the providers to do their job. I would testify before legislature that we need less. Most providers want to do a good job. You can't legislate against bad actors. Background checks are much more restrictive. I will go to legislature to disagree with this draft as written because it's too much. I want less regulation, meaning the burden. Many times, when I read these, I think I know what Jamie means; but someone else will be in her position someday and things need clarification. Interpretations can be made in many ways and I think somehow, we need to be more specific. Life events can be positive and negative, so we need to ask, 'What leads to the maladaptive behavior'? That piece has been missing and needs to be corrected because assessments don't always catch those kinds of things. It's the language that needs to be cleaned up; for example, "Likely" under non-ambulatory.	The Department's role is to ensure residents of Idaho RALFs receive quality care in a safe, humane, home-like living environment where their rights are protected. The Department streamlined, clarified, relaxed and eliminated rules; while still uploading our mission to protect Idahoans who live in Idaho RALFs. There was a total reduction of 5,949 words and 51 restrictive words. The Department revised the rule background checks and non-ambulatory language to incorporate this comment.	The Department clarified rule 009.03.b., in-line of sight requirement from background checks to read, "…The cleared employee must keep the individual waiting for clearance, in line-of-sight when the individual has direct resident access…." The Department removed the words "…or likely to be unable…" from rule 011.18, related to non-ambulatory.
V – Monica Heath with Grace Assisted Living	I would like to add two words to 216. I would love it to say monthly/weekly average. If we can average them, it would be very helpful.	The rule requires one licensed administrator to be over one facility. When an administrator is	The Department removed section 216.

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		over more than one facility, it would require a variance. Per Department policy guidelines, the variance requirements should not be in rule, but in policy.	
V- Brian Bagley	Brian Bagley called Jamie Simpson and asked that we change the timeframe for reporting incidents from 24 hours to business days, so they are not trying to report things on holidays or weekends.	The Department revised the rule to incorporate this comment.	The Department replaced "within 24 hours" with "one (1) business day" for rule 215.07.f.
V – Coulter Kamo with Grace Assisted Living	Would like a way to verify that the action that has been taken is acceptable to the State through the follow-up phone call. Citing that sometimes it's difficult to understand what a particular survey team wants and that he's looking for consistency.	The Department will take this comment as we develop the process that will be implemented when the EOR process is removed.	
Comments Submitted Timely – In Writing		**Response**	
Written Comment from Idaho Health Care Association – Robert Vande Merwe	Thank you for allowing us to comment on these rule changes. The time allowed to review, and comment was insufficient, but we understand that this was beyond your control. General Comment: These rule changes were put forth without any discussion or development from industry or those impacted by the changes. We believe that several of the proposed changes are implementing what the department has been surveying to for some time. We are happy to help the department comply with the red-tape reduction act, but it is obvious that new requirements were added as well- which we have hi-lighted. We tried to comment on all the rules that we disagree with, but I am certain that because of the time allowed, we failed to comment on typos or rules which we do not support. We understand that the department has already agreed to implement some of our changes and would like to thank	The Department disagrees with the assertion the provider community did not have time to put forth their comments or have discussion. In April 2018, the Department signed a partnership agreement with IHCA to work on seven specific initiatives related to assisted living facilities. Between	

W-Written V- Verbal	Comments	Responses	Policy Change
	you for that. We are also recommending some changes that were not proposed. Some of our concerns include:	June 2018 and August 2019, six multi-stakeholder work groups held 72 work group meetings focused on addressing the seven initiatives. Many of the proposed changes in this rule docket are a result of the work group recommendations. In addition, the Department met with IHCA membership, prior to the Negotiated Rule Making Session, took calls and held a Negotiated Rule Making Session. Other options for rule negotiations still exist and the Department has been more than willing to discuss changes and reasons why rules have been changed. This written comment also states there was a total of 37 new rules, which were highlighted. The Department wanted to point out that sixteen (16) of the highlighted rules were clarifications to rules already	

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		present. Eleven (11) were either rules that were merged together or moved to other sections for streamlining and clarity. There were nine (9) new rules, which were added to clarify current rule requirements. There was one rule that was identified as new, but was found to be duplicative and was deleted.	
Written Comment from Idaho Health Care Association – Robert Vande Merwe	Section 03.02. We recommend allowing non-core issue citations to participate in the informal dispute resolution process. Currently non-core citations don't have an appeals process-only an opportunity to provide more information that surveyors might not have received. Because every non-core citation can lead to CMPs or other actions (especially if a repeat citation) there should be an ability to dispute the citation. We believe that these proposed rules add more regulations and more non-core violations will result.	Over the last year, work groups consisting of the Department, CCAC, IHCA and advocates met and discussed issues. All the parties recommended a process for disputing non-core issues. The process was posted on the RALF program's website and there was an article written in a newsletter. After a 6-month period, the implementation of the process was reviewed by the workgroup and CCAC was found to be effective.	
Written Comment	Section 06.04. Public availability of survey documents. Recommend updating to incorporate the	The Department worked with the	

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from Idaho Health Care Association – Robert Vande Merwe	recommendations of the recent workgroup. Previous surveys should not be posted on the department's website forever. We would also argue that complaints that unsubstantiated complaints should be removed from the department's website.	CCAC and IHCA work groups, which determined the survey results would be removed from the public portal of FLARES after 5 years and two surveys.	
Written Comment from Idaho Health Care Association – Robert Vande Merwe	Section 09.02.a. Requiring an employee to be within line of sight is a more restrictive requirement. This will prohibit an employee from working in an area without patients such as a kitchen or laundry. This would be an additional expense to facilities in a labor market that is already extremely challenging.	The 2006 rules stated, ""the individual is allowed to only work under ~~supervision~~ until the criminal history and background check is completed". The term "supervision" was vague and unclear to providers and surveyors. In the proposed rules, we wanted this rule to be clarified, so providers would understand the expectation. After receiving this comment and balancing it with the Department's mission to ensure residents are protected, we revised the rule to incorporate this comment.	The Department clarified rule 009.03.b., in-line of sight requirement to read, "…The cleared employee must keep the individual waiting for clearance, in line-of-sight when the individual has direct resident access…."
Written Comment from Idaho Health Care	Section 09.06. We would like the department to consider not requiring all new background checks for each employee when the ownership changes. This is quite an expense, and if a large facility changed ownership it may not be logistically possible to have all employees complete	This is not a new rule. This Department Criminal History	

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Association – Robert Vande Merwe	the background check process within required timeframes and maintain the same level of care in the facility.	rule requirements found at 16.05.06, state a new employer, including a change of ownership, must complete background checks.	
Written Comment from Idaho Health Care Association – Robert Vande Merwe	Section 10.04. Remove finances in the definition of ADL. Finances are not considered to be an ADL.	The 2006 rule definitions of Instrumental activities of daily living (IADLs) and rule 010.04. activities of daily living (ADLs) were merged into one definition. However, the Department revised the rule to incorporate this comment.	The Department removed "managing finances" and "preparing meals" from the definition of Activities of Daily Living found at rule 010.04.
Written Comment from Idaho Health Care Association – Robert Vande Merwe	Section 10.30. We recommend adding to the definition of exploitation, "the intentional" charging a resident for…. It should also be clarified that if they refuse a meal, medication or treatment, it is not exploitation to charge for the supply that the facility has already procured or scheduled staff in order to provide the service.	The definition of exploitation previously had subsections, which were collapsed into one rule. The Department did not revise the rule based on the suggested disqualifier, as a refusal would not be considered exploitation.	
Written Comment from Idaho Health Care Association – Robert Vande Merwe	Section 10.28 (?). Elopement: Request definition of elopement be off the physical property of the facility. Leaving the secured unit should not be considered an elopement in many cases. Also, the definition of elopement should not include residents that are able to make decisions for themselves.....if a resident chooses to leave the property and chooses not to sign out of the facility to go to the store, movie, etc. by rule this would be	This is not a new rule. The 2006 rules, defined elopements only under reportable incidents. This led to confusion about what an	The Department did not revise the rule and the proposed language will stand

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	considered an elopement.....it is our hope that all residents will check in and out with facility staff or document when they are coming and going from the facility; however, residents don't always tell staff. So, technically - by rule if a resident walks to the coffee shop across the street and doesn't inform staff it is considered an elopement.....makes no sense...,..an elopement should be specific to those that do not have the knowledge or understanding/memory to know where they are going and how to get back.	elopement was. To reduce confusion, a definition was added into rule. The Department stands by its mission to protect residents who reside in assisted living facilities. When a resident leaves a secured unit, it can result in harm to the resident.	
Written Comment from Idaho Health Care Association – Robert Vande Merwe	Section 10.27. We recommend changing the definition of direct patient access individual to: "Any individual who is contracted with the facility as a contractor or volunteer or is employed…." The proposed language could require all children who come in and go room to room to sing and visit with the residents to have a background check. You might consider a clarification that volunteers, who have on-on-one access, but remain in the community areas are not required to have a background check.	This definition was added to clarify requirements. The Department revised the rule to incorporate this comment.	The Department removed "any individual, who volunteers at…" and reworded rule 010.27, so the rule would not impact volunteers.
Written Comment from Idaho Health Care Association – Robert Vande Merwe	Section 11.15. (?) Maladaptive behavior: We believe that "any behavior which interferes with resident cares" is too broad. Many patients with dementia or Parkinson's Disease have behaviors which interfere with resident care. However, tremors, failing to remember or follow directions should be seen as a symptom of the disease rather than a maladaptive behavior. Although defining maladaptive behavior might be a good idea, the department should remember that every facility will be forced to change their polices, procedures and forms.	This is not a new rule. In the 2006 rules, the behavior definition was included under requirements at rule 225. The lack of a clear definition of a maladaptive behavior led to confusion of what a behavior was. For clarity, the Department took the definition from 225 and made a	The Department clarified rule 011.11, by adding language that "….Involuntary muscle movements are not considered maladaptive behaviors."

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		definition in the proposed rules. The Department revised the rule to incorporate this comment. The Department is unclear how moving a definition from the requirement section to the definition section, forces facilities to rewrite policies, procedures or forms.	
Written Comment from Idaho Health Care Association – Robert Vande Merwe	Section 11.26. Non-ambulatory added definition. We recommend removing "is likely to be unable" in the definition of Non-ambulatory. This seems to subjective.	The Department revised the rule to incorporate this comment.	The Department removed the words "…or likely to be unable…" from rule 011.18.
Written Comment from Idaho Health Care Association – Robert Vande Merwe	Section 12.32 Trust account. We don't understand why the definition of trust account is being eliminated. Section 153 addresses when a facility manages residents money. Section 153 Requires a facility to have a separate account for each resident. This is perhaps not written correctly, is not a common practice and would be very expensive and unreasonable.	This is not a new rule. The trust account language was in the 2006 rules. However, the Department revised the rule to incorporate this comment.	The Department removed trust account language found at rules 012.32 and 505.01. In Addition, the Department removed "separate trust accounts" from rule 153.01.c, and added language, "…funds must be separate from any facility accounts;"
Written Comment from Idaho Health Care	**Section 12.33.** UAI. We don't understand why the definition of UAI is being eliminated. It is in statute. Eliminating the current assessment language and only	The Uniform Assessment Instrument (UAI) is a Medicaid pricing	

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Association – Robert Vande Merwe	using the new "comprehensive assessment seems to contradict statute.	tool. This term caused confusion with providers with the Uniform Assessment Criteria described in rule. All language regarding the UAI was removed from rule. The Department did not revise the rule based on this comment.	
Written Comment from Idaho Health Care Association – Robert Vande Merwe	**Section 130.** We request a clarification or change that each standard survey is a new survey and not a follow-up survey from the previous survey.	This not a new rule or requirement. The Department has always conducted follow-up surveys. The Department will put an explanation of how follow-up surveys are completed in a newsletter along with other rule changes.	
Written Comment from Idaho Health Care Association – Robert Vande Merwe	**Section 130.08.c.** We do not support the reduced response from 60 days to 45 days.	This is not a new rule. Rule 900.03 in the 2006 rules, stated 45 days. The language was merged for consistency and to reduce confusion. The Department did not revise the rule based on this comment.	
Written Comment	Section 150. Policies and procedures. We recommend eliminating "but not limited to".	The Department revised the rule to	The Department removed the words, "but not

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from Idaho Health Care Association – Robert Vande Merwe		incorporate this comment.	limited to…" from rule 152.03.b.
Written Comment from Idaho Health Care Association – Robert Vande Merwe	Section 153.01.iii. As we mentioned, this new rule will require the facility to have a separate bank account for every patient.	This is not a new rule. The trust account language was in the 2006 rules. However, the Department revised the rule to incorporate this comment.	The Department removed trust account language found at rules 012.32 and 505.01. In Addition, the Department removed "separate trust accounts" from rule 153.01.c, and added language, "…funds must be separate from any facility accounts;"
Written Comment from Idaho Health Care Association – Robert Vande Merwe	Section 154.01. Relocation agreements: This rule changes from 1 to 2 the number of evacuation relocation locations. We do not support this change. The proposed rule also does not allow agreements with churches, daycares or schools which might be the best location for some facilities. We recommend removing language "locations provide the same level of care".	a. The Department mission is to ensure residents health and safety is protected who reside in ALFs. Relocation agreements require a place where the facility can evacuate to in case of an emergency. Facilities must consider the patient population needs as well as their care and treatment. Providing an alternate or second location allows the facility to safely evacuate	The Department removed the words "that can provide the same level of care" from rule 155.01.

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		in case roads or other unforeseen circumstances prohibits a certain area or route. The Department did not revise the rule and the proposed language will stand. b. After careful consideration, we recognize that requiring facilities to have agreements with other providers that provide the same level of care may be a burden on the facility and the gaining facility. The Department revised the rule to incorporate this comment.	
Written Comment from Idaho Health Care Association – Robert Vande Merwe	Section 154.03. This rule adds a requirement for a facility that voluntarily has a generator. Recommend deleting rule, and allow facilities to use the generator of their choice because generators are not required. This could be a perfect use of "technical assistance" rather than in rule.	Facilities have the choice to install the generator of their choice. However, if they choose to install a generator, the generator must meet specific standards, which have been added to the proposed rules. " The Department did not revise the rule and the proposed language will stand.	

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Written Comment from Idaho Health Care Association – Robert Vande Merwe	Section 215.8. This rule requires the administrator to be notified of "all" complaints, incidents, etc. "immediately" There is not a qualifier of complaints, i.e., if there is a complaint about the green beans were overdone, it should not require "immediate" notification. Certainly, some complaints, incidents should likely require "immediate" notification but certainly not all.	This is not a new rule. The 2006 rule at 350.01 was moved to 215.08.a. The administrator needs to know what the concerns and issues are going on at their facility. The Department revised the rule to incorporate this comment.	The Department clarified the rule by adding "1 business day" to notify them of complaints.
Written Comment from Idaho Health Care Association – Robert Vande Merwe	Section 215.08.e. This rule requires corrective action to be taken immediately. However, b gives the administrator 30 days to complete the investigation. Seems to conflict. It assumes there is something to resolve prior to the conclusion of the investigation. Recommend clarification.	This is not a new rule. The 2006 rule at 350.06 was moved to rule 215.08.e. The Department revised the rule to incorporate this comment.	The Department removed references to allegations from rule 215.07.a.
Written Comment from Idaho Health Care Association – Robert Vande Merwe	Section 215.7. We recommend leaving some of the guidance regarding multiple facilities administrators in rule.	The rule requires one licensed administrator to be over one facility. When an administrator is over more than one facility, it would require a variance. Per Department policy guidelines, the variance requirements should not be in rule, but in policy. After discussion with the industry, the Department	The Department added language to rule 215, that incorporated the previous requirements in rule 216.03.

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		agreed to leave in a portion of 216.	
Written Comment from Idaho Health Care Association – Robert Vande Merwe	Section 215.08.f. This should be extended to 2 business days. 24 hours forces the administrator at all hours of the day and night to collect the information and submit it to the department. If the incident occurs on Christmas Eve, we have to report it no later than 24 hours later on Christmas day, why? No one is at work in Boise on holidays or weekends.	The Department revised the rule to incorporate this comment.	The Department replaced "within 24 hours" with "one (1) business day" for rule 215.07.f.
Written Comment from Idaho Health Care Association – Robert Vande Merwe	Section 220.01. This rule requires a comprehensive assessment prior to or on the day of admission. Seems to conflict. The rule also states that an interim plan of care is used "until the facility can complete the resident assessment process". Recommend clarification.	The Department revised the rule to incorporate this comment.	The Department clarified rule 319. Now the rule includes direction on what components are required initially and what components are required within 14 days.
Written Comment from Idaho Health Care Association – Robert Vande Merwe	Section 220.04 staffing. Adds "based on census and acuity" language. This addition will undoubtedly lead to ambiguity and differences of opinion on adequacy of staffing. Recommend leaving existing language.	This is not a new rule. The additional language was intended to clarify the rules. However, the Department revised the rule to incorporate this comment.	The Department removed the words, "based on census and acuity…" from rule 216.04.
Written Comment from Idaho Health Care Association – Robert Vande Merwe	**Section 221. 02.** Requires copies of records to be delivered in two days. We recommend allowing 7 days.	The Department believes the reference was to rule 217.02. This is not a new rule. The 2006 rules were inconsistent with the timeframe they were required to provide access and copies to residents	

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		or their representatives. The Department believes that a two-day period to obtain a copy of a resident record is critical to a resident's continuity of care.	
Written Comment from Idaho Health Care Association – Robert Vande Merwe	Section 250.14. Do not agree with the addition of "risk of elopement"? Many residents could have a "risk" of elopement but should not be confined to a secure environment.	This is not a new rule, only clarifying language was added. However, the Department revised the rule to incorporate this comment.	The Department removed at risk" and replaced with "have a history of elopement or attempted elopement." For rule 250.13.
Written Comment from Idaho Health Care Association – Robert Vande Merwe	Section 260.07. Recommend adding a definition of "toxic chemicals" to the definitions.	The Department revised the rule to incorporate this comment.	The Department added a definition at 012.28, as follows: "**Toxic Chemical**. A substance that is hazardous to health if inhaled, ingested, or absorbed through skin."
Written Comment from Idaho Health Care Association – Robert Vande Merwe	Section 305.01. New rule requires that the nurse notify the physician of any concerns. Currently many staff and administrators currently do this well. This seems to be one step towards requiring a nurse on staff 24-7.	This is not a new rule. The 2006 rule at 305.07, was merged into 305.01. The facility nurse has always been required to notify the physician or authorized provider of medication interaction or usage concerns. The nurse would be the only	

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		qualified professional to assess a resident's response or interaction to a medication at the facility. The Department did not revise the rule based on this comment.	
Written Comment from Idaho Health Care Association – Robert Vande Merwe	Section 305.02. a. This rule requires all medications and treatments to be available at all times. The rules should allow time for facilities to acquire them from the pharmacy. They cannot be "immediately" be available. Also, can treatments always be available in the facility? Requiring all treatments to be on hand is confusing. Consider defining treatment or remove it from this section. Consider moving this entire section to 310 that is pertaining to requirements for medications instead of requirements for Nursing Assessment.	The facility nurse is directed in rule to review and implement new orders (300.02). This includes making sure that medications and treatments are available as ordered. Therefore, this requirement belongs under nursing tasks. The Department's obligation is to protect residents who live in assisted living. Therefore, the rule was not revise based on this comment.	
Written Comment from Idaho Health Care Association – Robert Vande Merwe	Section 305.04. This rule requires nurses to report to physicians anything that has the "potential" to affect the health and safety. What does this mean? Almost anything could have the "potential" to affect health and safety.	This is not a new rule. The 2006 rule at 305.05 was moved to 305.04. The facility nurse always needed to report medication and health needs to the physician or authorized provider; however,	The Department removed the word "potential" from rule 305.04.

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		the placement of the language on 305.05; instead of 305.04 did not make logical sense. The Department revised the rule to incorporate this comment.	
Written Comment from Idaho Health Care Association – Robert Vande Merwe	Section 310.2. This rule requires discontinued medications to be "immediately" removed from the residents medication supply (med-cart). This conflicts with 30 days to discard medications. What is immediately? Not reasonable, if a patients medications are changed, at 9AM and you don't have them off the med cart by 9:02 you would be in violation of this rule. Need to give adequate time to remove medications from cart, or have it coincide with the 30 days or eliminate this timeline all together.	This is not a new rule, only clarifying language was added. The Department revised the rule to incorporate this comment. However, due to the responsibility to protect residents, the proposed language about removing the discontinue medication or treatment from the resident's supply will stand. This ensures they are not given discontinued medications or treatments which could impact their health and safety.	The Department removed the word "immediately" from rule 310.02.
Written Comment from Idaho Health Care Association – Robert Vande Merwe	Recommend addressing new law for drug donations.	The Department revised the rule to incorporate this comment.	The Department added "or other authorized entity" into rule 310.02
Written Comment	Section 320 Comprehensive assessment: Again, is the comprehensive assessment required prior to the	The Department believes the	The Department clarified rule 319.

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from Idaho Health Care Association – Robert Vande Merwe	completion of the NSA which is required no later than 14 days? Earlier in Section 320 the rules allow for 14 days to complete the assessment process and develop the NSA. If family is unable to provide information about hobbies, community support systems and work life information… at the time of admission, can't admit? We agree that some kind of assessment prior to or on the day of admission is critical but seems inconsistent with the allowance for 14 days to operate with an interim plan of care.	comment is referring to rule 319, in the updated proposed rules. The Department revised the rule to incorporate this comment.	Now the rule includes direction on what components are required initially and what components are required within 14 days.
Written Comment from Idaho Health Care Association – Robert Vande Merwe	Section 320.05.g (?) This rule requires a resident who has "expressed an intent" to elope to be placed in a secure environment. A resident who says they'd like to be home or plan to go home- but never act on their expression may not be elopement risk. Putting them in a secure unit could violate their rights. Recommend removing "or express an intent to do so"	The Department realized this was a duplicate.	The Department deleted rule 320.05.g, related to elopement.
Written Comment from Idaho Health Care Association – Robert Vande Merwe	Section 330. This appears to require that copies of electronic records be delivered to residents or family immediately, whereas copies of paper records must be delivered in 2 days. We recommend 7 days for both records to resident or family.	The Department believes the reference was to rule 217.02. This is not a new rule. The 2006 rules were inconsistent with the timeframe they were required to provide access and copies to residents or their representatives. The Department believes that a two-day period to obtain a copy of a resident record is critical to a resident's continuity of care.	The Department clarified rule 217.02, so that it clearly includes paper and electronic records and removed any time frame of releasing record in rule 330.02.a.
Written Comment from Idaho Health Care	Section 330.c.vi (?). This rule requires notification of the nurse of "any" change. This is very subjective. Moving target. Recommend: Add the word significant.	This is not a new rule. The 2006 rule at 711.08 was	The Department removed the word "any" from rule 330.04.c.vi.

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Association – Robert Vande Merwe		moved to 330.04.c.vii. Although, the rule is not new, The Department revised the rule to incorporate this comment.	
Written Comment from Idaho Health Care Association – Robert Vande Merwe	Section 330.05.h. add resident and or family or guardian	The Department revised the rule to incorporate this comment.	The Department rewrote rule 330.05.h to include, "…signed by the resident, responsible party, and the facility…."
Written Comment from Idaho Health Care Association – Robert Vande Merwe	Section 330.07.a. This rule requires the discharge notice to be signed by the resident. Recommend requiring it to be sent to the resident, add resident or family or guardian. Implies that if they don't sign they wouldn't have to leave- of facility would be out of compliance Recommend: Eliminate discharge records section. these are all new requirements.	This is not a new rule. The 2006 rule at 711.03.b was moved to 330.07.a Although, the rule is not new, The Department revised the rule to incorporate this comment.	The Department reworded rule 330.07.a, as follows: "When the discharge is involuntary, the facility's efforts to resolve the situation and a copy of the discharge notice, signed and dated by the resident and the facility. If the resident refuses, or is unable to sign the notice, the facility must maintain evidence that the notice was delivered to the resident and the responsible party;"
Written Comment from Idaho Health Care Association – Robert	Section 330.13 personnel records l. This rule requires work records to be in writing. Strongly encourage the allowance to use electronic payroll and scheduling- rather than require facilities to rewrite by hand schedules worked. Currently facilities are doing this to comply with this rule. We understand that employees	The Department believes the comment is referring to rule 330.13.l.	The Department added "written or electronic format" into rule 330.13.l

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Vande Merwe	don't always work as scheduled, but it is illegal and illogical to intentionally falsify payroll records.	The Department revised the rule to incorporate this comment.	
Written Comment from Idaho Health Care Association – Robert Vande Merwe	Section 335.02 Does this now require a doctor's note to prove no longer infectious? Ok to work during some illnesses with a mask. Already have major staffing problems. Could this rule cause staff to just try to hide illness?	This is not a new rule. The 2006 rules at 335.01 stated, "Staff with an infectious disease must not work until the infections stage ~~is corrected~~…." The proposed rules replaced "~~is corrected~~" with no longer exists". This wording change did not change the rule meaning. The Department mission is to ensure residents health and safety is protected who reside in ALFs. Residents cannot be protected when staff with active infections are caring for residents. Therefore, the Department did not revise the rule based on this comment.	
Written Comment from Idaho Health Care Association – Robert Vande Merwe	Section 404. This rule will disallow residents who cannot self-evacuate to live on the ground floor. This is a huge new restriction that will require discharge of residents in the future. All buildings are sprinklered and protocol often recommends to shelter in place. We would prefer that existing buildings are grandfathered until 2031. This will give them time to replace multistory facilities or delicense the 2nd or 3rd stories and perhaps use them as independent living.	The Department believes this comment is associated with rule 402 and 404. The Department stands by its mission to protect residents who	

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		reside in assisted living facilities. Residents who are non-ambulatory and reside on second or third stories are at risk to their health and safety, as there would be no way to quickly evacuate them. The Department would like to clarify that the proposed rule would only affect new residents who are admitted after the 1/1/21 date. The Department did not revise the rule and the proposed language will stand.	
Written Comment from Idaho Health Care Association – Robert Vande Merwe	Section 405.01. Relocatable power taps should be able to be used in certain areas such as tv's, computers, printers, etc. This new requirement outlaws all surge protector cords. We agree that running a power strip (which is different than an extension cord and already not allowed) and loading 15 things on it creating a fire hazard. A good compromise is to allow RPT's for sensitive equipment only.	The Department would like to note, that from January 1, 2017 through January 1, 2019, a total of 230 citations were given to 78% of the facilities surveyed in Idaho for improper use of relocatable power taps. We would like this improper practice to stop or be reduced dramatically because the fire risk and	The Department added specifications on what requirement are to be followed at rule 405.01.a-d.

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		electrocution risk it poses. After careful consideration, the Department will allow usage of relocatable power taps if specific requirements are met.	
Written Comment from Idaho Health Care Association – Robert Vande Merwe	We support replacing specific fire codes (years) with language such as "the current code book", that way the rule does not need to be updated every time the codes change.	The Idaho Administrative rules have rule-making guidelines that require the use of a specific reference.	
Written Comment from Idaho Health Care Association – Robert Vande Merwe	Section 450. Is proper nutritional care defined?	This is not a new rule. The 2006 rule at 158 was moved to 450. This language is consistent with the requirements of Section 451. The Department did not revise the rule based on this comment.	
Written Comment from Idaho Health Care Association – Robert Vande Merwe	Section 451.01.c. This is a new requirement to "post" menu 5 days in advance. This is not necessary.	The Department has received requests from residents and advocates to add a requirement where the weekly menu be posted. The Department supports this added rule on behalf of the residents who	

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		reside in assisted living facilities.	
Written Comment from Idaho Health Care Association – Robert Vande Merwe	Section 460.02.d. Requires snacks available between meals and at dinner time. Recommend having snacks available if necessary at bedtime and between meals as needed to meet proper nutritional care (and define the term)	This is not a new rule. The 2006 rule required snacks in two places (451.02 and 460.02.d). The Department merged the requirements into 460.02.d. The Department strongly believes residents must be offered snacks between meals and bedtimes for medical, social and emotional reasons. An assisted living facility is a "home-like environment" and residents should be offered snacks at facilities, like they are at home. Therefore, the Department did not revise the rule based on this comment.	
Written Comment from Idaho Health Care Association – Robert Vande Merwe	Section 460.02.b. Recommend adding "unless per resident request".	This rule reference does not coincide with the comment provided. The rule 460.02.b., states, "There must not be more than fourteen (14) hours between a substantial evening meal and breakfast". The Department does not	

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		understand why a resident request would impact this rule. The Department did not revise the rule based on this comment.	
Written Comment from Idaho Health Care Association – Robert Vande Merwe	Section 460.04. This rule allows for disposable items to be used for outdoor events. Recommend adding "special events". Paper plates and napkins should be able to be used indoors for special events such as super bowl parties, etc.	The Department revised the rule to incorporate this comment.	The Department replaced "outdoor" with "special" events in rule 460.04.
Written Comment from Idaho Health Care Association – Robert Vande Merwe	Section 550.01. Again we suggest the department allow 7 days to get records to resident or family.	The Department believes the reference was to rule 217.02. This is not a new rule. The 2006 rules were inconsistent with the timeframe they were required to provide access and copies to residents or their representatives. The Department believes that a two-day period to obtain a copy of a resident record is critical to a resident's continuity of care.	
Written Comment from Idaho Health Care Association – Robert	Section 550.13. This rule does not allow for fear of retaliation. How do you measure this? Residents with mental illnesses or even dementia patients often have unreasonable fears. Recommend changing to threats of retaliation.	This is not a new rule, only clarifying language was added. The Department recognizes that	The Department removed the "fear of retaliation" and replaced it with "threat of

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Vande Merwe		fear of retaliation is a real phenomenon that residents express to advocates and surveyors. Although, the feeling has been expressed and documented, the Department concedes that fear is hard to quantify and revised the rule to incorporate this comment.	retaliation" for rule 550.13.
Written Comment from Idaho Health Care Association – Robert Vande Merwe	Section 550. 23.c. Want to make sure that this addition applies to the basic fees, not the specific resident care or service fees. This paragraph seems to duplicate the paragraph in section 550.23.	The Department revised the rule and merged the two rules.	The Department deleted 550.23.c and incorporated the language into 550.23.
Written Comment from Idaho Health Care Association – Robert Vande Merwe	Section 600. Again, this addition will undoubtedly lead to ambiguity and differences of opinion on adequacy of staffing. Better to look for actual outcomes.	This is not a new rule. The 2006 rule at 162 was moved to 600. The rule directs the facility to develop and implement their own staffing policies and procedures based on the number of residents, resident's needs, and configuration of the facility. The Department did not revise the rule based on this comment.	

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Written Comment from Idaho Health Care Association – Robert Vande Merwe	Section 645.02. The Board of Nursing does not dictate how the nurse will delegate, they actually removed these rules several years ago. These are new requirements that dictate how a professional nurse does their job.	The Idaho Board of Nursing rules clearly outline delegation requirements for UAPs, which we incorporated into the proposed rules. See rule 23.23.01: 010.13, 400.02.a-h., 400.03.a-b., 490, 490.01, 490.02, 490.03, 490.05.a-f, 490.06. The Department asserts delegation requirements have always been cited when not implemented. The Department added the incorporations into the proposed rules to clarify requirements for providers.	
Written Comment from Idaho Health Care Association – Robert Vande Merwe	Section 645.02.a. This rule requires each staff have training to be delegated even if they are never going to perform tasks delegated by the nurse.	This is not a new rule, but clarifying language was added. If a resident needed assistance with medications or nursing tasks, staff have always been required to be delegated, see 2006 rules at: 157.02, 300.01, and 730.01.h. The addition clarifies the requirement and	

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		the comment was not revised.	
Written Comment from Idaho Health Care Association – Robert Vande Merwe	**Section 900. 01. This rule requires the department to take immediate action. Recommend changing to "may" take immediate action.**	This is not a new rule, only clarifying language was added. The Department revised the rule to incorporate this comment.	The Department added "may" to the rule 900.
Written Comment from Idaho Health Care Association – Robert Vande Merwe	**Section 910.** Because of the word "or" this new rule could require a consultant to be hired for any deficiency even non-core, which can't be disputed?? We recommend that consultants be for core issues only.	This is not a new rule. The enforcement section was compressed to clarify enforcement actions. A consultant is an important enforcement action, which is applied when an acceptable plan of correction has not been submitted or when repeat deficient practices occur. The Department must impose enforcement actions when applicable. As a result, the rule was not revised based on this comment.	
Written Comment from Idaho Health Care Association – Robert	**Section 925.** This will allow for fines for a one -time non-core deficiency. Recommend changing to repeat core issues.	The enforcement section is clearer in the proposed rules, and still allows the Department the flexibility it	The Department removed rule 925.02.a, which took away the ability to apply civil monetary

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Vande Merwe		requires when applying enforcement actions. The Department did revise rule 925 based on this comment.	penalties for an initial deficiency.
Written Comment from Idaho Health Care Association – Robert Vande Merwe	**Section 920.e(?)** Again clarify this is for core issues only	The Department revised the rule to incorporate this comment.	The Department added the words, "core issues" to rule 920.01.c.
Written Comment from Idaho Health Care Association – Robert Vande Merwe	**Section 935.** This rule adds the requirement that a plan of correction be accepted or a facility can be put on no admission and have a mandated consultant, or even a provisional license. So, even if a facility has submitted a plan of correction they believe will work, but it has been rejected by the department they could face this enforcement action. We do not believe this seems fair. Thank you for allowing us to comment. We are happy to meet again if it would prevent conflict at the legislature.	The comment references rule 935, which only describes conditions of when a provisional license is issued. The Department did not revise the rule based on this comment.	
Written Comment from AARP – Francoise Cleveland	We appreciate your interest in further recommendations for language on the policies and procedures for elder abuse, exploitation, inadequate care and neglect. Below are some suggestions. Because of the quick turnaround, we could start with something like this and round it out if needed before the pending rule.	See below	
Written Comment from AARP – Francoise Cleveland	16.03.22.510. REQUIREMENTS TO PROTECT RESIDENTS FROM ABUSE. The administrator must ensure that policies and procedures are developed and implemented with input from residents and family members and the state ombudsman to ensure that all residents are free from abuse. These policies and procedures should be posted in a conspicuous place in the facility, shared with new residents and families upon admission, shared with all residents annually thereafter, and made available upon request.	The Department revised the rule to incorporate this comment.	The Department added requested language to rule 510.

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Written Comment from AARP – Francoise Cleveland	16.03.22.515. REQUIREMENTS TO PROTECT RESIDENTS FROM EXPLOITATION. The administrator must ensure that policies and procedures are developed and implemented with input from residents and family members and the state ombudsman to ensure that all residents are free from exploitation. These policies and procedures should be posted in a conspicuous place in the facility, shared with new residents and families upon admission, shared with all residents annually thereafter, and made available upon request.	The Department revised the rule to incorporate this comment.	The Department added requested language to rule 515.
Written Comment from AARP – Francoise Cleveland	16.03.22.520. REQUIREMENTS TO PROTECT RESIDENTS FROM INADEQUATE CARE. The administrator must ensure that policies and procedures are developed and implemented with input from residents and family members and the state ombudsman to ensure that all residents are free from inadequate care. These policies and procedures should be posted in a conspicuous place in the facility, shared with new residents and families upon admission, shared with all residents annually thereafter, and made available upon request.	The Department revised the rule to incorporate this comment.	The Department added requested language to rule 520.
Written Comment from AARP – Francoise Cleveland	16.03.22.525. REQUIREMENTS TO PROTECT RESIDENTS FROM NEGLECT. The administrator must ensure that policies and procedures are developed and implemented with input from residents and family members and the state ombudsman to ensure that all residents are free from neglect. These policies and procedures should be posted in a conspicuous place in the facility, shared with new residents and families upon admission, shared with all residents annually thereafter, and made available upon request.	The Department revised the rule to incorporate this comment.	The Department added requested language to rule 525.
Written Comment from Idaho Commission on Aging - Cathy Hart	I would like to submit the following comments on proposed rule, IDAPA 16.03.22 Residential Care or Assisted Living Facilities in Idaho, Docket no. 16-0322-1901: Add to 16.03.22.161 that the facility smoking policy be included in the resident admission agreement.	The Department revised the rule to incorporate this comment.	The Department replaced "other information" at rule 216.18 with the following: "Smoking Policy. The admission agreement must include a copy of the facility's smoking policy."
Written Comment from Idaho	While ultimately one administrator over multiple facilities is less than ideal for residents, the guidelines for this	The Department thanks the Commission for	The Department added language to rule 215, that

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Commission on Aging - Cathy Hart	should be in policy not rule and be evaluated on a case by case basis. (16.03.22.215)	their support of the proposed rule. After discussion with the industry, the Department agreed to leave in a portion of 216.	incorporated the previous requirements in rule 216.03.
Written Comment from Idaho Commission on Aging - Cathy Hart	Incorporate somewhere in comprehensive assessment, requirements that significant life events (positive and negative) should also be recorded. (not yet numbered but will be 219 or 220? -p 42)	The Department revised the rule to incorporate this comment.	The Department replaced "likes and dislikes" with "significant life events" at rule 319.01.k. The Department felt "likes and dislikes" was covered under 319.01.i when it states "preferences".
Written Comment from Idaho Commission on Aging - Cathy Hart	Add to 16.03.22.219 or 220.08, comprehensive assessment section, that assessment results should also be used to develop the Negotiated Service Agreement.	The rule references may have changed between drafts. The Department believes this is referencing section 216, admission agreements. The Department did elaborate on a different rule section regarding assessment requirements.	The Department clarified rule 319. Now the rule includes direction on what components are required initially and what components are required within 14 days.
Written Comment from Idaho Commission on Aging - Cathy Hart	Add to 16.02.220.10 that the facility must have a policy regarding resident financial responsibility if they move out without giving a 30-day written notice and policy should be included in the admission agreement. (We get a fair number of complaints about this)	The rule references may have changed between drafts. The Department believes this is referencing section 216, admission agreements.	The Department added a sentence to the end of rule 216.10.c, which states, "The agreement must disclose any charges that will result when a resident fails to

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		The Department revised the rule to incorporate this comment.	provide a thirty (30) day written notice."
Written Comment from Idaho Commission on Aging - Cathy Hart	At 16.02.220.17 add that if application to a publicly funded program is pending, the resident cannot be discharged.	The Department cannot make private companies care for residents without receiving money. This is beyond the scope of the Department and therefore, no action was taken on this comment.	
Written Comment from Idaho Commission on Aging - Cathy Hart	I assume that the 16.03.22.403 requirement for non-ambulatory residents to be located on the first floor is a federal requirement and cannot be changed. I definitely agree with this requirement.	The Department thanks the Commission for their support of the proposed rule and the language will stand as written.	
Written Comment from Idaho Commission on Aging - Cathy Hart	Add to 16.02.22.451 that one meal alternative must be offered.	Facilities are required to follow a menu developed by a Registered Dietician and snacks. At this time, the Department cannot add additional requirement into the proposed rules that would increase cost, especially for small facilities.	
Written Comment from Idaho Commissio	Add Adult Protective Services reference (IDAPA 15.01.02 Rules Governing Adult Protection Services Programs) to 16.03.22.510 to elaborate on what is expected here.	The Idaho Administrative rules have rule-making guidelines that require the	

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n on Aging - Cathy Hart		use of a specific reference.	
Written Comment from Idaho Commissio n on Aging - Cathy Hart	Rule (16.03.22.550) says resident can only be transferred or discharged for medical reasons, for their welfare or that of others, or for nonpayment…… 16.03.22.221.01 says the admission agreement can be terminated for any reason with a 30-day written notice. These two sections contradict each other. The ability to issue a discharge for any reason should be removed to lessen inappropriate admissions and the practice of some facilities to accept all residents without proper assessment only to discharge them shortly after admission.	The Department revised the rule to incorporate this comment.	The Department removed the words "for any reason" from 217.01.a, which is the rule associated with terminating the admission agreement.
Written Comment from Resident Advocate – Doug Park	First, I wanted to say the markup we reviewed yesterday at the hearing was a wonderful improvement in both the spirit and letter of the guidance that is provided by IDAPA. • Too much detail takes those responsible to only providing the minimum care to meet the intent. • Your version was an improvement which also added to the process of using this guidance in the spirit intended and giving the promised care in the SPIRIT of providing QUALITY care to residents not just minimal care required by code. • My spirited comments were intended to remind the Executive Directors that endless debate **how to avoid "punch lists" of preventive actions or a core deficiency** only increases the risk of substandard care. **Creating verifiable feedback that drives Continuous Improvement of Quality Care should be the goal of everyone at every level of this important care giving process.** Secondly, I was attempting to deliver in my testimony the needed intent of the facilities should always be to **UNDER PROMISE AND OVER DELIVER QUALITY CARE**. • The facility starts this with their marketing effort and the facilities scope of care required by the residents and their families. This process simply put can be described as: • Begin with the resident types the facility posts on FLARES and in their MARKETING MATERIAL. **This should describe the commitment and promise they are making to have the systems in place to admit a loved one at their facility.** Systems include policy, procedures, staffing selection,	The Department considers these general comments to be supportive of rule changes.	

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	staffing orientation, staffing training to the care levels required on each shift by the resident as described in their NSA and Care Plans, retention of staff and residents, the oversight and continuous improvement processes needed to supervise, and if needed the process used to repair the imbalance between promises made and promises delivered. Thirdly, I would encourage your team to ask a few questions when attempting to improve the markup for moving forward: 1. **Will the suggested change most likely improve the quality and consistency of resident care?** 2. **Will the suggested change also contribute to resident safety and the elimination over time of the root causes of risk for the residents and staff of the facility?** ▪ If you can answer either with a yes… then edit the markup to accommodate the suggestion. ▪ If you cannot answer yes… then your response to the suggestion has the needed focus for a rational and reasonable explanation. Thank you and many regards to the team working on this **vitally important task of improving the quality of residential care in the great state of IDAHO. When in doubt, err on the side of the resident not the facility.**		
Written Comment from DisAbility Rights Idaho –	Protection and Advocacy (P&A) access to residents and records: In several sections the rules acknowledge the role of the P&A regarding people with Developmental Disabilities (DD) and people with Mental Illness but fail to acknowledge the same role for people with other disabilities such as physical disabilities. 29 U.S.C.§794e establishes the Protection and Advocacy for Individual Rights program which gives DRI the same access authority for people with physical and other disabilities (29 U.S.C.§794e(5)(f)(2)) as we have for people with developmental disabilities. **On page 10, §010.09 should NOT be changed to add the limitations of DD and MI but left unchanged so that**	The Department revised the rule to incorporate this comment.	a. The Department returned the definition of advocate found at rule 010.09, back to its original language found in the 2006 rules. b. The rule references may have changed between drafts. The Department

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	"Advocate" includes the population protected by 29 U.S. C. §794e. **On Page 35, §221.04.f should be changed to remove the limitations of DD and MI.** **On page 57, §550.18 the section should be updated to include 29 U.S.C. §794e.**		believes this is referencing section 217. The Department removed "for residents with developmental disabilities or mental illness" from 217.04.f in the proposed rules c. The Department added the reference into rule 5550.18.
Written Comment from DisAbility Rights Idaho	**Trauma informed care** is now considered standard practice when dealing with behavioral issues. These rules should reflect that standard. **On page 42, §320.05 should include a trauma history if applicable.** **On Pages 58-60, §630 should include "trauma informed practices" in each subsection, and trauma informed care should be included in other relevant sections.**	a. The rule references may have changed between drafts. The Department believes this is referencing section 319.04.a. The Department revised the rule to incorporate this comment. b. The Department understands "trauma informed practices" are becoming the standard to resident care; however, at this time, the Department cannot add this requirement, as it is beyond our scope and would increase cost and requirements, especially for small facilities.	a. The Department reworded rule 319.04.a, as follows: "The resident's behavioral history, including any history of traumatic events;"

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Written Comment from DisAbility Rights Idaho	**The section which requires a written acknowledgement that the resident has received a copy of the resident rights policy is removed** (page 54 line 1), and although the rules retain the requirement that residents receive such a copy, there is no other requirement we could find which requires a written or signed acknowledgement. Without the acknowledgement, it will be impossible to determine if the policy is being followed. **We recommend the requirement for a signed acknowledgement be retained.**	The Department moved this requirement to rule 330.05.g in the proposed rules.	
Written Comment from DisAbility Rights Idaho	The revised definition of "punishment" on page 15, §012.11 is a significant improvement. **We support the change.**	The Department revised the rule to incorporate this comment.	
Written Comment from DisAbility Rights Idaho	The definition of "reportable incident" is improved by the changes especially the change to §012.f. Currently deaths which occur in the hospital, but which result from events which occurred in the facility, are not reported as deaths. This definition makes clear that when the death is the result of an incident in the facility it is reportable even if the death occurs elsewhere. **We support the change.**	The Department revised the rule to incorporate this comment.	
V – Keith Fletcher with Ashley Manor	Section 003.02 Page 6 Informal Dispute Resolution Meeting. All core and non-core deficiencies should be allowed to have an Informal Dispute Meeting if requested. If finds and other actions can be given for non-core deficiencies a provider should have a right for this meeting.	Over the last year, work groups consisting of the Department, CCAC, IHCA and advocates met and discussed issues. All the parties recommended a process for disputing non-core issues. The process was posted on the RALF program's website and there was an article written in a newsletter. After a 6-month period, the implementation of the process was reviewed by the	

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		workgroup and CCAC was found to be effective.	
V – Keith Fletcher with Ashley Manor	**Section 006.04 Page 8 Public Availability of Survey Documents.** There needs to be an adequate history with a limit of time and/or number of surveys available on the portal. Posing all surveys for the life of a facility makes no sense. We have talked about this issue in the past.	The Department worked with the CCAC and IHCA work groups, which determined survey results would be removed from the public portal of FLARES after 5 years and two surveys.	
V – Keith Fletcher with Ashley Manor	**Section 010.30 Page 13 Exploitation.** This could create conflict with other definitions in criminal code. It does not address periodic refusal of services by the resident or guardian.	The definition of exploitation previously had subsections, which were collapsed into one rule. The Department did not revise the rule based on the suggested disqualifier, as a refusal would not be considered exploitation.	
V – Keith Fletcher with Ashley Manor	**Section 130.08.c Page 21.** The completion date for correcting each deficiency. What prompted the change of a core deficiency from 60 to 45 days? I have in my history needed 60 days to get certain things done. Most were involving the actual physical facility. To get contractors these days is taking sometimes months. I don't at this point see a need for the change.	This is not a new rule. Rule 900.03 in the 2006 rules, stated 45 days. The language was merged for consistency and to reduce confusion. The Department did not revise the rule based on this comment.	
V – Keith Fletcher with Ashley Manor	**Section 130.10 Page 21 Follow up Surveys.** It appears in this new language the follow-up surveys are conducted for all deficiencies core and non-core. Those surveys may not fall within the timeframe of the two kinds of deficiencies. The survey team may have to survey non-core and then	This not a new rule or requirement. The Department has always	

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	core deficiencies 15-30 days apart. This doesn't appear to be very efficient and is very expensive. In creation of these rules years ago, a Core deficiency was elevated an defined to be the most severe, requiring greater action, resolution, enforcement and penalties than other deficiencies (Punch items). Your new language in this proposed rule is making all deficiencies equal in severity. Would it not make sense that a non-core deficiency if serous could elevate to a core definition, if it continues over time?	conducted follow-up surveys. The Department will put an explanation of how follow-up surveys are completed in a newsletter along with other rule changes.	
V – Keith Fletcher with Ashley Manor	**Section 154.01 Page 26 Relocation Agreements.** The proposed rules are now requiring two emergency locations versus one. It is also requiring the emergency facility to provide the same level of care. In some locations it is hard to find more than one emergency facility. The same level of care facility. What does that mean? It could be a school or a church, not another care facility. This emergency facility typically would be provided caregivers. The emergency facility needs to be safe but may not meet of the facility standards. This is for temporary and emergency housing. This proposed rule is unrealistic as written.	a. The Department mission is to ensure residents health and safety is protected who reside in ALFs. Relocation agreements require a place where the facility can evacuate to in case of an emergency Facilities must consider the patient population needs as well as their care and treatment. Providing an alternate or second location allows the facility to safely evacuate in case roads or other unforeseen circumstances prohibits a certain area or route. The Department did not revise the rule and the proposed language will stand.	The Department removed the words "that can provide the same level of care" for rule 155.01.

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		b. After careful consideration, we recognize that requiring facilities to have agreements with other providers that provide the same level of care may be a burden on the facility and the gaining facility. The Department revised the rule to incorporate this comment.	
V – Keith Fletcher with Ashley Manor	**Section 215, 27-28 Facility Administrator.** The criteria for an Administrator to oversee multiple buildings needs to be in Rule. It should not be taken out.	The Department believes the reference was to section 216. The rule requires one licensed administrator to be over one facility. When an administrator is over more than one facility, it would require a variance. Per Department policy guidelines, the variance requirements should not be in rule, but in policy. After discussion with the industry, the Department agreed to leave in a portion of 216.	The Department added language to rule 215, that incorporated the previous requirements in rule 216.03.
V – Keith Fletcher with Ashley Manor	**Section 305, Page 40.** It appears that the we added to the nursing time by requiring the nurse to most of the communication with the Doctor. In small facilities the nurses are part-time and charge by the hour. Today	This is not a new rule. The 2006 rule at 305.07, was	

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	administrators are doing some of this communication for the nurse. We are increasing costs in our facilities.	merged into 305.01. The facility nurse has always been required to notify the physician or authorized provider of medication interaction or usage concerns. The nurse would be the only qualified professional to assess a resident's response or interaction to a medication at the facility. The Department did not revise the rule based on this comment.	
V – Keith Fletcher with Ashley Manor	**Section 550.13, Page 56 Grievances.** Fear of retaliation is unrealistic for a resident with dementia or paranoia.	The Department revised the rule to incorporate this comment.	The Department replaced "fear of retaliation" with "threat of retaliation" for rule 550.13.
V – Keith Fletcher with Ashley Manor	**Section 910, 920.02.c, Page 69-70.** Repeat deficient facility. This is not enough alone to place a limit on admissions or require a consultant simply because of a repeated deficiency. There should be criteria to define risk to residents, negative outcomes, etc. Not simply a repeat deficiency. By the way what is a repeat deficiency? One, two, three….	The enforcement section is clearer in the proposed rules, and still allows the Department the flexibility it requires when applying enforcement actions. A repeat deficiency is defined in rule at 012.13.	

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		The Department did not revise the rule based on this comment.	
V – Keith Fletcher with Ashley Manor	**Section 925, Enforcement Action of Civil Monetary Penalties.** I think if we are going to clean up the rules, this section needs more clarity. It is concerning that an individual could decide to fine a facility for a repeat or single deficiency. I would suggest boundaries and guidelines be defined. Again, what is a repeat? Could any or all deficiencies both core and non-core apply?	The enforcement section is clearer in the proposed rules, and still allows the Department the flexibility it requires when applying enforcement actions.	The Department removed the initial deficiency CMP from rule 925.02.a
V – Keith Fletcher with Ashley Manor	**Section 152.05.b, Page 23. No resident will be admitted…** In this rule it was added the words, "but are not limited to..." This will open this up to confusion, unwritten rules and overall ambiguity. If other conditions need to be added to this rule add them. We cannot afford unclear rules.	The Department revised the rule to incorporate this comment.	The Department removed the words, "but not limited to…" from rule 152.03.b.
V – Keith Fletcher with Ashley Manor	**Section 330.05.h & i, Page 44-45, Resident signature.** In some cases, the resident cannot sign documents. There may be a guardian involved for example. The required signature language needs to be expanded.	The Department revised the rule to incorporate this comment.	The Department rewrote rule 330.05.h to include, "…signed by the resident, responsible party, and the facility…."
V – Keith Fletcher with Ashley Manor	**Section 330.07.a, Page 45, Notice Resident signature.** Does this mean a 30-day notice if not signed by the resident is invalid? Having evidence that they received the notice should be enough.	The Department revised the rule to incorporate this comment.	The Department added a sentence to rule 330.07.a, "If the resident refuses, or is unable to sign the notice, the facility must maintain evidence that the notice was delivered to the resident and responsible party.