

**IDAPA 16  
TITLE 03  
CHAPTER 19**

**6/15/05**

**16.03.19 - RULES GOVERNING CERTIFIED FAMILY HOMES**

**000. LEGAL AUTHORITY.**

The State of Idaho Board of Health and Welfare is authorized under Sections 56-1005 and 39-3501, Idaho Code, to adopt and enforce rules and standards for Certified Family Homes.

**001. TITLE, SCOPE AND EXCEPTIONS.**

**01. Title.** These rules are cited as IDAPA 16.03.19, "Rules Governing Certified Family Homes".

**02. Scope.** These rules set the minimum standards and administrative requirements for any home in which an adult with developmental disabilities, mental illness, physical disabilities, or who is elderly, lives and needs assistance with activities of daily living.

**03. Exceptions to These Rules.** These rules do not apply to the following:

**a. Alternate Living Arrangements.** Any home that provides only housing, meals, transportation, housekeeping or recreational and social activities, or any home that has residents independently obtaining supportive services from an entity approved to provide such services in Idaho and holds no legal ownership interest in the home.

**b. Health Facilities.** Any health facility defined by Title 39, Chapter 13, Idaho Code.

**c. Residential Care or Assisted Living Facilities.** Any residential care or assisted living facility defined by Title 39, Chapter 33, Idaho Code.

**c. Relative's Home.** Any arrangement for care in a relative's home that is not compensated through a federal or state program.

**002. WRITTEN INTERPRETATIONS.**

There are no written interpretations for this chapter of rule.

**003. ADMINISTRATIVE APPEALS.**

All contested cases are governed by the provisions of IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings".

**004. INCORPORATION BY REFERENCE.**

The Americans with Disabilities Act Accessibility Guidelines, 28 CFR Part 36, Appendix is incorporated by reference. The internet address for these guidelines is [http://www.ada.ufl.edu/ADAcd/cdpages/htm\\_pubs/reg3a.htm#Anchor-Appendix-52467](http://www.ada.ufl.edu/ADAcd/cdpages/htm_pubs/reg3a.htm#Anchor-Appendix-52467).

**005. OFFICE – OFFICE HOURS – MAILING ADDRESS – STREET ADDRESS – INTERNET WEBSITE.**

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

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

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

**04. Telephone.** The telephone number for the business office is (208) 334-5500.

**05. Internet Website Address.** The Department Internet website address is: <http://www.healthandwelfare.idaho.gov>.

**006. CONFIDENTIALITY OF RECORDS AND PUBLIC RECORDS REQUESTS.**

**01. Confidential Records.** The use or disclosure of information related to Department client records covered by these rules must comply with IDAPA 16.05.01, “Use and Disclosure of Department Records,” and federal Public Law 103-209.

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

**007. – 008. (RESERVED)**

**009. MANDATORY CRIMINAL HISTORY CHECK REQUIREMENTS.**

**01. Compliance With Department Criminal History Check.** The provider and all adults living in the home are required to comply with IDAPA 16.05.06, “Rules Governing Mandatory Criminal History Checks.” The resident is exempt from criminal history check requirements.

**02. When Certification Can Be Granted.** The provider must have a completed criminal history check, including clearance, prior to certification. Any other

adult living in the home must complete a self-declaration form, must be fingerprinted, and must not have disclosed any designated crimes listed in IDAPA 16.05.06, "Rules Governing Mandatory Criminal History Checks" prior to certification. Other adults living in the home must not have unsupervised contact with the resident until they have received criminal history clearance.

**03. New Adults in the Home After Certification is Granted.** A new adult who plans to live in the home must have a criminal history clearance before moving in to the home. Any adult who is a visitor in the home and leaves within thirty (30) days, is not required to have a criminal history check but must not have unsupervised contact with the resident.

**04. Minor Child Turns Eighteen.** A minor child turning eighteen (18) and living in the home must have a criminal history clearance within thirty (30) days following the month of his eighteenth (18<sup>th</sup>) birthday.

**05. Incidental Supervision.** An individual providing incidental supervision must have a criminal history clearance before any unsupervised contact with the resident. An incidental caregiver who is related to the resident by blood or marriage and does not live in the home is exempt from criminal history requirements.

**06. Substitute Caregiver.** A substitute caregiver must have criminal history clearance before any unsupervised contact with the resident.

**07. Additional Criminal Convictions.** Once criminal history clearances have been received, the provider must immediately report to the Department any additional criminal convictions for himself, any other adult living in the home, a substitute caregiver or an individual providing incidental supervision.

## **010. DEFINITIONS.**

**01. Abuse.** A nonaccidental act of sexual, physical or mental mistreatment or injury of the resident through the action or inaction of another individual.

**02. Activities of Daily Living.** The performance of basic self-care activities in meeting an individual's needs to sustain him in a daily living environment, including, but not limited to, bathing, washing, dressing, toileting, grooming, eating, communicating, continence, managing money, mobility, and associated tasks.

**03. Adult.** A person who has attained the age of eighteen (18) years.

**04. Alternate Caregiver.** A certified family home provider approved by the Department to care for a resident from another certified family home for up to thirty (30) consecutive days when the original provider is temporarily absent or unable to care for the resident.

**05. Assessment.** The conclusion reached using uniform criteria developed by the Department and relevant councils for determining a person's need for care and services.

**06. Certificate.** A permit issued by the Department to operate a certified family home.

**07. Certified Family Home.** A home certified by the Department to provide care to one (1) or two (2) adults, who are unable to reside on their own and require help with activities of daily living, protection and security, and need encouragement toward independence.

**08. Certified Family Home Care Provider.** The adult member of the certified family home living in the home who is responsible for providing care to the resident. The care provider and the legal property owner are not necessarily the same person. The certified family home care provider is referred to as "the provider" in these rules.

**09. Chemical Restraint.** The use of any medication that results or is intended to result in the modification of behavior.

**10. Criminal Offense.** Any crime as defined in Section 18-111, Idaho Code, in 18 U.S.C. Section 4A1.2 (o), and 18 U.S.C. Sections 1001 through 1027.

**11. Department.** The Idaho Department of Health and Welfare.

**12. Director.** The Director of the Idaho Department of Health and Welfare or his designee.

**13. Exploitation.** The misuse of a vulnerable adult's funds, property, or resources by another person for profit or advantage.

**14. Immediate Jeopardy.** An immediate or substantial danger to a resident as determined by the Department.

**15. Incidental Supervision.** Supervision provided by an individual approved by the provider to supervise the resident, not to exceed four (4) hours per week.

**16. Level Of Care.** A categorical assessment of the resident's functional ability and the degree of care required in the areas of activities of daily living, supervision, response to emergency situation, mobility, medications and behavior management.

**17. Neglect.** The failure to provide food, clothing, shelter or medical care to sustain the life and health of a resident.

**18. Negotiated Service Agreement.** The agreement between the resident and his representative, if applicable, and the home based on the assessment, physician's orders, if any, admission records, if any, and desires of the resident, that outlines services to be provided and the obligations of the home and the resident.

**19. Owner.** Any recognized legal entity, governmental unit, or person having legal ownership of the certified family home as a business operation.

**20. Plan of Service.** The generic term used in these rules to refer to the Negotiated Service Agreement, Personal Care Plan, Plan of Care, Individual Support Plan or any other comprehensive service plan.

**21. PRN.** A medication or treatment ordered by a medical professional to an individual allowing the medication or treatment to be given as needed.

**22. Relative.** A person related by birth, adoption, or marriage to the first degree and grandparent and grandchild.

**23. Resident.** An adult who lives in a Certified Family Home and requires room, utilities and three (3) daily meals, supervision, and one (1) or more of the following services: protection, assistance with decision-making and activities of daily living, or direction toward self-care skills.

**24. Substitute Caregiver.** An individual approved by the provider to provide care and supervision to the resident in the provider's certified family home for up to thirty (30) consecutive days.

**011. -- 099. (RESERVED).**

## **100. CERTIFICATION.**

**01. Requirements.** The Department will issue a certificate to a home authorized to operate in the State of Idaho.

**a.** A certificate to provide certified family home care will be issued in the name of the provider applying for certification, and only to the address of the home stated in the application. A new certification is required if the provider or the location of the certified family home changes.

**b.** The home and physical premises as well as all records required under these rules, must be accessible at all times to the Department for the purposes of inspection, with or without prior notification.

**02. Application For An Initial Certificate.** The applicant must apply for certification on forms provided by the Department, and must provide information required by the Department, including:

- a. A completed application form signed by the applicant;
- b. A written statement that the applicant has thoroughly read and reviewed this chapter and is prepared to comply with all of its provisions;
- c. Satisfactory evidence that the applicant and all adults living in the home are of reputable and responsible character, including, but not limited to a criminal history clearance as provided in Idaho Department of Health and Welfare Rules, IDAPA 16.05.06, "Rules Governing Mandatory Criminal History Checks."
- d. A written statement that discloses any revocation or other disciplinary action taken or in the process of being taken against the applicant as a care provider in Idaho or any other jurisdiction, or that verifies that the applicant has never been involved in any such action;
- e. A statement from a licensed electrician or the local/state electrical inspector that all wiring in the home complies with applicable local codes;
- f. If the home is on other than a municipal water supply or sewage disposal system, a statement from the local environmental health agency or, if not available, a statement from a person in the business of servicing these systems, that the water supply and sewage disposal system meet the legal standards;
- g. Proof of homeowner's or renter's insurance on the home and the resident's belongings;
- h. A list of all individuals living in the home and their relationship to the applicant for certification at the time of application; and
- i. Any other information that may be requested by the Department for the proper administration and enforcement of the provisions of this chapter;

### **03. Additional Certification Requirements.**

- a. A home must not be certified for more than two (2) residents;
- b. A home must not be certified if it also provides room or board to any person who is not a resident as defined by these rules or a family member. A waiver may be granted by the Department when the individual receiving room or board is the spouse of the resident and does not require certified family home care or any higher level of care;
- c. A home must not be certified as a certified family home and a child foster home at the same time;

d. The number, age, and sex of children or other adults in the home must be taken into account in evaluating the appropriateness of a placement for meeting the needs of an adult;

e. Failure of the applicant to cooperate with the Department in the application process will result in the termination of the application process. Failure to cooperate means that the information described in Section 100 of the rules is not provided in a timely manner, or not provided in the form requested by the Department, or both.

**04. Effect Of Previous Revocation Or Denial Of Certificate Or License.**

The Department is not required to consider the application of any applicant who has had a health care certificate or license denied under the circumstance listed in Section 150.05 or revoked under the circumstances listed in Section 150.06 until five (5) years have elapsed from the date of denial or revocation.

**05. State Certification To Supersede Local Regulation.** These rules will supersede any program of any political subdivision of the state which certifies or sets standards for certified family homes. These rules do not supersede any other local regulations.

**06. Certification Study.** Following receipt of an acceptable application and other required signed documents, the Department will begin a certification study within thirty (30) days. The study will include a review of all material submitted. The certification study, along with the application and other required material, will serve as the basis for issuing or denying a certificate. The Department will schedule an on-site interview with the proposed provider and the provider's family to review the certification study, and to verify that the home is in compliance with these rules. The Department may require a medical or psychological examination of the provider or family members.

**07. Initial Provider Training.** As a condition of initial certification, all providers must receive training in the following areas:

- a. Resident rights;
- b. Certification in first aid and Cardio-Pulmonary Resuscitation (CPR) must be kept current;
- c. Emergency procedures;
- d. Fire safety, fire extinguisher, and smoke alarms;
- e. Completion of approved "Assistance with Medications" course; and
- f. Complaint investigations and inspection procedures;

**101. REQUIRED TRAINING.**

All providers must document a minimum of eight (8) hours per year of ongoing, relevant training in the provision of supervision, services, and care. The training must consist of at least four (4) hours of classroom training. The remaining four (4) hours may be independent study or classroom training. Up to two (2) hours of ongoing first aid/CPR will count toward the eight (8) hour requirement. The initial provider training required in Section 100.07 of these rules will count toward the first year's eight (8) hour training requirement.

## **102. WAIVERS.**

The Department may grant waivers. The decision to grant a waiver in one (1) home is not a precedent or applicable to any other home.

**01. Written Request.** A written request for a waiver is submitted to the Department. The request must include the following:

- a. Reference to the section of the rules for which the waiver is requested;
- b. Reasons that show good cause why the waiver should be granted, including any extenuating circumstances and any compensating factors or conditions that may have bearing on the waiver, such as additional floor space or additional staffing;
- c. Written documentation that assures resident health and safety will not be jeopardized if the waiver is granted.

**02. Waiver Expiration.** A waiver may be granted for a period of no more than one (1) year.

**03. Waiver Renewal.** If the provider wishes to renew a waiver, he must submit a written request to the Department. The appropriateness of renewing a waiver will be determined by the Department.

**04. Waiver Not Transferable.** A waiver granted under this section is not transferable to any other provider, address, or resident.

## **103. NURSING FACILITY LEVEL OF CARE WAIVER REQUIREMENTS.**

A home may care for one (1) resident who requires nursing facility level of care without obtaining a waiver. A home seeking to provide care to two (2) residents who require nursing facility level of care must request a waiver in writing from the Department as required in Section 39-3554, Idaho Code.

**01. Conditions For A Waiver.** The Department will issue a written waiver permitting the arrangement when:

- a. Each of the residents provides a written statement to the Department requesting the arrangement;

b. Each of the residents making the request is competent, informed, and has not been coerced;

c. The Department finds the arrangement safe and effective.

**02. Revoking A Waiver.** The Department will revoke the waiver when:

a. There is a threat to the life or safety of either resident;

b. One (1) of the residents leaves the home permanently;

c. One (1) of the residents notifies the Department in writing that he does not wish to live in the home with the other resident; or

d. The Department finds the arrangement is no longer safe and effective.

**03. Waiver Not Transferable.** A waiver granted under this section is not transferable to any other provider, address, or resident.

#### **104. EXCEPTION TO THE TWO RESIDENT LIMIT.**

**01. Application.** A home may apply to the Department for an exception to the two (2) resident limit to care for three (3) or four (4) residents.

**02. Criteria For Determination.** The Department will determine if safe and appropriate care can be provided based on resident needs. The Department will consider, at a minimum, the following factors in making its determination:

a. Each current or prospective resident's physical, mental and behavioral status and history;

b. The household composition including the number of adults, children and other family members requiring care from the providers;

c. The training, education, and experience of the provider to meet each resident's needs;

d. Potential barriers that might limit resident safe access to and exit from the rooms in the home;

e. The number and qualifications of care givers in the home;

f. The desires of the prospective and current residents;

g. The individual and collective hours of care needed by the residents;

**h.** The physical layout of the home and the square footage available to meet the needs of all persons living in the home.

**i.** If an exception to the two (2) resident limit would result in two (2) or more residents who require nursing facility level of care living in the home, then the application must also include the information required in Section 103 of these rules.

**03. Other Employment.** Providers of three (3) or four (4) bed homes must not have other gainful employment unless:

**a.** The total direct care time for all residents, as reflected by the plan of service and assessments, does not exceed eight (8) hours per day;

**b.** The provider is immediately available to meet resident needs as they arise; and

**c.** Each resident is supervised at all times unless the assessment or plan of service indicates the resident may be left unattended for designated periods of time.

**04. Additional Training.** Providers of three (3) or four (4) bed homes must obtain additional training to meet the needs of the residents as determined necessary by the Department.

**05. Guardianship.** A provider applying to care for three (3) or four (4) residents may not be the guardian of any resident unless either of the following applies:

**a.** The guardianship was established prior to July 1, 2001; or

**b.** The proposed guardian is a parent, child, sibling, or grandparent of the resident.

**06. Exception Nontransferable.** An exception to care for more than two (2) residents will not be transferable to another provider, address, or resident.

**07. Reassessment Of Exception.** An exception to care for more than two (2) residents must be reassessed at least annually and when either of the following occur:

**a.** Each time a new admission is considered; or

**b.** When there is a significant change in any of the factors specified in Subsection 101.01 of this section.

**08. Annual Home Inspection.** A home with an exception to care for more than two (2) residents must have a home inspection by the Department at least annually.

**09. Shared Sleeping Rooms.** In addition to the requirements in Section 700 of these rules, no more than two (2) residents will be housed in any multi-bed sleeping room.

**105. -- 149. (RESERVED).**

**150. ISSUANCE OF CERTIFICATES.**

**01. Certificate.** A certificate is valid for no more than twelve (12) months from the date of approval. The certificate will expire at the end of the stated period unless it is continued in effect by the Department.

**a.** Each certificate is valid only for the premises and persons named in the application and is not transferable or assignable;

**b.** The certificate must be available at the home on request.

**02. Provisional Certificate.** A provisional certificate may be issued to a home that is not in substantial compliance with these rules if the deficiencies do not adversely affect the health or safety of the resident.

**a.** Provisional certificates may be issued for up to six (6) months and are contingent on an approved plan to correct all deficiencies prior to expiration of the provisional certificate.

**b.** A provisional certificate may be replaced with a certificate when the Department has revisited the home prior to the expiration of the provisional certificate and has determined that the home qualifies for a certificate.

**c.** A home will not be issued more than one (1) provisional certificate in any twelve (12) month period.

**03. Expiration and Renewal of Certificates.** Certificates are issued for a period not to exceed twelve (12) months. The initial certificate requires a home inspection by the Department. To renew the certificate, the provider must submit a written request on a form provided by the Department. The completed renewal application form and any required documentation must be returned to the Department at least thirty (30) days prior to the expiration of the existing certificate.

**a.** A home inspection by the Department is required the year after the initial certification study and at least every two (2) years thereafter.

**b.** If the Department determines a home inspection is not required to renew the certificate, the provider must submit the renewal application and the following documentation to renew the certificate:

- i. Current first aid and CPR cards;
  - ii. Furnace, well, and fireplace inspection reports, as applicable;
  - iii. Annual fire extinguisher inspection reports or sales receipts for fire extinguishers less than twelve (12) months old;
  - iv. Fire log of smoke detector checks, fire extinguisher checks, and fire drill and evacuation summaries;
  - v. Training logs;
  - vi. List of individuals currently living in the home and individuals who moved in and out of the home during the year;
  - vii. Other information as requested by the Department.
- c.** The existing certificate, unless suspended or revoked, remains in force and effect until the Department has acted on the application renewal when the renewal application and supporting documentation is filed in a timely manner.

**04. Change Of Ownership Certification Requirements.** Certificates are not transferable from one (1) individual to another or from one (1) location to another. The home must be recertified using the same procedure as a new home that has never been certified when a change of ownership, lease, or location occurs.

**05. Denial Of Certificate.** The Department may deny the issuance of a certificate when conditions exist that endanger the health, safety, or welfare of any resident or when the home is not in substantial compliance with these rules. Additional causes for denial of a certificate include the following:

- a.** The applicant or provider has willfully misrepresented or omitted information on the application or other documents pertinent to obtaining a certificate;
- b.** The applicant or provider has been convicted of fraud, gross negligence, abuse, assault, battery or exploitation;
- c.** The applicant has been convicted of a criminal offense within the past five (5) years, other than a minor traffic violation or similar minor offense;
- d.** The applicant or provider has been denied or has had revoked any health facility, residential care or assisted living facility license, or certified family home certificate;
- e.** The applicant or provider has been convicted of operating a health facility, residential care or assisted living facility, or certified family home without a license or certificate;

f. A court has ordered that the applicant or provider must not operate a health facility, residential and assisted living facility, or certified family home; or

g. The applicant or provider is listed on the statewide Child Abuse Registry, Adult Protection Registry, Sexual Offender Registry, and Medicaid exclusion lists;

h. The applicant or provider is directly under the control or influence of any person who is described by Subsections 150.05.a. through 150.05.g.

**06. Revocation Of Certificate.** The Department may revoke any certificate when conditions exist which endanger the health, safety, or welfare of any resident, or when the home is not in substantial compliance with these rules.

**07. Family Home Operating Without A Certificate.** Upon discovery of a family home operating without a certificate:

a. The Department will refer residents to the appropriate placement or adult protective services agency if:

i. There is an immediate threat to any resident's health and safety; or

ii. The home does not cooperate with the Department to apply for certification, meet certification standards and obtain a valid certificate.

b. A person found to be operating a family home without first obtaining a certificate may be referred for criminal prosecution.

**08. Procedure For Hearings For Denial Or Revocation Of A Certificate.**

a. Immediately on denying any application for a certificate, or revoking a certificate, the Department will notify the applicant or operator in writing by certified mail or by personal service of its decision and the reason for its decision;

b. The case is subject to the hearing provisions in IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings."

## **151. INSPECTIONS OF HOMES.**

The Department will inspect certified family homes at least every twenty-four (24) months, beginning with the first month of the most recent certification. Inspections may occur more frequently as the Department deems necessary. The Department may consider the results of previous inspections, history of compliance with rules, and complaints to determine the frequency of inspections.

**01. Notice Of Inspection.** All inspections and investigations, except for the initial certification study, may be made unannounced and without prior notice.

**02. Inspection by Department or Designee.** The Department may use the services of any legally qualified person or organization, either public or private, to examine and inspect any home requesting certification.

**03. Access by Inspector.** An inspector must have full access and authority to examine quality of care and services delivery, resident records, records including any records or documents pertaining to any financial transactions between residents and the home, resident accounts, physical premises, including the condition of the home, grounds and equipment, food service, water supply, sanitation, maintenance, housekeeping practices, and any other areas necessary to determine compliance with these rules and standards.

**a.** An inspector has the authority to interview the provider, any adults living in the home, the resident and the resident's family. Interviews with residents will be confidential and conducted privately unless otherwise specified by the resident.

**b.** The inspector has full authority to inspect the entire home, accompanied by the provider, including personal living quarters of family members living in the home, to check for inappropriate storage of combustibles, faulty wiring, or other conditions that may have a direct impact on the operation of the certified family home.

**04. Written Report.** Following any investigation or inspection, the Department will provide a written report to the provider of the home within thirty (30) days. The report will include the findings of the investigation or inspection.

**05. Plan of Correction.** If deficiencies are identified during the investigation or inspection, the home will be sent a statement of deficiencies which requires a plan of correction.

**a.** Depending on the severity of the deficiency, the home may be given up to fourteen (14) calendar days to develop a written plan of correction and to return the plan of correction to the Department.

**b.** An acceptable plan of correction must include how the deficiency was corrected or how it will be corrected, what steps have been taken to assure that the deficiency does not recur, and acceptable time frames for correction of the deficiency.

**c.** Follow-up inspections may be conducted to determine whether corrections to deficiencies are being made according to time frames established in the plan of correction.

**d.** The Department may provide consulting services to a home, upon request, to assist in identifying and correcting deficiencies and upgrading the quality of care.

**153. COMPLAINT PROCEDURE.** Any person who believes that any rule has been violated by a home may file a complaint with the Department.

**01. Investigation.** The Department will investigate any complaint alleging a violation of these rules. Any complaint involving the abuse, neglect, or exploitation of an adult must also be referred to adult protective services in accordance with the Adult Abuse, Neglect, and Exploitation Act, (See Idaho Code Section 39-5303).

**02. Investigation Method.** The nature of the complaint will determine the method used to investigate the complaint. On-site investigations at the home may be unannounced.

**03. Statement of Deficiencies.** If violations of these rules are identified, depending on the severity, the Department will send the home a statement of deficiencies. The home must prepare a plan of correction and return it to the Department within a time frame designated by the Department.

**04. Public Disclosure.** Information received by the Department through filed reports, inspection, or as otherwise authorized under the law, must not be disclosed publicly in such a manner as to identify individual residents except in a proceeding involving a question of certification.

**05. List of Deficiencies.** A current list of deficiencies including plans of correction will be available to the public upon request in the individual homes or by written request to the Department.

**06. Transfer Of Residents.** The Department may transfer residents from a certified family home to an alternative placement on the following grounds:

- a.** As a result of a violation of this chapter or applicable rules, or standards, the home is unable or unwilling to provide an adequate level of meals, lodging, care, or supervision to persons residing in the home at the time of the violation;
- b.** A violation of a resident's rights provided in Section 39-3516, Idaho Code;
- c.** The home is operating without a certificate; or
- d.** A violation of this chapter or applicable rules or standards that puts the resident in immediate jeopardy.

**154. ELEMENTS OF CARE.** As a condition of certification, the home must provide each of the following to the resident without additional charge:

**01. Supervision.** Appropriate, adequate supervision for twenty-four (24) hours each day unless the resident's plan of service provides for alone time.

**02. Daily Activities And Recreation.** Daily activities, recreational activities, maintenance of self-help skills, assistance with activities of daily living and provisions for trips to social functions, special diets, and arrangements for payments;

**03. Medical.** Arrangements for medical and dental services and monitoring of medications. If the resident is unable to give medical consent, the provider will give the name and contact information of the person holding guardianship or power of attorney for health care to any health care provider upon request.

**04. Furnishings and Equipment.** Linen, towels, wash cloths, a reasonable supply of soap, shampoo, toilet paper, sanitary napkins or tampons, first aid supplies, shaving supplies, laundering of linens, housekeeping service, maintenance, and basic television in common areas. In addition, the following will apply:

a. Resident living rooms must contain reading lamps, tables, and comfortable chairs and/or sofas;

b. The resident must be provided with his own bed which must be at least thirty-six (36) inches wide, substantially constructed, and in good repair. Roll-away type beds, cots, folding beds, or double bunks must not be used. The bed must be provided with springs which are in good repair, a clean and comfortable mattress which is standard for the bed, and a pillow;

c. The resident sleeping room must be equipped with a chair and dresser, substantially constructed and in good repair;

d. On request, each sleeping room must be equipped with a lockable storage cabinet for personal items for each resident, in addition to the required storage in resident sleeping rooms;

e. Adequate and satisfactory equipment and supplies must be provided to serve the residents. The amount and kind will vary according to the size of the home and type of resident; and

f. A monitoring or communication system must be provided when necessary due to the size or design of the home.

**05. Plan of Service.** Development and implementation of the plan of service for private-pay residents and implementation of the plan of service for state-funded residents.

**06. Activity Supplies.** Activity supplies in reasonable amounts, that reflect the interests of the resident; and

**07. Transportation.** Arrangement of transportation in reasonable amounts to community, recreational and religious activities within twenty-five (25) miles of the home. The home must also arrange for emergency transportation.

**155. ROOM, UTILITIES AND MEALS.**

The home must provide room, utilities and three (3) daily meals to the resident. The charge for room, utilities and three (3) daily meals must be established in the admission agreement.

**156. --199. (RESERVED)**

**200. RESIDENT RIGHTS POLICY.**

Each certified family home will develop and implement a written resident rights policy which will protect and promote the rights of each resident. The written description of legal rights must include a description of the protection of personal funds and a statement that a resident may file a complaint with the department respecting resident abuse and neglect and misappropriation of resident property in the home. Resident rights including, but are not limited to, the following:

**01. Records.** Each home must maintain and keep a current record of the following information on each resident:

- a. A copy of the resident's current plan of service or physician's order;
- b. Written acknowledgment that the resident has received copies of the rights;
- c. A record of all personal property and funds which the resident has entrusted to the home;
- d. Information about any specific health problems of the resident which may be useful in a medical emergency;
- e. The name, address, and telephone number of an individual identified by the resident who should be contacted in the event of an emergency or death of the resident;
- f. Any other health-related, emergency, or pertinent information which the resident requests the home to keep on record;
- g. The current admission agreement between the resident and the home.

**02. Privacy.** Each resident must be assured the right to privacy with regard to accommodations, medical and other treatment, written and telephone communications, visits and meetings of family and resident groups, including:

- a. The right to send and receive mail unopened;

b. If the resident is married, privacy for visits by his spouse. If both are residents in the home, they are permitted to share a room unless medically contraindicated, as documented by the attending physician;

**03. Humane Care.** Each resident has the right to humane care and a humane environment, including the following:

a. The right to a diet which is consistent with any religious or health-related restrictions;

b. The right to refuse a restricted diet; and

c. The right to a safe and sanitary living environment.

**04. Respectful Treatment.** Each resident has the right to be treated with dignity and respect, including:

a. The right to be treated in a courteous manner by the provider;

b. The right to receive a response from the home to any request of the resident within a reasonable time;

c. Freedom from discrimination; and

d. Freedom from intimidation, manipulation, coercion, and exploitation.

e. The right to wear his own clothing.

f. The right to determine his own dress and hair style;

g. The right to a separate storage area in his own living area and at least one (1) lockable cabinet or drawer, if the resident requests.

**05. Basic Needs Allowance.** Residents whose board and care is paid for by public assistance must retain, for their personal use, the difference between their total income and the Certified Family Home basic allowance established by IDAPA 03.05.513, "Rules Governing Aid to the Aged, Blind and Disabled":

**06. Resident Funds.** Residents have the right to manage their personal funds. A home must not require a resident to deposit his personal funds with the home.

**07. Access to Resident.** Each home must permit immediate access to any resident by any representative of the Department, by the state Ombudsman for the elderly or his designees, by an adult protection investigator or by the resident's personal physician. Each home must also permit the following:

a. Immediate access to a resident by immediate family or other relatives, subject to the resident's right to deny or withdraw consent at any time;

b. Immediate access to a resident by others who are visiting with the consent of the resident, subject to reasonable restrictions and the resident's right to deny or withdraw consent at any time;

c. Reasonable access to a resident by any entity or individual that provides health, social, legal, or other services to the resident, subject to the resident's right to deny or withdraw consent at any time.

**08. Freedom from Harm.** The resident has the right to be free from physical, mental, or sexual abuse, neglect, corporal punishment, involuntary seclusion, and any physical or chemical restraints imposed for purposes of discipline.

a. Any physician, nurse, employee of a public or private health facility, or a state certified family home serving vulnerable adults, medical examiner, dentist, ombudsman for the elderly, osteopath, optometrist, chiropractor, podiatrist, social worker, police officer, pharmacist, physical therapist, or home care worker who has reasonable cause to believe that a vulnerable adult is being or has been abused, neglected, or exploited must immediately report this information to the Idaho Commission on Aging or its Area Agencies on Aging (Section 39-5303, Idaho Code).

b. The home must report within four (4) hours to the appropriate law enforcement agency when there is reasonable cause to believe that abuse, neglect, misappropriation of resident's property, or sexual assault has resulted in death or serious physical injury jeopardizing the life, health, or safety of a vulnerable adult resident (refer to Idaho Code, Sections 39-5303 and 39-5310).

**09. Health Services.** The resident has the right to control his health-related services, including:

a. The right to retain the services of his own personal physician and dentist;

b. The right to select the pharmacy or pharmacist of his choice;

c. The right to confidentiality and privacy concerning his medical or dental condition and treatment;

d. The right to participate in the formulation of his plan of service.

**10. Grievance.** The resident has the right to voice or file a grievance with respect to or care that is (or fails to be) furnished, without discrimination or reprisal for voicing the grievance and the right to prompt efforts by the home to resolve grievances the resident may have, including those with respect to the behavior of other residents.

**11. Advance Notice.** The resident must receive written advance notice at least fifteen (15) calendar days prior to his non-emergency transfer or discharge unless he is transferred or discharged only for medical reasons, or for his welfare or the welfare of other residents, or for nonpayment for his stay. The written advance notice can be up to thirty (30) days if agreed to in the admission agreement.

**12. Other Rights.** In addition to the rights outlined in Sections 200.01 through 200.11 of these rules, the resident has the following rights:

- a. The resident has the right to refuse to perform services for the home;
- b. The resident must have access to his personal records and must have the right to confidentiality of personal and clinical records;
- c. The resident has the right to practice the religion of his choice or to abstain from religious practice. Residents must also be free from the imposition of the religious practices of others;
- d. The resident has the right to participate in social, religious, and community activities that do not interfere with the rights of other residents in the home;
- e. The resident has the right to examine, upon reasonable request, the results of the most recent inspection of the home conducted by the Department with respect to the home and any plan of correction in effect with respect to the home;
- f. The resident has a right to review a list of other certified family homes that may be available to meet his needs in case of transfer;
- g. The resident has the right not to be required to receive routine care of a personal nature from a member of the opposite sex;
- h. The resident has the right to be informed, in writing, regarding the formulation of an advanced directive to include applicable State law; and
- i. The resident must have any other right established by law.

**201. Notice Of Rights.** The certified family home will inform the resident, verbally and in writing, at the time of admission to the home, of his legal rights during the stay at the home.

**202. Access By Advocates And Representatives.** A certified family home must permit advocates and representatives of community and legal services programs, whose purposes include rendering assistance without charge to residents, to have access to the home at reasonable times. Advocates and representatives must observe

all common areas of the home. Access must be permitted in order for advocates and representatives to:

**01. Inform Residents Of Services.** Visit, talk with and make personal, social service programs and legal services available to all residents;

**02. Inform Residents Of Rights.** Inform residents of their rights and entitlements, their corresponding obligations under state, federal, and local laws by distribution of educational materials or discussion in groups and with individuals;

**03. Assist Residents To Secure Rights.** Assist residents in asserting their legal rights regarding claims for public assistance, medical assistance, and social security benefits, as well as in all other matters in which residents are aggrieved. This assistance may be provided individually, or in a group basis, and may include organizational activity, counseling, and litigation;

**04. Advise And Represent.** Engage in all other methods of assisting, advising, and representing residents so as to extend to them the full enjoyment of their rights;

**05. Communicate Privately.** Communicate privately and without restrictions with any resident who consents to the communication;

**203 – 224 (RESERVED)**

**225. UNIFORM ASSESSMENT REQUIREMENTS.**

**01. State Responsibility For State-Funded Residents.** The Department will assess State-funded residents according to IDAPA 16.03.23, "Rules Governing Uniform Assessments for State-Funded Clients".

**02. Provider Responsibility For Private-Pay Residents.** The provider will develop, identify, assess, or direct a uniform needs assessment of private-pay residents. The Department's uniform assessment instrument may be used as the uniform needs assessment.

**03.** The results of the assessment may be used to evaluate the ability of a provider to meet the identified resident's needs. The results of the assessment may also be used to determine the need for special training or licenses or certificates that may be required to care for certain residents.

**04.** The uniform needs assessment used by the home for private-pay residents must include, but not be limited to:

- a. Identification and background information;

- b. Medical diagnosis;
- c. Medical and health problems;
- d. Prescription and over-the-counter medications;
- e. Behavior patterns;
- f. Cognitive function;
- g. The psychosocial and physical needs of the resident;
- h. Functional status; and
- i. Assessed level of care.

**05. Time Frames For Completing The Uniform Needs Assessment For Private-Pay Residents.** The assessment must be completed no later than fourteen (14) calendar days after admission. The assessment must be reviewed when there is a change in need, or every twelve (12) months, whichever comes first. Upon request, the Department may provide training in conducting a uniform needs assessment.

**226 – 249 (RESERVED)**

**250. PLAN OF SERVICE.** The resident must have a plan of service. The plan must identify the resident, describe the services to be provided, and describe how the services will be delivered.

**01. Core Elements.** A resident's plan of service will be based on, but not limited to:

- a. Assessment;
- b. Service needs for activities of daily living;
- c. Need for limited nursing services;
- d. Need for medication assistance;
- e. Frequency of needed services;
- f. Level of assistance;
- g. Habilitation and training needs;
- h. Behavioral management needs, including identification of situations that trigger inappropriate behavior;

- i. Physician's dated history and physical;
- j. Admission records;
- k. Community support systems;
- l. Resident's desires;
- m. Transfer and discharge requirement; and
- n. Other identified needs.

**02. Signature And Approval.** The provider and the resident, his legal guardian or his conservator must sign and date the plan of service upon its completion, within fourteen (14) days after the resident's admission. For homes serving state-funded residents, services must be authorized by the Department prior to admission.

**03. Developing the Plan.** The provider will consult the resident and other individuals identified by the resident in developing the plan of service. Professional staff must be involved in developing the plan if required by another program.

**04. Resident Choice.** A resident must be given the choice and control of how and what services the provider or external vendors will provide to the extent the resident can make choices.

**05. Copy of the Plan.** Signed copies of the plan of service must be placed in the resident's file, given to the resident, and given to his legal guardian or his conservator no later than fourteen (14) days after admission. A copy of the Department approved plan must be in the resident's file, if applicable.

**06. Changes to the Plan.** A record must be made of any changes to the plan or when the provider is unable to provide services outlined in the plan of service.

**07. Periodic Review.** The next scheduled date of review must be documented in the plan of service. The plan of service should be reviewed as necessary but must be reviewed at least every twelve (12) months.

## **251 – 259 (RESERVED)**

## **260. ADMISSIONS.**

**01. Admission Agreement.** At the time of admission to a certified family home, the provider and the resident must enter into an admission agreement. The agreement will be in writing and must be signed by both parties. The agreement must, in itself or by reference to the resident's plan of care, include at least the following:

a. Whether or not the resident will assume responsibility for his own medication including reporting missed medication or medication taken on a PRN basis;

b. Whether or not the resident has ongoing ability to safeguard himself against personal harm, injury or accident. The certified family home must have a plan in place for steps it will take if the resident is not able to carry out his own self-preservation.

c. Whether or not the provider will accept responsibility for the resident's funds;

d. How a partial month's refund will be managed;

e. Responsibility for valuables belonging to the resident and provision for the return of a resident's valuables should the resident leave the home;

f. Fifteen (15) calendar days' written notice or up to thirty (30) calendar days as agreed to in the admission agreement prior to transfer or discharge on the part of either party;

g. Conditions under which emergency transfers will be made;

h. Signed permission to transfer pertinent information from the resident's record to a hospital, nursing home, residential and assisted living facility, or other certified family home;

i. Responsibility to obtain consent for medical procedures including the name, address, phone of guardian or power of attorney for health care for any resident who is unable to make his own medical decisions.

j. Resident responsibilities as appropriate;

k. Amount the home will charge for room, utilities and three (3) daily meals;  
and

l. Other information as needed.

**02. Termination Of Admission Agreement.** The admission agreement must not be terminated except under the following conditions:

a. By written notification by either party giving the other party fifteen (15) calendar days' written notice or as agreed to in the Admission Agreement but not to exceed thirty (30) days;

- b.** The resident's mental or physical condition deteriorates to a level requiring evaluation or services that cannot be provided in a certified family home;
- c.** Nonpayment of the resident's bill;
- d.** Emergency conditions requiring a resident to transfer out of the home without fifteen (15) calendar days' written notice to protect the resident or other residents in the home from harm; and
- e.** Other written conditions as mutually established between the resident and the provider at the time of admission.

#### **204. RESIDENT RECORDS.**

**01. Admission Records.** Records required for admission to a home must be maintained and updated and must be kept confidential. Their availability without the consent of the resident, subject to IDAPA16.05.01, "Use and Disclosure of Department Records," is limited to the home, professional consultants, the resident's physician and representatives of the Department. All entries will be kept current, recorded legibly in ink, dated, signed, and must include at least the following:

- a.** Name and Social Security number;
- b.** Permanent address if other than the home;
- c.** Marital status and sex;
- d.** Birth place and date of birth;
- e.** Name and address of responsible agent or agency including telephone numbers;
- f.** Personal physician and dentist;
- g.** Admission date and name of person who completed admission form;
- h.** Results of a history and physical performed by a licensed physician or nurse practitioner within six (6) months prior to admission;
- i.** For private-pay residents, the history and physical should include a description of the resident's needs for personal assistance and supervision, and indicate that the resident is appropriate for placement in a home;
- j.** A list of medications, treatments, and special diets, if any, prescribed for the resident and signed and dated by the physician;

- k.** Religious affiliation if resident chooses to disclose;
- l.** Interested relatives and friends other than those outlined in Subsection 204.01.e. to include names, addresses, and telephone numbers of family members, legal guardian or conservator, or significant others, or all;
- m.** Social information, obtained by the home from the resident, family, service coordinator, legal guardian or conservator, or other knowledgeable individuals. The information must include the resident's social history, hobbies, and interests;
- n.** Written admission agreement which is signed and dated by the provider and the resident, his legal guardian or his conservator;
- o.** A signed copy of the resident's rights as specified in Section 200 of these rules, or documentation that the resident, his legal guardian, or his conservator has read and understands his rights as a resident of the home;
- p.** A copy of the resident's admission Uniform Assessment Instrument for the certified family home;
- q.** A copy of the signed and dated admission plan of service that contains all elements of a plan of service between the resident, his legal guardian, or his conservator and the home; and
- r.** Upon admission, an inventory of the resident's belongings that is updated annually.
- 02. Ongoing Resident Records.** At the time of admission, the resident can inventory any item he chooses. That inventory can be updated at any time during his stay. Records must be kept current, including, but not limited to:

  - a.** Admission information required in subsection 204.01 of these rules;
  - b.** A current list of medications, diet, and treatments prescribed for the resident which is signed and dated by the physician giving the order. Current orders may be a copy of the signed doctor's order from the pharmacy;
  - c.** Documentation of any medication refused by the resident, not given to the resident or not taken by the resident with the reason for the omission. All PRN medication must be documented with the reason for taking the medication;
  - d.** Any incident or accident occurring while the resident is in the home;
  - e.** Notes from the licensed nurse, home health, physical therapy, and other service providers, documenting the services provided at each visit;

- f. Documentation of significant changes in the residents' physical, mental status, or both and the home's response;
- g. If appropriate, the resident's financial accounting records;
- h. The resident's Uniform Assessment Instruments, to include the admission assessment and all assessments for the past year, for certified family home care;
- i. Signed and dated plan of service, to include the admission plan of service and all service agreements for the past year between the resident, his legal guardian, or his conservator and the home;
- j. Contact name, address, phone number of individuals providing paid supports; and
- k. Signed copies of all care plans that are prepared by all outside service providers.

**03. Maintenance Of Resident Records.** All records of services delivered by the provider must be maintained in the home for at least five (5) years from the date of service.

## **205. RESIDENT CHARGES AND FINANCIAL RECORDS.**

**01. Resident Funds Policy.** If a resident's funds are turned over to the provider for any purpose other than payment for services allowed under these rules, or if the provider or his relative acts as resident payee, the home is deemed to be handling the resident's funds. Each home must develop and implement a policy and procedure outlining how the resident's funds will be managed. This policy and procedure must include, but is not limited to, the following:

- a. Statement of whether the home will or will not manage resident funds;
- b. If the home manages resident funds and the resident leaves the home under any circumstances, the home can only retain room and board funds prorated to the last day of the fifteen (15) calendar day notice period, or thirty (30) calendar day notice period as specified in the admission agreement, or upon moving from the home, whichever is later. All remaining funds must follow the resident, and resident funds must be used for resident expenses until a new payee is appointed.

**02. Managing Resident Funds.** A home that manages resident funds must:

- a. Establish a separate account at a financial institution for each resident. There can be no commingling of resident funds with home funds. Borrowing between resident accounts is prohibited;

- b. Notify the resident that funds are available for his use;
- c. Bill each resident for his certified family home care charges on a monthly basis from his funds;
- d. Document on a monthly or on a weekly basis any financial transactions in excess of five dollars (\$5) between the resident and the home. A separate transaction record must be maintained for each resident;
- e. Restore funds to the resident if the home cannot produce proper accounting records of residents' funds or property, including receipts for purchases made using the resident's personal funds. Restitution of the funds to the resident is a condition for continued operation of the home;
- f. Not require the resident to purchase goods or services from the home other than those designated in the admission policies, or the admission agreement, or both;
- g. Provide access to the resident's funds to the resident, his legal guardian or conservator or another person of the resident's choice;
- h. On the death of a private-pay resident, convey the resident's funds with a final accounting of those funds to the individual administering the resident's estate; within thirty (30) days;
- i. On the death of a client of the Department, convey the resident's funds with a final accounting of those funds, to the Department within thirty (30) days.

**206. -- 299. (RESERVED).**

**300. SHORT-TERM CARE AND SUPERVISION.**

When the provider is temporarily unable to provide care or supervision to the resident, he may designate another adult to provide care and supervision or supervision only to the resident. The provider must assure that this short-term arrangement meets the needs of the resident and protects the resident from harm.

**01. Alternate Caregiver.** An alternate caregiver must be a certified family home provider. An alternate caregiver provides care and supervision in his home to a resident from another certified family home according to the resident's original plan of service and admission agreement. The provider is responsible to provide or arrange for resident-specific training for the alternate caregiver. Alternate care can be provided for up to thirty (30) consecutive days.

**02. Substitute Caregiver.** A substitute caregiver must be approved by the provider to provide care and supervision to the resident in the provider's certified family home. The provider is responsible to provide or arrange for resident-specific training for

the substitute caregiver. Substitute care can be provided for up to thirty (30) consecutive days. In addition the substitute caregiver must have:

- a. Current certification in first aid and Cardio-Pulmonary Resuscitation (CPR);
- b. Criminal history clearance as provided in Section 009 of these rules; and
- c. Completion of approved "Assistance with Medications" course as provided in Section 430 of these rules.

**03. Incidental Supervision.** An individual providing incidental supervision must be approved by the provider to supervise the resident. Incidental supervision must not include resident care. Incidental supervision may be provided for up to four (4) hours per week. The individual must have:

- a. Current certification in first aid and Cardio-Pulmonary Resuscitation (CPR); and
- b. Criminal history clearance as provided in Section 009 of these rules.

**301. -- 429. (Reserved).**

#### **430. MEDICATION STANDARDS AND REQUIREMENTS.**

**01. Medication Policy.** The certified family home provider must develop written medication policies and procedures that outline in detail how the home will assure appropriate handling and safeguarding of medications. This documentation must be maintained in the home.

##### **02. Handling Of Resident's Medication.**

a. The medication must be in the original pharmacy-dispensed container, or in an original over-the-counter container, or placed in a unit container by a licensed nurse and be appropriately labeled with the name of the medication, dosage, time to be taken, route of administration, and any special instructions. Each medication must be packaged separately unless in a Mediset, blister pack, or similar system.

b. Evidence of the written or verbal order for the medication from the physician or other practitioner of the healing arts must be maintained in the resident's record. Medisets filled and labeled by a pharmacist or licensed nurse may serve as written evidence of the order. An original prescription bottle labeled by a pharmacist describing the order and instructions for use may also serve as written evidence of an order from the physician or other practitioner of the healing arts.

c. The home is responsible to safeguard the resident's medications.

d. Medications that are no longer used by the resident must not be retained by the certified family home for longer than thirty (30) calendar days.

**03. Self-Administration Of Medication.** If the resident is responsible for administering his own medication without assistance, a written approval stating that the resident is capable of self-administration must be obtained from the resident's primary physician or other practitioner of the healing arts. The resident's record must also include documentation that a licensed nurse or other qualified professional has evaluated the resident's ability to self-administer medication and has found that the resident:

- a. Understands the purpose of the medication;
- b. Knows the appropriate dosage and times to take the medication;
- c. Understands expected effects, adverse reactions or side effects, and action to take in an emergency; and
- d. Is able to take the medication without assistance.

**04. Assistance With Medications.** The certified family home must provide assistance with medications to residents who need assistance; however, only a licensed nurse or other licensed health professional may administer medications. Prior to assisting residents with medication, the following conditions must be in place:

- a. Each person assisting with resident medications must be an adult who successfully completed and follows the "Assistance with Medications" course available through the Idaho Professional Technical Education Program (a course approved by the Idaho State Board of Nursing), or other Department-approved training;
- b. The resident's health condition is stable;
- c. The resident's health status does not require nursing assessment before receiving the medication nor nursing assessment of the therapeutic or side effects after the medication is taken;
- d. The medication is in the original pharmacy-dispensed container with proper label and directions or in an original over-the-counter container or the medication has been placed in a unit container by a licensed nurse. Proper measuring devices must be available for liquid medication that is poured from a pharmacy-dispensed container;
- e. Written and oral instructions from the licensed physician or other practitioner of the healing arts, pharmacist, or nurse concerning the reason(s) for the medication, the dosage, expected effects, adverse reactions or side effects, and action

to take in an emergency have been reviewed by the staff person;

f. Written instructions are in place that outline required documentation of medication assistance, and whom to call if any doses are not taken, overdoses occur, or actual or potential side effects are observed; and

g. Procedures for disposal/destruction of medications must be documented and consistent with procedures outlined in the "Assistance with Medications" course.

**05. Administration Of Medications.** Only a licensed nurse or other licensed health professionals working within the scope of their license may administer medications. Administration of medications must comply with the Administrative Rules of the Board of Nursing, IDAPA 23.01.01, "Rules of the Idaho Board of Nursing." Some services are of such a technical nature that they must always be performed by, or under the supervision of, a licensed nurse or other licensed health professional. These services are outlined in IDAPA 23.01.01.490.

**06. Written Record of Disposal.** A written record of all disposal of drugs must be maintained in the home and will include:

- a. A description of the drug, including the amount;
- b. The resident for whom the medication was prescribed;
- c. The reason for disposal;
- d. The method of disposal; and
- e. Signatures of responsible home personnel and a witness or the resident's family.

**431. -- 499. (RESERVED).**

**500. ENVIRONMENTAL SANITATION STANDARDS.**

The home is responsible for disease prevention and maintenance of sanitary conditions.

**01. Water Supply.** The water supply for the home must be adequate, safe, and sanitary.

a. The home must use a public or municipal water supply or a Department-approved private water supply;

b. If water is from a private supply, water samples must be submitted to the Department through a private accredited laboratory or the District Public Health Laboratory for bacteriological examination at least annually or more frequently if

deemed necessary by the Department. Copies of the laboratory reports must be kept on file at the home; and

**c.** There must be enough water pressure to meet the sanitary requirements at all times.

**02. Sewage Disposal.** The sewage disposal system must be in good working order. All sewage and liquid wastes must be discharged, collected, treated, and disposed of in a manner approved by the Department.

**a.** If the home is not using an approved municipal sewage treatment system, the home must obtain a statement from the local health district indicating that the sewage disposal system meets local requirements. The statement must be kept on file at the home; or

**b.** If the local health district does not issue these statements, the home must have the system inspected by a person in the business of servicing these systems. The inspection report must be kept on file at the home; and

**c.** At the time of the initial certification and at least every three (3) years thereafter, the home must provide proof that the septic tank has been pumped or that pumping was not necessary at the time of inspection. The home must follow the recommendations of the inspector.

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

**a.** Garbage containers outside the home used for storage of garbage and refuse must be constructed of durable, nonabsorbent materials and must not leak or absorb liquids. Containers must be provided with tight-fitting lids.

**b.** Garbage containers must be maintained in good repair. Sufficient containers must be available to hold all garbage and refuse which accumulates between periods of removal from the premises. Storage areas must be kept clean and sanitary.

**04. Insect And Rodent Control.** The home must be maintained free from infestations of insects, rodents and other pests. Chemicals (pesticides) used in the control program must be selected, stored, and used safely.

**a.** The chemical must be selected on the basis of the pest involved and used only in the manner prescribed by the manufacturer;

**b.** The home must take the necessary precautions to protect residents from obtaining toxic chemicals;

**05. Yards.** The yards surrounding the home must be safe and maintained.

**06. Linen-Laundry Facilities And Services.** A washing machine and dryer must be provided for the proper and sanitary washing of linen and other washable goods.

**07. Housekeeping And Maintenance.** Sufficient housekeeping and maintenance will be provided to maintain the interior and exterior of the home in a clean, safe, and orderly manner.

**a.** A sleeping room must be thoroughly cleaned including the bed, bedding, and furnishings before it is occupied by a new resident; and

**b.** Deodorizers must not be used to cover odors caused by poor housekeeping or unsanitary conditions.

**501. -- 599. (RESERVED).**

**600. FIRE AND LIFE SAFETY STANDARDS.**

Certified family homes must meet all applicable requirements of local and state codes concerning fire and life safety.

**01. General Requirements.** General requirements for the fire and life safety standards for a certified family home are:

**a.** The home must be structurally sound and equipped and maintained to assure the safety of residents; and

**b.** When natural or man-made hazards are present, suitable fences, guards, and railings must be provided to protect the residents according to their need for supervision as documented in the plan of service; and

**c.** The premises of the certified family home must be kept free from the accumulation of weeds, trash, and rubbish.

**02. Fire And Life Safety Requirements.**

**a.** Smoke detectors must be installed in sleeping rooms, hallways, on each level of the home, and as recommended by the local fire district.

**b.** Any locks installed on exit doors must be easily opened from the inside without the use of keys or any special knowledge;

**c.** Portable comfort heating devices of any kind are prohibited;

**d.** Homes that use fuel-fired stoves must provide adequate railings or other approved protection designed to prevent residents from coming into contact with the stove surfaces;

e. Each resident's sleeping room will have a window that can be easily opened from the inside. The window sill height must not be more than forty-four (44) inches above the finished floor. Window openings must be at least twenty-two (22) inches in width and height.

f. Flammable or highly combustible materials must not be stored in the home;

g. Boilers, hot water heaters, and unfired pressure vessels must be equipped with automatic pressure relief valves;

h. Portable fire extinguishers must be mounted throughout the home according to the configuration of the home. Location of fire extinguishers is subject to Department approval. All extinguishers must be at least five (5) pound multipurpose ABC type and;

i. Electrical installations and equipment must comply with the applicable local and/or state electrical codes;

j. Solid fuel heating devices must be approved by the local building/heating/venting/air conditioning board. Openings in all solid fuel heating devices must have a door constructed of heat-tempered glass or other approved material;

k. Exits must be free from obstruction;

l. Doorways in the path of travel to an exit and all exit doorways must be at least twenty-eight (28) inches wide;

m. The door into each bathroom must unlock from the outside in case of an emergency.

**03. Smoking.** Smoking is a fire hazard. The home may choose to allow or not allow smoking. If the home chooses to allow smoking it must reduce the risk of fire by:

a. Prohibiting smoking in any area where flammable liquids, gases, or oxidizers are in use or stored;

b. Prohibiting residents from smoking in bed;

c. Prohibiting unsupervised smoking by residents unless unsupervised smoking is allowed on the plan of service;

**04. Emergency Preparedness.** Each certified family home will develop and implement a plan for emergencies including evacuation of the home. The emergency

plan must be reviewed with residents at admission and at least every six (6) months thereafter. This review must be documented in each resident's individual file.

**05. Fire Drills.** Homes must conduct and document fire drills at least quarterly. Residents who are physically unable to exit unassisted are exempt from physical participation in the drill if the provider has an effective evacuation plan for such residents and discusses the plan with the resident at the time of the drill.

**06. Report Of Fire.** A separate report on each fire incident occurring within the home must be submitted to the Department within thirty (30) calendar days of the occurrence. The report must include date of incident, origin, extent of damage, how the fire was extinguished, and injuries, if any.

**07. Maintenance Of Equipment.** The home will assure that all equipment is properly maintained.

**a.** The smoke detectors must be tested at least monthly and a written record of the test results maintained on file;

**b.** Portable fire extinguishers must be serviced annually by an outside servicing agency. Fire extinguishers purchased in the last twelve (12) months are exempt from annual service if the home has a dated receipt on file. All portable fire extinguishers must be examined at least quarterly by a knowledgeable family member to determine that;

i. The extinguisher is in its designated location;

ii. Seals or tamper indicators are not broken;

iii. The extinguisher has not been physically damaged;

iv. The extinguisher does not have any obvious defects; and

v. Inspecting tags on each extinguisher show at least the initials of the person making the quarterly examinations and the date of the examinations.

**c.** Fuel-fired heating systems must be inspected, serviced, and approved at least annually by person(s) in the business of servicing these systems. The inspection records must be maintained on file in the home.

**601. -- 699. (RESERVED).**

**700. HOME CONSTRUCTION AND PHYSICAL HOME STANDARDS.**

**01. General Requirements.** Any residence used as certified family home must be suitable for that use. Certified family homes must only be located in buildings intended for residential use.

a. Remodeling or additions to homes must be consistent with residential use of the property and must conform to local building standards including obtaining building permit(s) as required by the local jurisdiction. Remodeling that is not consistent with the general practice of the neighborhood is not permitted. Examples may include, but are not limited to, converting garages to bedrooms or constructing large buildings which overwhelm the lot.

b. All homes are subject to Department approval.

**02. Walls And Floors.** Walls and floors must withstand frequent cleaning. Walls in sleeping rooms must extend from floor to ceiling.

**03. Telephone.** There must be a landline telephone in the home that is accessible to all residents. The resident must have adequate privacy while using the telephone. The telephone must be immediately available in case of an emergency. Emergency numbers must be posted near the telephone.

**04. Toilet Facilities And Bathrooms.** Each certified family home must contain:

a. At least one (1) flush toilet, one (1) tub or shower, and one (1) lavatory with a mirror;

b. Toilet facilities and bathrooms must be separated from all rooms by solid walls or partitions;

c. All toilet facilities and bathrooms must have either a window that is easily opened or forced ventilation to the outside;

d. Tubs, showers, and lavatories must be connected to hot and cold running water;

e. Access to resident toilet facilities and bathrooms must not require a resident to pass through another sleeping room to reach the toilet or bath.

**05. Accessibility For Residents With Physical And Sensory Impairments.** Homes choosing to provide services to residents who have difficulty with mobility or who have sensory impairments must assure the physical environment meets the needs of the resident and maximizes independent mobility and use of appliances, bathroom facilities, and living areas. The home must provide necessary accommodations as described below:

- a. Ramps for residents who require assistance with ambulation. The ramp must comply with the Americans with Disabilities Act Accessibility Guidelines (ADAAG) 4.8;
  - b. Bathrooms and doorways must be large enough to allow easy passage of the wheelchair and must comply with the ADAAG 4.13;
  - c. Toilet facilities that comply with the ADAAG 4.16 and 4.23;
  - d. Sinks that comply with the ADAAG 4.24;
  - e. Grab bars in resident toilet facilities and bathrooms that comply with the ADAAG 4.26;
  - f. Bathtubs and shower stalls that comply with ADAAG 4.20 and 4.21;
  - g. Non-retractable faucet handles that comply with the ADAAG 4.19 and 4.27. Self-closing valves are not allowed;
  - h. Suitable handrails must be provided on both sides of all stairways leading into and out of the home for residents who require the use of crutches, walkers, or braces. Handrails must comply with the ADAAG 4.9.4;
- 06. Storage Areas.** Adequate storage must be provided in addition to the required storage in resident sleeping rooms.
- 07. Lighting.** Adequate lighting must be provided in all resident sleeping rooms and any other rooms accessed by the resident.
- 08. Ventilation.** The home must be well ventilated the provider must take precautions to prevent offensive odors.
- 09. Heating.** The temperature in the certified family home must be maintained at seventy (70) degrees Fahrenheit or more during waking hours when residents are at home and sixty-five (65) degrees Fahrenheit or more during sleeping hours or as defined in the plan of service. Wood stoves must not be the primary source of heat and the thermostat for the primary source of heat must be remotely located away from the wood stove.
- 10. Plumbing.** All plumbing in the home must comply with local and/or state codes. All plumbing fixtures must be easily cleanable and maintained in good repair.
- 11. Resident Sleeping Rooms.**

a. The resident's sleeping room must not be in an attic, stairway, hall, or any room commonly used for other than bedroom purposes. The resident's sleeping rooms may be in a basement only if the following conditions are met:

i. The window must not open into a window well that cannot be exited. All other fire and life safety requirements for windows must be met;

ii. The basement must have floors, ceilings, and walls which are finished to the same degree as the rest of the home. The sleeping room must meet all other requirements of these rules; and

iii. The resident must be assessed through the plan of service to be capable of evacuating from the basement without assistance in an emergency.

b. Walls must run from floor to ceiling and doors must be solid;

c. The resident must not occupy the same bedroom as the provider. The resident must not occupy the same bedroom as the provider's family unless the resident is also a family member;

d. Ceiling heights in sleeping rooms must be at least seven feet six inches (7'6");

e. Sleeping rooms must have closets equipped with doors. Closet space shared by two (2) residents, must have a substantial divider separating each resident's space. Free-standing closets must be deducted from the square footage in the sleeping room;

f. Sleeping rooms must have at least one-hundred (100) square feet of floor space in a one (1) person sleeping room and at least one-hundred and sixty (160) square feet of floor space in a two (2) person sleeping room.

#### **701. -- 709. (RESERVED).**

#### **710. ADDITIONAL REQUIREMENTS FOR CERTIFIED FAMILY HOMES.**

In addition to the requirements of Section 700 certified family homes must comply with the following:

##### **01. Site Requirements.**

a. The home must be in a lawfully constituted fire district;

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

c. The home must be accessible to physician or emergency medical services within thirty (30) minutes driving time; and

d. The home must be accessible within thirty (30) minutes driving time to necessary social, medical, and rehabilitation services.

**02. Use Of Manufactured Homes.** A late-model manufactured home may be approved for use as a certified family home if the home meets the followings:

a. The date the home was manufactured is within eighteen (18) years of the date of initial certification;

b. The home meets the requirements of the local jurisdiction in which the home is located. If no local standard has been established, the home must be installed according to the Idaho Manufactured Home Installation standard.

c. A manufactured home approved for use as a certified family home before July 1, 2005 may continue to be certified when evaluated on a case-by-case basis.

**711. -- 723. (RESERVED).**

**724. EMERGENCY POWERS OF THE DIRECTOR.**

In the event of an emergency endangering the life or safety of a resident, the Director may summarily suspend or revoke any certified family home certificate. As soon thereafter as practical, the Director will provide an opportunity for a hearing in accordance with the provisions of IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings."

**725. ENFORCEMENT PROCESS.**

If the Department finds that a home does not or did not meet a rule governing certified family homes, it may impose a remedy, independently or in conjunction with others, subject to the provisions of these rules for notice and appeal.

**01. Recommendation Of Remedy.** In determining which remedy to recommend, the Department will consider the home's compliance history, change of ownership, the number of deficiencies, scope, and severity of the deficiencies. Subject to these considerations, the Department may impose any of the following remedies:

- a. Ban on all admissions (see Section 730);
- b. Ban on admissions of residents with certain diagnosis (see Section 731);
- c. Summarily suspend the certificate and transfer residents (see Section 732);
- d. Issue a provisional certificate (see Section 150.02); or
- e. Revoke the home's certificate (see Section 733).

**02. Notice Of Enforcement Remedy.** The Department will give the home written notice of an enforcement remedy by certified mail or by personal service.

**726. IMMEDIATE JEOPARDY.**

If the Department finds that the home's deficiency or deficiencies immediately jeopardize the health or safety of its residents, the Department will summarily suspend the home's certificate.

**727. NO IMMEDIATE JEOPARDY.**

If the Department finds that the home's deficiency or deficiencies do not immediately jeopardize resident health or safety, the Department may impose one (1) or more of the remedies specified in Section 725.01.

**728. REPEATED NONCOMPLIANCE.**

If the Department makes a determination of repeated noncompliance with respect to a home, the Department may impose any of the remedies listed in Section 725.01. The Department will monitor the home on an as-needed basis, until the home has demonstrated that it is in compliance with all program requirements governing homes and that it will remain in compliance.

**729. FAILURE TO COMPLY.**

The Department will institute an action to revoke the home's certificate if:

**01. Out Of Compliance.** A home has not complied with a program requirement within thirty (30) days of the date the home is found out of compliance with that requirement; or

**02. Lack Of Progress.** A home has made little or no progress in correcting deficiencies within thirty (30) days from the date the Department accepted the home's plan of correction.

**730. ENFORCEMENT REMEDY OF BAN ON ALL ADMISSIONS.**

All admissions to the home are banned pending satisfactory correction of all deficiencies. Bans will remain in effect until the Department determines that the home has achieved full compliance with all program requirements, or until a substitute remedy is imposed.

**731. ENFORCEMENT REMEDY OF BAN ON ADMISSIONS OF RESIDENTS WITH SPECIFIC DIAGNOSIS.**

Admission of any resident with a specific diagnosis are banned. A ban may be imposed for all prospective residents both state and private, and will prevent the home from admitting the kinds of residents for whom it has shown an inability to provide adequate care.

### **732. ENFORCEMENT REMEDY OF SUMMARY SUSPENSION AND TRANSFER OF RESIDENTS.**

The Department may summarily suspend a home's certificate and transfer residents when convinced by a preponderance of the evidence that residents' health and safety are in immediate jeopardy.

### **733. ENFORCEMENT REMEDY OF REVOCATION OF CERTIFICATE.**

**01. Revocation Of The Home's Certificate.** The Department may institute a revocation action when persuaded by a preponderance of the evidence that the home is not in substantial compliance with this chapter.

**02. Causes For Revocation Of The Certificate.** The Department may revoke any certificate to include the following causes, but not be limited to:

- a.** The certificate holder has willfully misrepresented or omitted information on the application or other documents pertinent to obtaining a certificate;
- b.** The home is not in substantial compliance with these rules;
- c.** When persuaded by a preponderance of the evidence that such conditions exist which endanger the health or safety of any resident;
- d.** Any act adversely affecting the welfare of residents is being permitted, aided, performed, or abetted by the person or persons in charge of the home. Such acts may include, but are not limited to, neglect, physical abuse, mental abuse, emotional abuse, violation of civil rights, or exploitation;
- e.** The provider has demonstrated or exhibited a lack of sound judgment essential to the operation and management of a home;
- f.** The provider has violated any of the conditions of a provisional certificate;
- g.** The home has one (1) or more core issues. A core issue is a deficiency that endangers the health, safety, or welfare of any resident;
- h.** An accumulation of minor violations that, taken as a whole, would constitute a major deficiency;
- i.** Repeat violations of any requirement of these rules or of the Idaho Code;
- j.** The home lacks the ability to properly care for the type of residents residing at the home, as required by these rules or as directed by the Department;
- k.** The home is not in substantial compliance with the provisions for services, resident rights or admissions; or

I. Certificate holder refuses to allow the Department and/or Protection and Advocacy agencies full access to the home environment, home records, and/or the residents.

**03. Additional Causes For Revocation Of Certificate.** Additional causes for revocation of a certificate may include the following:

a. Any condition exists in the home which endangers the health or safety of any resident;

b. The provider has willfully misrepresented or omitted information on the application or other documents pertinent to obtaining a certificate;

c. The provider has demonstrated or exhibited a lack of sound judgment essential to the operation and management of a certified family home;

d. Any deficiency that endangers the health or safety or welfare of any resident; or

e. The home lacks adequate supervision of residents;

**734. ENFORCEMENT REMEDY OF INJUNCTION.**

The Department may seek an injunction against any person or governmental unit to enjoin the establishment, conduct, management, or operation of a certified family home in violation of these rules.

**735. RIGHT TO SELL.**

Nothing contained in Section 725 limits the right of any home owner to sell, lease, mortgage, or close any home in accordance with all applicable laws.

**736. TRANSFER OF RESIDENTS.**

The Department may transfer residents from a home to an alternative placement on the following grounds:

**01. Violation Of Rules.** As a result of a violation of a provision of these rules or standards, the home is unable or unwilling to provide an adequate level of meals, lodging, personal assistance, or supervision to persons residing in the home at the time of the violation;

**02. Violation Of Resident's Rights.** A violation of a resident's rights provided in 39-3516, Idaho Code or Section 200 of these rules; or

**03. Imminent Danger.** A violation of a provision of this chapter or applicable rules or standards results in conditions that present an imminent danger.

737. -- 999. (RESERVED).

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