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**IDAPA 16
TITLE 03
CHAPTER 19**

16.03.19 - RULES GOVERNING CERTIFIED FAMILY HOMES

000. LEGAL AUTHORITY.

Pursuant to Section 39-3371 and Section 39-3561, Idaho Code, the Idaho Board of Health and Welfare is authorized to adopt and enforce rules and standards designed to protect the health and safety of residents in adult foster care homes and to provide adequate nutrition, supervision and meaningful life activities. Sections 39-3393 and 39-3580, Idaho Code, extend the adult foster care home provisions to any individual providing care commercially to persons who are developmentally disabled, mentally ill, physically disabled, or elderly. (4-5-00)

001. TITLE AND SCOPE.

01. Title. These rules shall be cited in full as IDAPA 16.03.19.000 et seq., Idaho Department of Health and Welfare Rules IDAPA 16, Title 03, Chapter 19, "Rules Governing Certified Family Homes". (4-5-00)

02. Scope. These rules include minimum standards and administrative requirements for any individual who is paid to care for an adult in the individual's home, if the adult cared for is developmentally disabled, mentally ill, physically disabled, or elderly, and needs assistance with activities of daily living. (4-5-00)

002. (RESERVED).

003. ADMINISTRATIVE APPEALS.

All contested cases shall be governed by the provision of IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings". (4-5-00)

004. WAIVERS.

Waivers may be granted by the Department when the following conditions are met: (4-5-00)

01. Written Request. A written request for a waiver must be submitted to the Department. The request must include the following: (4-5-00)

a. Reference to the section of the rules for which the waiver is requested; (4-5-00)

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; (4-5-00)

c. Written documentation that assures residents' health and safety will not be jeopardized if the waiver is granted. (4-5-00)

02. One Year Limit On Waivers. A waiver may be granted for a period of no more than one (1) year. (4-5-00)

03. Renewing A Waiver. The appropriateness of renewing a waiver shall be reviewed by the Department during the annual survey. If the home operator wishes to review the waiver, a request (unless specified otherwise) must be submitted to the certifying agency in writing. (4-5-00)

04. Decision To Grant A Waiver. The decision to grant a waiver in one (1) home shall not be considered as precedent or be given any force or effect regarding any other home. (4-5-00)

005. EXEMPTIONS.

The provisions of these rules do not apply to any of the following: (4-5-00)

01. Health Facility. The provisions of these rules do not apply to any health facility defined by Title

39, Chapter 13, Idaho Code. (4-5-00)

02. Alternate Living Arrangements. The provisions of these rules do not apply to any home that is limited to providing only housing, meals, transportation, housekeeping, or recreational and social activities, or that has residents independently accessing supportive services from an entity approved to provide such services in Idaho and holding no legal ownership interest in the home. (4-5-00)

03. Relatives. The provisions of these rules do not apply to any arrangement for the receiving and care of persons by a relative, except when the caretaker is paid for the care through a state or federal program, in which case the caretaker relative and the care setting must meet the requirements of the program that funds the care. (4-5-00)

006. SERVICES AVAILABLE.

The certified family home shall provide a home setting and supportive services according to the resident's Negotiated Service Agreement. (4-5-00)

007. (RESERVED).

008. INCORPORATION BY REFERENCE.

The following documents are incorporated by reference. (4-5-00)

01. The Uniform Building Code, 1988 Edition. Available from the International Conference of Building Officials, 5360 South Workman Mill Road, Whittier, CA, 90601. (4-5-00)

02. IDAPA 16.03.22, "Rules For Licensed Residential And Assisted Living Facilities In Idaho." Sections 927 and 930. (4-5-00)

03. Administrative Rules of the Idaho State Board of Nursing. IDAPA 23.01.01, "Rules of the Board of Nursing". (4-5-00)

04. Americans with Disabilities Act Accessibility Guidelines, 28CFR Par 36, Appendix A. (4-5-00)

009. (RESERVED).

010. DEFINITIONS.

01. Abuse. The nonaccidental infliction of physical pain, injury, or mental injury. (4-5-00)

02. Activities. All organized and directed social, habilitative, and rehabilitative services a home provides or arranges. (4-5-00)

03. 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. (4-5-00)

04. Adequate Care. The care and supervision provided to a resident to meet his needs for room, board, and assistance as described in the Negotiated Service Agreement. (4-5-00)

05. Adult. A person who has attained the age of eighteen (18) years. (4-5-00)

06. Adult Foster Care Home. A family home in which one (1) or two (2) adults live who are not able to reside in their own home and who require care, help in daily living, protection, security, and encouragement toward independence. Adult foster care homes are subject to these rules. (4-5-00)

07. Advanced Directive. A written instruction, such as a living will or durable power of attorney for health care, recognized under State Law, whether statutory or as recognized by the courts of the State, and relates to

the provision of medical care when the individual is unable to communicate. (4-5-00)

08. Advocate. An authorized or designated representative of a program or organization operating under federal or state mandate to represent the interests of persons with mental illness, developmental disabilities, physical disabilities, and/or who are elderly. (4-5-00)

09. Ambulatory Person. A person who, unaided by any other person, is physically and mentally capable of walking a normal path to safety, including the ascent and descent of stairs. (4-5-00)

10. Assessment. The conclusion reached using uniform criteria developed by the Department and relevant councils for determining a person's need for care and services. (4-5-00)

11. Assistance With Medications. Refer to the current Administrative Rules of the Idaho State Board of Nursing, IDAPA 23.01.01, "Rules of the Board of Nursing," Section 400, Subsections 400.02, 400.04, and 400.05. (4-5-00)

12. Basement. Any floor level below the first story in a home except that a floor level in a home having only one (1) floor level shall be classified as a basement. (4-5-00)

13. Board. The Idaho State Board of Health and Welfare. (4-5-00)

14. Care And Supervision. The provision by a provider of one (1) or more of the following services based on each resident's Negotiated Service Agreement: (4-5-00)

a. Assisting the resident with activities of daily living; (4-5-00)

b. Arranging for supportive services; (4-5-00)

c. Being aware of the resident's general whereabouts; (4-5-00)

d. Monitoring the activities of the resident while on the premises of the home and knowledge of the resident's whereabouts to ensure the resident's health, safety, and well-being; (4-5-00)

e. Assisting residents with self-administration of medication; (4-5-00)

15. Certificate. A permit issued by the Department to operate a certified family home. (4-5-00)

16. Certified Family Home. A family home in which an adult chooses to live who is not able to reside in his own home and who requires care, help in daily living, protection, security, and encouragement toward independence. This term includes adult foster care homes as defined in Section 39-3302(5) and Section 39-3502(5), Idaho Code, as well as any home in which care is provided commercially to one (1) or two (2) persons. In this chapter a Certified Family Home shall be referred to as "home". (4-5-00)

17. Certified Family Home Care Provider. An adult member of the certified family home responsible for providing care to the resident or residents. The care provider and the legal property owner may not necessarily be the same person. (4-5-00)

18. Certified Family Home Care Agreement. A written, signed, and dated agreement between a certified family home and a resident specifying the amount of payment to be paid by the resident and the method of payment. (4-5-00)

19. Certified Family Home Family. All individuals related by blood or marriage, other than residents, residing in the certified family home. (4-5-00)

20. Certifying Agency. The unit of the Department that conducts inspections and surveys and that issues certificates based on the home's compliance with this chapter. The unit of the Department may differ depending on the type of resident and the geographic area of the State. (4-5-00)

- 21. Chemical Restraint.** The use of any medication that results or is intended to result in the modification of behavior. (4-5-00)
- 22. Client Of The Department.** Any person who receives financial aid and/or services from an organized program of the Department. (4-5-00)
- 23. 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. (4-5-00)
- 24. Deficiency.** A determination of non-compliance with a specific rule or part of a rule. (4-5-00)
- 25. Department.** The Idaho Department of Health and Welfare. (4-5-00)
- 26. Developmental Disability.** A developmental disability as defined in Section 66-402, Idaho Code, means chronic disability that occurs before the age of twenty-two (22), and: (4-5-00)
- a.** Is attributable to an impairment, such as mental retardation, cerebral palsy, epilepsy, autism, or other conditions found to be closely related to or similar to one of these impairments that requires similar treatment or services or is attributable to dyslexia resulting from such impairments; and (4-5-00)
- b.** Results in substantial functional limitations in three (3) or more of the following areas of major life activity: self-care, receptive and expressive language, learning, mobility, self-direction, capacity of independent living, or economic self-sufficiency; and (4-5-00)
- c.** Reflects the need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services which are of life-long or extended duration and individually planned and coordinated. (4-5-00)
- 27. Director.** The Director of the Idaho Department of Health and Welfare or his designee. (4-5-00)
- 28. Exploitation.** An action which may include, but is not limited to, the misuse of a vulnerable adult's funds, property, or resources by another person for profit or advantage. (4-5-00)
- 29. Hands On.** Physical assistance to the resident beyond verbal prompting. (4-5-00)
- 30. Immediate Jeopardy.** The certifying agency has determined that residents are subject to an imminent or substantial danger. (4-5-00)
- 31. Independent Mobility.** A resident's ability to move about freely of their own choice with or without the assistance of a mobility device such as a wheelchair, cane, crutches, or walker. (4-5-00)
- 32. Individual Support Plan.** The written individualized plan approved by the Department, which must be based on a person-centered planning and assessment process outlining the consumers' needs, desires, goals, and objectives, and include the specific types, amounts, frequency, and duration of waiver services to be provided by the agency. (4-5-00)
- 33. 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. (4-5-00)
- 34. Monitoring Visit.** A representative of the Department visiting a home for the purpose of verifying a home's correction of deficiencies or to observe the orderly transfer of residents and/or a home closure. (4-5-00)
- 35. Neglect.** The failure to provide those goods or services which are reasonably necessary to sustain the life and health of a person pursuant to Section 39-5302(8), Idaho Code. (4-5-00)

- 36. Negotiated Service Agreement.** The agreement between the resident and/or their representative and the home, based on the assessment, physician's orders, if any, admission records, if any, and desires of the resident, and which outlines services to be provided and the obligations of the home and the resident. (4-5-00)
- 37. Owner.** Any recognized legal entity, governmental unit, or person having legal ownership of the certified family home. (4-5-00)
- 38. Personal Care Services.** Services provided pursuant to Section 39-5601 et seq., Idaho Code. (4-5-00)
- 39. PRN.** A medication or treatment prescribed by a medical professional to an individual allowing the medication to be given as needed. (4-5-00)
- 40. Provider.** The member of the family of the home who has primary responsibility for the care of the residents in the home and for compliance with the standards set forth in these rules. The certified family home certificate will be issued in the provider's name. The provider must be at least eighteen (18) years of age and must live in the home. (4-5-00)
- 41. Relative(s).** Persons related by birth, adoption, or marriage to the first degree and grandparent and grandchild. (4-5-00)
- 42. Repeat Deficiency.** A violation or deficiency found on a resurvey or revisit that was also found during the previous survey or visit. (4-5-00)
- 43. Repeated Noncompliance.** A finding of substandard quality of care on three (3) consecutive surveys and/or visits. (4-5-00)
- 44. Resident, Certified Family Home.** An individual who requires room and board, supervision, and one (1) or more of the following services: protection, assistance with decision-making and activities of daily living, and direction toward self-care skills. A resident of a certified family home is referred to in these rules as "resident". A resident includes all occupants of a certified family home other than the owner, provider, or their immediate families or employees. (4-5-00)
- 45. Residential Habilitation.** Services consisting of an integrated array of individually-tailored services and supports furnished to an eligible consumer which are designed to assist them to reside successfully in their own homes, with their families, or alternate family home. Residential Habilitation Homes are subject to the provisions of these rules. (4-5-00)
- 46. Room And Board.** Lodging and meals. (4-5-00)
- 47. Self-Administration Of Medication.** A resident taking a single dose of medication as a result of an order by a physician or a dentist. The certified family home provider is responsible for providing necessary assistance to the resident in taking his medication, including reminding the resident to take medication, removing medication containers from storage, assisting with removal of the cap, assisting with the removal of a medication from a container for residents with a disability which prevents independence in this act and observing the resident taking the medication. (4-5-00)
- 48. Self-Preservation.** A resident's ongoing ability to execute actions necessary to safeguard against personal harm, injury, or accident. (4-5-00)
- 49. Service Coordinator.** A regionally designated representative of the Department's Adult Services, Mental Health, or Developmental Disabilities Program who is qualified by training and experience including, but not limited to, licensed social worker or registered nurse to develop or coordinate Negotiated Services Agreements for clients of the Department. (4-5-00)
- 50. Service Plan.** The Negotiated Service Agreement, Personal Care Plan, Plan of Care, or Individual Service Plan. (4-5-00)

51. Substandard Quality Of Care. A finding by the certifying agency of one (1) or more deficiencies, the existence of which limit(s) the home's ability to deliver adequate care or services. (4-5-00)

52. Substantial Compliance. A home is in substantial compliance with these rules when there are no deficiencies which would endanger the health, safety, or welfare of the residents. (4-5-00)

53. Uniform Assessment Instrument. A set of standardized criteria adopted by the Department of Health and Welfare to assess functional and cognitive abilities pursuant to IDAPA 16.03.23, "Rules Governing Uniform Assessments for State-Funded Clients". (4-5-00)

54. Waiver Services. Home and Community Based (HCBS) Services which are subject to the requirements of these rules. (4-5-00)

55. 1501 Home. A home authorized by Chapter 284 of the Idaho Session Laws of 1994 (S.B. 1501) codified at Section 39-3561(9) Idaho Code, to provide care and supervision for up to four (4) adults. Certification as a 1501 home is not transferable to another person or location other than as originally certified. Homes certified under this provision shall not be subject to the residential care facility administrator or residential care facility licensing requirements of Title 54, Chapter 42, of the Idaho Code, or Title 39, Chapters 33 and 35 of the Idaho Code. With the exception of the limitation on numbers of residents, 1501 homes are subject to these rules. (4-5-00)

011. -- 099. (RESERVED).

100. CERTIFICATION.

01. Requirements. (4-5-00)

a. After July 1, 1999, no person or entity, public or private shall establish or operate a home without first obtaining a certificate issued by the Department; (4-5-00)

b. Any person or entity proposing to operate a home shall apply for certification to the Department, specifying the types of residents to be served and the level(s) of care to be provided; (4-5-00)

c. A certificate to provide certified family care shall be issued in the name of the provider applying for certification, and only to the address of the home stated in the application. There shall be no change in the provider or location of the certified family home without a new certification study of the home; (4-5-00)

d. As a condition of certification, the following goods or services shall be provided to the resident without additional charge: (4-5-00)

i. Appropriate, adequate supervision as outlined in the resident's Negotiated Service Agreement; (4-5-00)

ii. Room and board; (4-5-00)

iii. Furnishings and equipment as outlined in Subsection 700.06; (4-5-00)

iv. Essential toiletries listed in Subsection 700.06; (4-5-00)

v. Negotiated Service Agreement development and implementation; (4-5-00)

vi. Activity supplies in reasonable amounts, that reflect the interests of the resident; and (4-5-00)

vii. Arrangement of transportation in reasonable amounts to community, recreational, and religious activities within twenty-five (25) miles of the home. (4-5-00)

e. The home and physical premises as well as all records required under these rules, shall be

accessible at all times to the certifying agency for the purposes of inspection, with or without prior notification. (4-5-00)

02. Application For An Initial Certificate. The applicant/provider shall apply for certification on forms provided by the Department, giving such information as the Department shall require, including: (4-5-00)

a. A written statement that the applicant has thoroughly read and reviewed this chapter and is prepared to comply with all of its provisions; (4-5-00)

b. Satisfactory evidence that the applicant is 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". If the applicant is unable to obtain an acceptable criminal history clearance, the Department shall deny the application; (4-5-00)

c. Completed application form signed by the applicant/provider; (4-5-00)

d. The applicant must provide 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; (4-5-00)

e. Any other information that may be requested by the certifying agency for the proper administration and enforcement of the provisions of this chapter; (4-5-00)

f. A statement from a licensed electrician or the local/state electrical inspector that all wiring in the home complies with applicable local codes; and (4-5-00)

g. If the home is on other than a municipal water supply or sewage disposal system, a statement from the local environmental health agency that the water supply and sewage disposal system meets the legal standards. (4-5-00)

03. Additional Certification Requirements. (4-5-00)

a. Homes shall not be certified for more than two (2) residents; (4-5-00)

b. A home cannot be certified if it also provides room and board to any person who is not a resident as defined by these rules or a family member; (4-5-00)

c. Homes cannot be certified as a certified family home and for child foster care at the same time; and (4-5-00)

d. The number, age, and sex of children or other adults in the home shall be taken into account in evaluating the appropriateness of a placement for meeting the needs of an adult. (4-5-00)

e. Failure of the applicant to cooperate with the Department in the application process shall result in the denial of the application. Failure to cooperate means that the information described in Section 100 of the rules has not been provided, or not provided in the form requested by the certifying agency, or both. (4-5-00)

04. Effect Of Previous Revocation Or Denial Of A Certificate Or A License. The certifying agency is not required to consider the application of any applicant who has had a health care certificate or license denied or revoked until five (5) years have lapsed from the date of denial or revocation. (4-5-00)

05. State Certification To Supersede Local Regulation. These rules shall supersede any program of any political subdivision of the state which certifies or sets standards for certified family homes. (4-5-00)

06. Certification Study. Following receipt of an acceptable application and other required signed documents, the Department shall initiate a certification study. The study shall include a review of all material submitted. The certification study, along with the application and other required material, shall serve as the basis

upon which a certificate is issued or denied. The certifying agency shall 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. A medical or psychological examination of the provider or family members may be required by the Department. (4-5-00)

07. Provider Training. As a condition of initial certification, all providers shall receive training in the following areas: (4-5-00)

- a. Resident rights; (4-5-00)
- b. The psychosocial and physical needs of the residents; (4-5-00)
- c. The specific services and supervision that each resident requires; (4-5-00)
- d. Certification in first aid and CPR (Cardio-Pulmonary Resuscitation) shall be kept current; (4-5-00)
- e. Emergency procedures; (4-5-00)
- f. Fire safety, fire extinguisher, and smoke alarms; and (4-5-00)
- g. Complaint investigations and survey procedures; (4-5-00)

08. Ongoing Training. All family home providers shall receive a minimum of eight (8) hours per year of ongoing Department-approved training in the provision of supervision, services, and care, to include the orientation training program required in Section 100 of this rule. (4-5-00)

101. EXCEPTION TO THE TWO RESIDENT LIMIT.

01. Criteria For Determination. 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. The Department shall determine if safe and appropriate care can be provided based upon resident needs and regardless of payment source. The Department shall consider, at a minimum, the following factors in making that determination: (5-3-03)

- a. Each current or prospective resident's physical, mental and behavioral status and history; and (5-3-03)
- b. The household composition including the number of adults, children and other family members requiring care from the providers; and (5-3-03)
- c. The training, education, and experience of the provider to meet each resident's needs; and (5-3-03)
- d. Potential barriers that might limit resident safe access to and exit from the rooms in the home; and (5-3-03)
- e. The number and qualifications of care givers in the home; and (5-3-03)
- f. The desires of the prospective and current residents; and (5-3-03)
- g. The individual and collective hours of care needed by the residents; and (5-3-03)
- h. The physical layout of the home and the square footage available to meet the needs of all persons living in the home. (5-3-03)

02. Other Employment. Providers of three (3) or four (4) bed homes shall not have other gainful employment unless: (5-3-03)

- a. The total direct care time for all residents, as reflected by the negotiated service agreements and

assessments, does not exceed eight (8) hours per day; and (5-3-03)

b. The provider is immediately available to meet resident needs as they arise; and (5-3-03)

c. Each resident is supervised at all times unless the assessment or service plan indicates the resident may be left unattended for designated periods of time. (5-3-03)

03. Additional Training. Providers of three (3) or four (4) bed homes shall, if necessary, obtain additional training as determined by the Department to meet the needs of the residents. (5-3-03)

04. Substitute Caregivers. Providers of three (3) or four (4) bed homes shall arrange substitute caregivers for periods when the provider must be absent from the home. Providers are responsible: (5-3-03)

a. To ensure substitute caregivers do not have a criminal history; and (5-3-03)

b. To ensure the substitute caregivers have the ability and training necessary to provide care commensurate with the period of the absence and the distance the provider is from the home. (5-3-03)

05. Fire Drills. Providers of three (3) or four (4) bed homes shall conduct fire drills at least quarterly. Residents who are physically unable to exit unassisted may be exempted 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. (5-3-03)

06. Guardianship. A provider applying to care for three (3) or four (4) residents may not become the guardian of any resident unless either of the following applies: (5-3-03)

a. The guardianship was established prior to July 1, 2001; or (5-3-03)

b. The proposed guardian is a parent, child, sibling, or grandparent of the resident. (5-3-03)

07. Certification Nontransferable. Certification to care for more than two (2) residents shall not be transferable to another person, home, or entity. (5-3-03)

08. Reassessment Of Certification. Certification to care for more than two (2) residents shall be reassessed at least annually and when either of the following occur: (5-3-03)

a. Each time a new admission is being considered; or (5-3-03)

b. When there is a significant change in any of the factors specified in Subsection 101.01 of this section. (5-3-03)

09. Additional Physical Home Standards. In addition to the requirements in Section 700 of these rules, not more than two (2) residents shall be housed in any multi-bed sleeping room. (5-3-03)

102. -- 149. (RESERVED).

150. ISSUANCE OF CERTIFICATES.

01. Provisional Certificate. Homes found to be in substantial compliance with these rules but which fail to comply in every detail may be issued a provisional certificate when failure to comply will not adversely affect the health and safety of the residents. A certificate issued on the basis of substantial compliance is contingent upon the correction of deficiencies in accordance with an agreed upon plan. Provisional certificates may be issued for up to six (6) months. (4-5-00)

02. Full Certificate. A full certificate shall be valid for a period of time not to exceed twelve (12) months from the date of approval. The certificate shall expire at the end of its stated period unless it is continued in effect by agreement with the Department or by operation of law. (4-5-00)

a. Each certificate issued shall be only for the premises and persons named in the application and shall not be transferable or assignable; (4-5-00)

b. The certificate shall be available at the home upon request; and (4-5-00)

c. The provisional certificate may be replaced with a full certificate when the certifying agency has completed a revisit to the home prior to the expiration of the provisional certificate and has determined that the home qualifies for a full certificate. (4-5-00)

03. Expiration And Renewal Of Certificates. (4-5-00)

a. The application for renewal of a certificate shall be submitted on a form prescribed by the certifying agency. The completed application shall be returned to the certifying agency at least thirty (30) days prior to the expiration of the existing certificate. (4-5-00)

b. The existing certificate, unless suspended or revoked, shall remain in force and effect until the Department has acted upon the application renewal when such application for renewal is timely filed. (4-5-00)

04. Change Of Ownership Certification Requirements. (4-5-00)

a. Because certificates are not transferable from one (1) individual to another or from one (1) lessee to another or from one (1) location to another, when a change of ownership, lease, or location is undertaken, the home must be recertified and must follow the same procedure as a home that has never been certified; (4-5-00)

b. 1501 home status may not be recertified on a transfer between individuals or from one (1) location to another. On recertification of any such home that is transferred, the general provisions of these rules will apply, and the home will be limited to two (2) residents; (4-5-00)

c. The application for a change of ownership must be submitted to the certifying agency at least sixty (60) days prior to the proposed date of change; and (4-5-00)

d. An application for change of ownership of a home that is leased from a person who is in litigation for failure to meet licensure standards, or who has had his license revoked, shall include evidence that there is a bonafide arms length agreement and relationship between the two (2) parties. See Subsection 111.02.h. (4-5-00)

05. Denial Of Certificate. The Department may deny the issuance of a certificate when such conditions exist as to 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: (4-5-00)

a. The applicant or provider has willfully misrepresented or omitted information on the application or other documents pertinent to obtaining a certificate; or (4-5-00)

b. The applicant or provider has been guilty of fraud, gross negligence, abuse, assault, battery or exploitation in relationship to the operation of a health facility or certified family home; or (4-5-00)

c. The applicant or provider has been convicted of a criminal offense described in Section 39-3321(1), Idaho Code, within the past five (5) years; or (4-5-00)

d. The applicant has been convicted of a criminal offense other than a minor traffic violation; or (4-5-00)

e. The applicant or provider has been denied or has had revoked any health facility, residential and assisted living facility license, or certified family home certificate; or (4-5-00)

f. The applicant or provider has been convicted of operating a health facility, residential and assisted living facility, or certified family home without a license/certificate; or (4-5-00)

g. The applicant or provider has been enjoined from operating a health facility, residential and assisted living facility, or certified family home; or (4-5-00)

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.f. (4-5-00)

i. The applicant is directly under the control or influence of any person who has been convicted of a criminal offense other than a minor traffic violation in the past five (5) years. (4-5-00)

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. (4-5-00)

07. 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 practicable, the Director shall provide an opportunity for a hearing in accordance with the provisions of IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings". (4-5-00)

08. Uncertified Family Homes. No uncertified family home shall operate in this state: (4-5-00)

a. An "uncertified family home" shall not operate in the state if it is "operated to provide family home services," is not certified, is not exempt from certification, provides care commercially, and any one (1) of the following conditions exists: (4-5-00)

i. The home is, or is held out as or represented as, providing care, supervision, and services; or (4-5-00)

ii. The home accepts or retains residents who demonstrate the need for care, supervision, and services, as defined by these rules. (4-5-00)

b. Upon discovery of an uncertified family home, the Department shall refer residents to the appropriate placement or adult protective services agency if there is an immediate threat to any resident's health and safety or if the home does not cooperate with the certifying agency to apply for certification, meet certification standards, and obtain a valid certificate. (4-5-00)

c. A person found to be operating a certified family home without first obtaining a certificate may be referred for criminal prosecution pursuant to Section 39-3381, Idaho Code. (4-5-00)

09. Placement Of Persons Into An Uncertified Family Home. No person or public agency employee shall place, refer, or recommend placement of a person into a family home which is operating without a certificate. (4-5-00)

10. Procedure For Hearings For Denial Or Revocation Of A Certificate. (4-5-00)

a. Immediately upon the denial of any application for a certificate, or the revocation of a certificate, the Department shall notify the applicant or operator in writing by certified mail or by personal service of its decision and the reason for its decision; (4-5-00)

b. The notification shall also offer the applicant or the operator the opportunity to request an informal prehearing conference during which alternatives to revocation or denial may be discussed; and (4-5-00)

c. If the case cannot be resolved in the prehearing conference, or if the applicant or operator does not request a prehearing conference, the case shall be subject to the hearing provisions in IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings". (4-5-00)

151. INSPECTIONS.

01. Inspection Of Homes. (4-5-00)

a. The certifying agency shall cause to be made such inspections and investigations, based on previous survey experience, as it may deem necessary to determine compliance with this chapter and applicable rules and standards. (4-5-00)

b. All inspections and investigations for such purposes, except for the initial certification study, shall be made unannounced and without prior notice. (4-5-00)

c. The Department may utilize the services of any legally qualified person or organization, either public or private, to examine and inspect any home requesting certification. (4-5-00)

d. A surveyor or inspector shall 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. (4-5-00)

e. A surveyor shall have the authority to interview the family home provider and family members, residents and residents' families. Interviews with residents shall be confidential and conducted privately unless otherwise specified by the resident. (4-5-00)

f. The surveyor shall have 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. (4-5-00)

g. Following any investigation or inspection, the certifying agency shall provide a written report to the provider of the home within thirty (30) days of the investigation or inspection. The report shall include the findings of the investigation or inspection. (4-5-00)

h. If deficiencies are identified during the investigation or inspection, the home shall be sent a statement of deficiencies which requires a plan of correction. (4-5-00)

i. An acceptable plan of correction must include how the deficiency was corrected or how it shall be corrected, what steps have been taken to assure that the deficiency does not reoccur, and acceptable time frames for correction of the deficiency. (4-5-00)

j. Depending on the severity of the deficiency, the home shall be given fourteen (14) calendar days to develop a written plan of correction and to return the plan of correction to the certifying agency. (4-5-00)

k. Follow-up surveys may be conducted to ascertain if corrections to deficiencies are being made according to time frames established in the plan of correction. (4-5-00)

02. Complaint Procedures. Any person who believes that any rule has been violated by a home may file a complaint with the certifying agency. (4-5-00)

a. The certifying agency shall investigate, or cause to be investigated, any complaint alleging a violation of these rules. Any complaint involving the abuse, neglect, or exploitation of an adult shall be referred to adult protective services in accordance with the Adult Abuse, Neglect, and Exploitation Act. (4-5-00)

b. No complainant's name or other information that can identify a complainant shall be publicly disclosed unless: (4-5-00)

i. The complainant consents in writing to the disclosure; (4-5-00)

- ii. The investigation results in a judicial proceeding and disclosure is ordered by the court; or (4-5-00)
- iii. The disclosure is essential to the investigation. The complainant shall be given the opportunity to withdraw the complaint before disclosure. (4-5-00)
- c. The nature of the complaint shall determine the method used to investigate the complaint. On-site investigations at the home shall be unannounced. (4-5-00)
- d. The certified family home shall be offered an exit conference where the findings of the investigation shall be discussed. (4-5-00)
- e. If violation of these rules are identified, depending on the severity, the home shall be sent a statement of deficiencies and shall be required to prepare a plan of correction and return it to the certifying agency within a time frame designated by the certifying agency. (4-5-00)
- f. The certifying agency shall inform the complainant or, if requested by the complainant, the complainant's representative, of the results of the investigation, any action taken by the home to resolve the problem, and any further action taken by the Department. (4-5-00)

03. Public Disclosure. Information received by the Department through filed reports, inspection, or as otherwise authorized under the law, shall not be disclosed publicly in such a manner as to identify individual residents except in a proceeding involving a question of certification. (4-5-00)

a. A current list of deficiencies including plans of correction shall be available to the public upon request in the individual homes or by written request to the certifying agency. (4-5-00)

04. Transfer Of Residents. The Department may transfer residents from a certified family home to an alternative placement on the following grounds: (4-5-00)

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; (4-5-00)

b. A violation of a resident's rights provided in Section 39-3316, Idaho Code; (4-5-00)

c. The home is operating without a certificate; or (4-5-00)

d. A violation of this chapter or applicable rules or standards results in conditions that present an imminent danger. (4-5-00)

152. -- 199. (RESERVED).

200. RESIDENTS' RIGHTS.

01. Residents' Rights Policy. Each certified family home shall develop and implement a written residents' rights policy which shall protect and promote the rights of each resident including, but not limited to, the following: (4-5-00)

a. Each home must maintain and keep current a record of the following information on each resident: (4-5-00)

i. A copy of the resident's current Negotiated Service Agreement or physician's order; (4-5-00)

ii. Written acknowledgment that the resident has received copies of the rights; (4-5-00)

iii. A record of all personal property and funds which the resident has entrusted to the home including copies of receipts for the property; (4-5-00)

- iv. Information about any specific health problems of the resident which may be useful in a medical emergency; (4-5-00)
- v. 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; (4-5-00)
- vi. Any other health-related, emergency, or pertinent information which the resident requests the home to keep on record; and (4-5-00)
- vii. The current admission agreement between the resident and the home. (4-5-00)
- b.** 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; (4-5-00)
- c.** Each resident shall have the right to humane care and a humane environment, including the following: (4-5-00)
 - i. The right to a diet which is consistent with any religious or health-related restrictions; (4-5-00)
 - ii. The right to refuse a restricted diet; and (4-5-00)
 - iii. The right to a safe and sanitary living environment. (4-5-00)
- d.** Each resident shall have the right to be treated with dignity and respect, including: (4-5-00)
 - i. The right to be treated in a courteous manner by the provider; (4-5-00)
 - ii. The right to receive a response from the home to any request of the resident within a reasonable time; (4-5-00)
 - iii. Freedom from discrimination; and (4-5-00)
 - iv. Freedom from intimidation, manipulation, coercion, and exploitation. (4-5-00)
- e.** Each resident shall have the right to: (4-5-00)
 - i. Wear his own clothing; (4-5-00)
 - ii. Determine his own dress and hair style; (4-5-00)
 - iii. Retain and use his own personal property in his own living area so as to maintain individuality and personal dignity; and (4-5-00)
 - iv. Be provided a separate storage area in his own living area and at least one (1) locked cabinet or drawer, if the resident requests and is capable of managing lock and key, for keeping personal property. (4-5-00)
- f.** Residents whose board and care is paid for by public assistance shall retain, for their personal use, the difference between their total income and the applicable board and care allowance established by Department rules: (4-5-00)
 - i. Residents shall have the right to manage their personal funds; (4-5-00)
 - ii. A home shall not require a resident to deposit his personal funds with the home; and (4-5-00)
 - iii. Once the home accepts the written authorization of the resident, the home must hold, safeguard, and account for such personal funds under a system established and maintained by the home in accordance with

- Subsections 205.01 through 205.02; (4-5-00)
- g.** Upon a home's acceptance of written authorization of a resident, the home must manage and account for the personal funds of the resident deposited with them in accordance with Subsections 205.01 and 205.02; (4-5-00)
 - h.** Each home must permit: (4-5-00)

 - i.** Immediate access to any resident by any representative of the Department, by the state Ombudsman for the elderly or his designees, or by the resident's individual physician; (4-5-00)
 - ii.** Immediate access to a resident, subject to the resident's right to deny or withdraw consent at any time, by immediate family or other relatives; (4-5-00)
 - iii.** Immediate access to a resident, subject to reasonable restrictions and the resident's right to deny or withdraw consent at any time, by others who are visiting with the consent of the resident; and (4-5-00)
 - iv.** 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. (4-5-00)
 - i.** Each resident shall have the right to refuse to perform services for the home; (4-5-00)
 - j.** Each resident shall have access to his personal records and shall have the right to confidentiality of personal and clinical records; (4-5-00)
 - k.** Each resident shall have 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 or convenience: (4-5-00)

 - i.** 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 shall immediately report such information to the Idaho Commission on Aging or its Area Agencies on Aging (Section 39-5303, Idaho Code). (4-5-00)
 - ii.** It is the home's responsibility to 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). (4-5-00)
 - l.** Each resident shall have the right to practice the religion of his choice or to abstain from religious practice. Residents shall also be free from the imposition of the religious practices of others; (4-5-00)
 - m.** Each resident shall have the right to control his health-related services, including: (4-5-00)

 - i.** The right to retain the services of his own personal physician and dentist; (4-5-00)
 - ii.** The right to select the pharmacy or pharmacist of his choice; (4-5-00)
 - iii.** The right to confidentiality and privacy concerning his medical or dental condition and treatment; (4-5-00)
 - iv.** The right to participate in the formulation of his Negotiated Service Agreement. (4-5-00)
 - n.** Each resident shall have the right to voice/file a grievance with respect to treatment 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; (4-5-00)

o. Each resident shall have the right to participate in social, religious, and community activities that do not interfere with the rights of other residents in the home; (4-5-00)

p. Each resident shall have the right to examine, upon reasonable request, the results of the most recent survey of the home conducted by the Department with respect to the home and any plan of correction in effect with respect to the home; (4-5-00)

q. Is transferred or discharged only for medical reasons, or for his welfare or that of other residents, or for nonpayment for his stay and in nonemergency conditions is given at least fifteen (15) calendar days advance written notice prior to the date of discharge or transfer or up to thirty (30) days as agreed to in the admission agreement; (4-5-00)

r. 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; (4-5-00)

s. Residents shall have a right not to be required to receive routine care of a personal nature from a member of the opposite sex; (4-5-00)

t. Residents shall have the right to send and receive mail unopened; (4-5-00)

u. If the resident is married, he is assured 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); (4-5-00)

v. Advanced Directives. Elderly residents shall have the right to be informed, in writing, regarding the formulation of an advanced directive to include applicable State law. (4-5-00)

w. Each resident shall have any other right established by law. (4-5-00)

02. Notice Of Rights. Each certified family home shall: (4-5-00)

a. Inform each resident, verbally and in writing, at the time of admission to the home, of his legal rights during the stay at the home; (4-5-00)

b. The written description of legal rights in Section 200, shall include a description of the protection of personal funds and a statement that a resident may file a complaint with the certifying agency respecting resident abuse and neglect and misappropriation of resident property in the home. (4-5-00)

03. Access By Advocates And Representatives. A certified family home shall 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 in order to: (4-5-00)

a. Visit, talk with and make personal, social service programs and legal services available to all residents; (4-5-00)

b. 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; (4-5-00)

c. 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; (4-5-00)

d. Engage in all other methods of assisting, advising, and representing residents so as to extend to

them the full enjoyment of their rights; (4-5-00)

e. Communicate privately and without restrictions with any resident who consents to the communication; (4-5-00)

f. Observe all common areas of the home. (4-5-00)

201. UNIFORM ASSESSMENT CRITERIA.

01. Home's Responsibility For Private-Pay Residents. The home shall develop, identify, assess, or direct a uniform needs assessment of private-pay residents age eighteen (18) or older who seek supported living services. The Department's uniform assessment instrument may be used as the home's identified uniform needs assessment. (4-5-00)

02. Information To Be Included In A Uniform Needs Assessment. The uniform needs assessment instrument used by the home for private-pay residents shall include, but not be limited to: (4-5-00)

a. Identification/background information; (4-5-00)

b. Medical diagnosis; (4-5-00)

c. Medical and health problems; (4-5-00)

d. Prescription and over-the-counter medications; (4-5-00)

e. Behavior patterns; (4-5-00)

f. Cognitive function; (4-5-00)

g. Functional status; and (4-5-00)

h. Assessed level of care. (4-5-00)

03. Qualifications Of Persons Making Uniform Needs Assessments For Private-Pay Residents. The uniform needs assessment shall be conducted by persons who are trained by the home in administering the home's identified uniform needs assessment instrument. (4-5-00)

04. Time Frames For Completing The Uniform Needs Assessment Instrument For Private-Pay Residents. The assessment will be completed no later than fourteen (14) calendar days after admission. The assessment shall be reviewed when there is a change in need, or every twelve (12) months, whichever comes first. (4-5-00)

05. Use Of Uniform Needs Assessment For Determining The Ability Of Home To Meet Private-Pay Resident Needs. The results of the assessment may be used to evaluate the ability of a provider and home to meet the identified residents' 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 in caring for certain residents. (4-5-00)

06. Uniform Assessments For State-Funded Clients. State-funded clients shall be assessed by the Department in accordance with IDAPA 16.03.23, "Rules Governing Uniform Assessments for State-Funded Clients". (4-5-00)

202. NEGOTIATED SERVICE AGREEMENT.

01. Use Of Negotiated Service Agreement. Each resident shall be provided a negotiated service agreement to provide for coordination of services and for guidance of the personnel and management of the home where the person resides. A personal care services plan of care and/or an Individual Support Plan which includes the core elements of the Negotiated Service Agreement is considered equivalent to the Negotiated Service Agreement.

Upon completion, the agreement shall clearly identify the resident and describe the services to be provided to the resident and how such services are to be delivered. (4-5-00)

02. Core Elements Of The Negotiated Service Agreement, Plan Of Care, Or Individual Support Plan. A resident's service plan shall be based on the following, but not limited to: (4-5-00)

- a. Assessment; (4-5-00)
- b. Service needs for activities of daily living; (4-5-00)
- c. Need for limited nursing services; (4-5-00)
- d. Need for medication assistance; (4-5-00)
- e. Frequency of needed services; (4-5-00)
- f. Level of assistance; (4-5-00)
- g. Habilitation/Training needs, to specify the program being used; (4-5-00)
- h. Behavioral management needs, to include a specific plan which identifies situations that trigger inappropriate behavior; (4-5-00)
- i. Physician's signed and dated orders; (4-5-00)
- j. Admission records; (4-5-00)
- k. Community support systems; (4-5-00)
- l. Resident's desires; (4-5-00)
- m. Transfer/discharge; and (4-5-00)
- n. Other identified needs. (4-5-00)

03. Signature And Approval Of Agreement. The provider and resident/resident's legal guardian/conservator, shall sign the service plan upon its completion, not to exceed fourteen (14) calendar days after the resident's admission. For personal care services and specialized family homes serving state clients, the services must be authorized by the Department prior to admission. (4-5-00)

04. Signing Date That The Plan Was Approved. The provider and resident/resident's legal guardian/conservator shall date the service plan upon its completion, not to exceed fourteen (14) calendar days after the resident's admission. (4-5-00)

05. Review Date. The service plan shall document the next scheduled date of review. (4-5-00)

06. Development Of The Service Agreement. The home provider shall consult the resident and those other relevant persons identified by the resident in the development of their service agreement. As required by applicable program requirements, licensed and/or professional staff will be involved in the development of the plan. (4-5-00)

07. Provision Of Copy Of Agreement. Signed copies of the agreement shall be given to the resident, to the resident's legal guardian/conservator, or for state-funded clients, to the Department for review, and authorization and approval, and a copy placed in the resident's records file, no later than fourteen (14) calendar days from admission. (4-5-00)

08. Resident Choice. A resident shall be given the choice and control of how and what services the

home will provide, or external vendors will provide to the extent the resident can make choices. (4-5-00)

09. Record. A record shall be made of any changes or inability to provide services outlined in the negotiated service agreement. (4-5-00)

10. External Services. The agreement shall include a statement regarding when there is no need for access to external services. (4-5-00)

11. Periodic Review. The negotiated service agreement may be reviewed as necessary but must be reviewed at least every six (6) months. (4-5-00)

203. ADMISSIONS.

01. Admission Agreements. Prior to admission to a certified family home, the home and the resident shall enter into an admission agreement. The agreement shall be in writing and shall be signed by both parties and shall, in itself or by reference to the resident's plan of care, include as a minimum the following: (4-5-00)

a. Services that the home shall provide including, but not limited to, daily activities, recreational activities, maintenance of self-help skills, assistance with activities of daily living, arrangements for medical and dental services and provisions for trips to social functions, special diets, and arrangements for payments; (4-5-00)

b. Whether or not the resident shall assume responsibility for his own medication including reporting missed medication or medication taken on a PRN basis; (4-5-00)

c. Whether or not the home shall accept responsibility for the residents' personal funds; (4-5-00)

d. How a partial month's refund shall be handled; (4-5-00)

e. Responsibility for valuables belonging to the resident and provision for the return of residents' valuables should the resident leave the home; (4-5-00)

f. The type of resident and the level of resident that shall be admitted to the home; (4-5-00)

g. 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; (4-5-00)

h. Conditions under which emergency transfers shall be made; (4-5-00)

i. 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; (4-5-00)

j. Resident responsibilities as appropriate; and (4-5-00)

k. Other information as may be appropriate. (4-5-00)

02. Conditions Of Termination Of The Admission Agreement. The admission agreement shall not be terminated except under the following conditions: (4-5-00)

a. By written notification by either party giving the other party fifteen (15) calendar days' written notice; (4-5-00)

b. The resident's mental or physical condition deteriorates to a level requiring evaluation and/or service that cannot be provided in a certified family home; (4-5-00)

c. Nonpayment of the resident's bill; (4-5-00)

d. In emergency conditions a resident may be transferred out of the home without fifteen (15)

calendar days' written notice to protect the resident or other residents in the home from harm; and (4-5-00)

e. Other written conditions as may be mutually established between the resident and the provider of the home at the time of admission. (4-5-00)

204. RESIDENT RECORDS.

01. Admission Records. Records required for admission to a home shall be maintained and updated and shall be confidential. Their availability without the consent of the resident, subject to IDAPA16.05.01, "Use and Disclosure of Department Records," shall be limited to the home staff, professional consultants, the resident's physician and representatives of the certifying agency. All entries shall be kept current, recorded legibly in ink, dated, signed, and shall include, but not be limited to, the following: (4-5-00)

- a. Name and Social Security number; and (4-5-00)
- b. Permanent address if other than the home; and (4-5-00)
- c. Marital status and sex; and (4-5-00)
- d. Birth place and date of birth; and (4-5-00)
- e. Name and addresses of responsible agent or agency including telephone numbers; and (4-5-00)
- f. Personal physician and dentist; and (4-5-00)
- g. Admission date and name of person who completed admission form; and (4-5-00)
- h. Results of a history and physical examination performed by a licensed physician or nurse practitioner within six (6) months prior to admission; and (4-5-00)
- i. For private-pay residents, the history and physical should include a description of the functional abilities of the resident including his specific strengths and limitations and the specific needs for personal assistance and supervision indicating that the resident is appropriate for placement in a home; and (4-5-00)
- j. A list of medications, diet, and treatments prescribed for the resident which is signed and dated by the physician giving the order; and (4-5-00)
- k. Religious affiliation if resident chooses to so state; and (4-5-00)
- 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/conservator, or significant others, or all; and (4-5-00)
- m. For clients of the Department a psychosocial history, completed within six (6) months prior to admission, by a licensed social worker, psychologist, psychiatrist, or licensed physician; and (4-5-00)
- n. Social information, obtained by the home through interview with the resident, family, case manager, targeted service coordinator, legal guardian/conservator, or all. The information shall include the resident's social history, hobbies, and interests; and (4-5-00)
- o. Written admission agreement which is signed and dated by the provider and the resident/resident's legal guardian/conservator; and (4-5-00)
- p. A signed copy of the resident's bill of rights as detailed in Section 200.02, or documentation that the resident or resident's legal guardian/conservator has read and understands his rights as a resident of the home; and (4-5-00)

q. A copy of the resident's admission Uniform Assessment Instrument for the certified family home; and (4-5-00)

r. A copy of the signed and dated admission negotiated service agreement, plan of care, or individual support plan that contains all elements of a negotiated service agreement between the resident/resident's legal guardian/conservator and the home. (4-5-00)

02. Ongoing Resident Records. At the time of admission, resident can inventory any item they choose. That inventory can be updated at any time during their stay. Records shall be kept current, to include but not be limited to: (4-5-00)

a. Admission information as required in Section 204.01 of this Chapter; and (4-5-00)

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; and (4-5-00)

c. Any incident/accident occurring while the resident is in the home; and (4-5-00)

d. 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 shall be documented with the reason for taking the medication; and (4-5-00)

e. Notes from the contract nurse, home health, physical therapy, or other service providers, or all documenting the services provided at each visit; and (4-5-00)

f. Documentation of significant changes in the residents' physical, mental status, or both and the home's response; and (4-5-00)

g. If appropriate, the resident's financial trust fund accounting records; and (4-5-00)

h. The resident's Uniform Assessment Instruments, to include the admission assessment and all assessments for the past year, for certified family home care; and (4-5-00)

i. Signed and dated negotiated service agreement or individual support plan, to include the admission negotiated service agreement and all service agreements for the past year between the resident/resident's legal guardian/conservator and the home; and (4-5-00)

j. Contact name, address, phone number of individuals providing paid supports; and (4-5-00)

k. Signed copies of all care plans that are prepared by all outside service agencies. (4-5-00)

03. Maintenance Of Resident Records. Resident records shall be maintained at the home for not less than one (1) year after the resident has left the home. (4-5-00)

205. RESIDENT CHARGES AND FINANCIAL RECORDS.

01. Resident Funds Policies. If a resident's funds are turned over to the home or provider for any purpose other than payment for services allowed under these rules, or if the home provider, his relative, or personnel act as resident payee the home will be deemed to be handling residents' funds. Each home shall develop and implement a policy and procedure outlining how residents' funds shall be handled. This policy and procedure shall include, but not be limited to, the following: (4-5-00)

a. The home policy and procedure shall state whether the home shall or shall not handle residents' funds; (4-5-00)

b. This policy or procedure shall be clearly stated in the admission policy and in the admission

agreement; and (4-5-00)

c. If the home is deemed to manage 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 per 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. (4-5-00)

02. Handling Of Resident Funds. If the home agrees to handle residents' funds, the following shall apply: (4-5-00)

a. A separate trust account must be established. There can be no commingling of trust funds with home funds. Borrowing between resident accounts is prohibited; (4-5-00)

b. Each resident shall be notified that a trust fund is available for his use if he needs this service; (4-5-00)

c. If it is determined that a resident needs the use of a trust fund service, the home shall be required to deposit the residents' funds into the trust fund; (4-5-00)

d. Bill each resident for his certified family home care charges on a monthly basis from the trust account; (4-5-00)

e. Document on a monthly or on a weekly basis any financial transactions in excess of five dollars (\$5) between the resident and the home or any of the home's personnel. A separate transaction record shall be maintained for each resident; (4-5-00)

f. In any case in which the home cannot produce proper accounting records of residents' funds or property, the home shall be presumed to owe the funds not accounted for to the resident and restitution of the funds to the resident shall be a condition for continued operation of the home; (4-5-00)

g. The home shall not require the resident to purchase goods or services from the home for other than those designated in the admission policies, or the admission agreement, or both. See Section 203; (4-5-00)

h. The home shall afford the resident or the resident's legal guardian/conservator or person of the resident's choosing access to the resident's financial record; (4-5-00)

i. The home shall afford the resident reasonable access to his funds; (4-5-00)

j. Upon the death of a private-pay resident, with a trust fund, the home must convey the resident's personal funds and a final accounting of such funds to the individual administering the resident's estate within ninety (90) days; and (4-5-00)

k. Upon the death of a client of the Department, with a trust fund, the home must convey the resident's personal funds and a final accounting of such funds to the Department within thirty (30) days. (4-5-00)

206. ENVIRONMENTAL SANITATION STANDARDS.

The home is responsible for the prevention of disease and for the maintenance of sanitary conditions. (4-5-00)

01. Water Supply. The water supply for the home shall be adequate, of a safe, sanitary quality and: (4-5-00)

a. A Department approved private, public or municipal water supply shall be used; (4-5-00)

b. If water is from a private supply, water samples shall 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 shall be kept on

file at the home; and (4-5-00)

c. There shall be a sufficient amount of water under adequate pressure to meet the sanitary requirements of the home at all times. (4-5-00)

02. Sewage Disposal. All sewage and liquid wastes shall be discharged, collected, treated, and disposed of in a manner approved by the Department. If the facility is not utilizing an approved municipal sewage treatment system, a statement must be obtained from a local environmental health specialist indicating that the sewage disposal system meets the requirements of the Department. The reports shall be kept on file at the home and shall be kept current. (4-5-00)

03. Garbage And Refuse Disposal. Garbage and refuse disposal shall be provided by the home. (4-5-00)

a. Garbage containers outside the home used for storage of garbage and refuse shall be constructed of durable, nonabsorbent materials and shall not leak or absorb liquids. Containers shall be provided with tight-fitting lids. (4-5-00)

b. Garbage containers shall be maintained in good repair. Sufficient containers shall be afforded to hold all garbage and refuse which accumulates between periods of removal from the premises. Storage areas shall be kept clean and sanitary. (4-5-00)

04. Insect And Rodent Control. The home shall be maintained free from infestations of insects, rodents and other pests. Chemicals (pesticides) used in the control program shall be selected, stored, and used in the following manner: (4-5-00)

a. The chemical shall be selected on the basis of the pest involved and used only in the manner prescribed by the manufacturer; (4-5-00)

b. The home shall take the necessary precautions to protect residents from obtaining toxic chemicals or cleaning supplies that are being stored either in individual resident rooms or by the home; (4-5-00)

05. Yards. The yards surrounding the home shall be maintained to at least the standards of the surrounding neighborhood. (4-5-00)

06. Linen-Laundry Facilities And Services. Adequate facilities shall be provided for the proper and sanitary washing of linen and other washable goods laundered at the home. (4-5-00)

07. Housekeeping And Maintenance. Sufficient housekeeping and maintenance shall be provided to maintain the interior and exterior of the home in a clean, safe, and orderly manner. (4-5-00)

a. Prior to occupancy of any sleeping room by a new resident, the room shall be thoroughly cleaned including the bed, bedding, and furnishings; and (4-5-00)

b. Deodorizers shall not be used to cover odors caused by poor housekeeping and unsanitary conditions. (4-5-00)

207. -- 427. (RESERVED).

428. MEDICATION STANDARDS AND REQUIREMENTS.

01. Medication Policy. Each home shall develop and implement a written medication policy and procedure that outlines in detail the procedures to be followed regarding the handling of medications and to include the delegation requirements of the Administrative Rules of the Board of Nursing, IDAPA 23.01.01, "Rules of the Board of Nursing," Subsection 010.05, Section 400, Subsections 400.02, 400.04, and 400.05 where applicable. The medication policy shall include, but not be limited to, the following: (4-5-00)

a. If the resident is responsible for his own medication, a written approval stating that the resident is capable of self-administration of medications, must be obtained from the resident's primary physician; (4-5-00)

b. The home shall take the necessary precautions to protect residents from obtaining medications that are being stored either in individual resident rooms or by the home; and (4-5-00)

c. The home shall be responsible for providing any necessary assistance to the resident in taking his medication. (4-5-00)

02. Medication Distribution System. Medi-sets, blister pack, or other system as approved by the department must be filled by a pharmacist and appropriately labeled in accordance with pharmacy standards. A licensed nurse may fill Medi-sets, which must be appropriately labeled with medication name, dosage, amount, time to be taken, and any special instructions. (4-5-00)

03. Assistance With Medication. PRN medications and temporary routine medications of fourteen (14) calendar days or less may be maintained in an appropriately labeled multidose container. Each medication must be given to the resident directly from the medi-set or blister pack or medication container. The resident must be observed taking the medication. (4-5-00)

04. Unused Medication. Unused or discontinued medications shall not accumulate at the home for longer than thirty (30) calendar days, unless there is reason to believe that the medication will be reordered by the attending physician within a reasonable length of time. The unused medication shall be disposed of in a manner that assures that it cannot be retrieved. A written record of all disposal of drugs shall be maintained in the home and shall include: (4-5-00)

a. A description of the drug, including the amount; (4-5-00)

b. The resident for whom the medication was prescribed; (4-5-00)

c. The reason for disposal; (4-5-00)

d. The method of disposal; and (4-5-00)

e. Signatures of responsible home personnel and a witness, resident's family, or home's nurse. (4-5-00)

429. -- 599. (RESERVED).

600. FIRE AND LIFE SAFETY STANDARDS.

Certified family homes must meet all the requirements of local and state codes concerning fire and life safety that are applicable to certified family homes. (4-5-00)

01. General Requirements. General requirements for the fire and life safety standards for a certified family home are: (4-5-00)

a. The home shall be structurally sound and shall be equipped and maintained to assure the safety of residents, employees, and the public; (4-5-00)

b. On the premises of all homes where natural or man-made hazards are present, suitable fences, guards, and railing must be provided to protect the residents, in accordance with the residents' level of supervision needs as documented in the Negotiated Service Agreement; and (4-5-00)

c. The premises of the certified family home shall be kept free from the accumulation of weeds, trash, and rubbish. (4-5-00)

02. Fire/Life Safety Requirements. (4-5-00)

- a.** Smoke detectors shall be installed throughout the home. The locations and number of smoke detectors shall be determined during the initial certification study; (4-5-00)
- b.** Any locks installed on exit doors shall be single action, easily openable from the inside without the use of keys or any special knowledge; (4-5-00)
- c.** Portable comfort heating devices of any kind shall be prohibited; (4-5-00)
- d.** Homes that employ the use of fuel-fired stoves shall provide adequate railings or other approved protection designed to prevent residents from coming into contact with the stove surfaces; (4-5-00)
- e.** Each resident's sleeping room shall be provided with an openable window which shall not be less than ten percent (10%) of the total floor space in the room. The window sill height shall not be greater than forty-four (44) inches above the finished floor. Window openings shall not be less than twenty-two (22) inches in width and height. Waivers will be considered on a case-by-base basis (refer to Section 004, Waivers); (4-5-00)
- f.** Quantities of flammable and/or highly combustible materials deemed hazardous by the certifying agency shall not be stored in the home; (4-5-00)
- g.** Boilers, hot water heaters, and unfired pressure vessels shall be equipped with automatic pressure relief valves; (4-5-00)
- h.** Portable fire extinguishers shall be installed throughout the home according to the configuration of the home. All extinguishers installed after July 1, 1999 shall be multipurpose ABC type and subject to the approval of the certifying agency; (4-5-00)
- i.** Electrical installations and equipment shall comply with the applicable local and/or state electrical codes; (4-5-00)
- j.** Solid fuel heating devices installed shall be approved by the local fire/building jurisdiction. In addition, openings in all solid fuel heating devices shall be provided with a door(s) constructed of heat tempered glass or other approved material; (4-5-00)
- k.** Furnishings, decorations, or other objects shall not obstruct exits; (4-5-00)
- l.** No door in the path of travel to an exit and any exit door shall be less than twenty-eight (28) inches wide; and (4-5-00)
- m.** Every bathroom shall be designed to permit the opening of the locked door from the outside in case of an emergency. (4-5-00)
- 03. Smoking.** Because smoking has been acknowledged to be a fire hazard, a continuous effort shall be made to reduce its presence in the home. The certified family home shall observe at least the following: (4-5-00)
- a.** Smoking is prohibited in any area where flammable liquids, gases, or oxidizers are in use and/or stored; (4-5-00)
- b.** Residents shall not be permitted to smoke in bed; (4-5-00)
- c.** Unsupervised smoking is prohibited by residents classified as not mentally or physically responsible. This includes residents so affected by medication; and (4-5-00)
- d.** Nothing in Subsection 600.03 requires that smoking be permitted in homes whose admission policies prohibit smoking. (4-5-00)
- 04. Disaster And Fire Preparedness.** Each certified family home shall develop and implement an evacuation plan which shall be reviewed with residents upon admission and every six (6) months thereafter. In

addition documentation shall be available at each home indicating that all residents have been advised of actions required under emergency conditions. This information shall be maintained in each resident's individual file. (4-5-00)

05. Report Of Fire. A separate report on each fire incident occurring within the home shall be submitted to the Department within thirty (30) calendar days of the occurrence. The reporting form, "Certified Family Home Incident Report," shall be issued by the Department to secure specific data concerning date, origin, extent of damage, method of extinguishment, and injuries, if any. (4-5-00)

06. Maintenance Of Equipment. The home shall assure that all equipment is properly maintained to assure the safety of the residents. (4-5-00)

a. The smoke detectors shall be tested at least monthly and a written record of the test results maintained on file; (4-5-00)

b. Portable fire extinguishers shall be serviced annually by an outside servicing agency. In addition, portable fire extinguishers shall be examined, at least quarterly, by a knowledgeable family member to determine that; (4-5-00)

i. The extinguisher is in its designated location; (4-5-00)

ii. Seals or tamper indicators are not broken; (4-5-00)

iii. The extinguisher has not been physically damaged; (4-5-00)

iv. The extinguisher does not have any obvious defects; and (4-5-00)

v. Inspecting tags on each extinguisher shall show at least the initials of the person making the quarterly examinations and the date of the examinations. (4-5-00)

c. Fuel-fired heating systems shall be inspected, serviced, and approved at least annually by person(s) professionally engaged in the business of servicing these systems. The inspection records shall be maintained on file in the home. (4-5-00)

601. -- 699. (RESERVED).

700. HOME CONSTRUCTION AND PHYSICAL HOME STANDARDS.

01. General Requirements. (4-5-00)

a. All buildings utilized as certified family homes shall be of such character as to be suitable for such use. Certified family homes shall not be housed in buildings intended for other than residential living purposes; (4-5-00)

b. Remodeling or additions to homes shall be consistent with residential use of the property and shall not detract from the residential use of the property. Remodeling which identifies the home as a certified family home is prohibited such as remodeling garages when this is not the general practice in the neighborhood or constructing large buildings which overwhelm the lot on which the home is located; and (4-5-00)

c. All homes shall be subject to the approval of the Department. (4-5-00)

02. Walls And Floors. Walls and floors shall be of such character to permit frequent cleaning. Walls in residents' sleeping rooms shall extend from floor to ceiling and shall be of such character as to stop the passage of smoke and to provide the resident with privacy. (4-5-00)

03. Telephone. There shall be a telephone in the home which is accessible to all residents. The

telephone shall be situated in such a manner as to provide the resident adequate privacy while using the telephone for private calls. The telephone shall be made immediately available in case of an emergency. Emergency numbers shall be posted near the telephone. (4-5-00)

04. Toilet Facilities And Bathrooms. Each certified family home shall provide: (4-5-00)

- a.** At least one (1) flush toilet, one (1) tub or shower, and one (1) lavatory with a mirror; (4-5-00)
- b.** Toilet facilities and bathrooms shall be separated from all rooms by solid walls or partitions; (4-5-00)
- c.** All inside toilet facilities and/or bathrooms shall have forced ventilation to the outside; (4-5-00)
- d.** Tubs, showers, and lavatories shall be connected to hot and cold running water; and (4-5-00)
- e.** Toilet facilities and bathrooms for resident use shall be so arranged that it is not necessary for an individual to pass through another resident's room to reach the toilet or bath. (4-5-00)

05. Accessibility For Persons With Mobility And Sensory Impairments. For residents with mobility or sensory impairments, the home shall provide a physical environment which meets the needs of the person for independent mobility and use of appliances, bathroom facilities, and living areas. New construction must meet the Americans with Disabilities Act Accessibility Guidelines (ADAAG) requirements. Existing homes shall comply, to the maximum extent feasible with Title III-4.4000 of the Americans with Disabilities Act, without creating an undue hardship or burden on the home, and shall provide as required, the necessary accommodations: (4-5-00)

- a.** Ramps for residents who require assistance with ambulation shall comply with the Americans with Disabilities Act Accessibility Guidelines (ADAAG) 4.8; and (4-5-00)
- b.** Bathrooms and doors large enough to allow the easy passage of a wheelchair as provided for in the Americans with Disabilities Act Accessibility Guidelines (ADAAG) 4.13; and (4-5-00)
- c.** Grab bars in resident toilet facilities and bathrooms that comply with the Americans with Disabilities Act Accessibility Guidelines (ADAAG) 4.26; and (4-5-00)
- d.** Toilet facilities that comply with the Americans with Disabilities Act Accessibility Guidelines (ADAAG) 4.16 and 4.23; and (4-5-00)
- e.** Non-retractable faucet handles that comply with the Americans with Disabilities Act Accessibility Guidelines (ADAAG) 4.19 (with the exception of self-closing valves under 4.19.5) and 4.27; and (4-5-00)
- f.** Suitable hand railing shall be provided on both sides of all stairs leading into and out of a building for residents who require the use of crutches, walkers, or braces. (4-5-00)

06. Furnishings And Equipment. Room and board, assistance with activities of daily living, supervision, assistance with and monitoring of medications, linen, towels, wash cloths, a reasonable supply of soap, shampoo, toilet paper, sanitary napkins, first aid supplies, electric razors or other means of shaving, toothpaste, laundering of linens owned by the home, arrange for emergency transportation, housekeeping service, maintenance, utilities, and basic television in common areas shall be included in the basic room and board charges and must be available at no extra charge. In addition, the following shall apply: (5-3-03)

- a.** Resident living rooms shall be provided with reading lamps, tables, and comfortable chairs and/or sofas; (4-5-00)
- b.** Each resident shall be provided with his own bed which shall be at least thirty-six (36) inches wide, substantially constructed, and in good repair. Roll-away type beds, cots, folding beds, or double bunks shall not be utilized. Each bed shall be provided with springs which are in good repair, a clean and comfortable mattress which is standard for the bed, and a pillow; (4-5-00)

- c.** Each sleeping room shall be equipped with individual storage for personal items for each resident; (4-5-00)
- d.** Adequate and satisfactory equipment and supplies shall be provided to serve the residents. The amount and kind shall vary according to the size of the home and type of resident; and (4-5-00)
- e.** A two-way intercom shall be provided when the size or design of the building necessitates a need for such a system. (4-5-00)
- 07. Storage Areas.** Adequate storage shall be provided in addition to the required storage in resident sleeping rooms. (4-5-00)
- 08. Lighting.** Adequate lighting shall be provided in all resident sleeping rooms, dining/living/recreation rooms, and halls. (4-5-00)
- 09. Ventilation.** The home shall be ventilated, and precautions shall be taken to prevent offensive odors. (4-5-00)
- 10. Heating.** The temperature within the certified family home shall 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 Negotiated Service Agreement. Wood stoves shall not be the primary source of heat and the thermostat for the primary source of heat shall be remotely located away from the wood stove. (4-5-00)
- 11. Plumbing.** All plumbing in the home shall comply with local and/or state codes. All plumbing fixtures shall be easily cleanable and maintained in good repair. (4-5-00)
- 12. Resident Sleeping Rooms.** (4-5-00)

 - a.** Resident sleeping rooms shall not be in attics, stairs, halls, or any rooms commonly used for other than bedroom purposes. Resident sleeping rooms may be in basements only if the following conditions are met: (4-5-00)

 - i.** The window must not open into a window well that cannot be exited, and the window must provide an adequate view of the outdoors. All other fire and life safety requirements for windows must be met; (4-5-00)
 - 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 (4-5-00)
 - iii.** The resident must be assessed through the Negotiated Service Agreement to be capable of evacuating from the basement without assistance in an emergency. (4-5-00)
 - b.** Resident sleeping rooms shall be provided with walls that run from floor to ceiling and with solid doors that will stop the passage of smoke and provide the resident with adequate privacy; (4-5-00)
 - c.** Residents shall not occupy the same bedroom as the certified family home provider or their minor age children; (4-5-00)
 - d.** Ceiling heights in sleeping rooms shall be at least seven feet six inches (7'6"); (4-5-00)
 - e.** If closet space is utilized by two (2) residents, it shall be provided with substantial dividers for separation of each resident's clothing. All closets shall be equipped with doors. Free-standing closets shall be deducted from the square footage in the sleeping room; (4-5-00)
 - f.** Homes shall provide sleeping rooms which allow for not less than one-hundred (100) square feet of floor space per resident in a single-bed sleeping room and not less than eighty (80) square feet of floor space per

resident in a two (2) person sleeping room. (4-5-00)

701. -- 709. (RESERVED).

710. REQUIREMENTS FOR EXISTING HOMES TO BE CONVERTED TO CERTIFIED FAMILY HOMES.

In addition to Subsections 700.01 through 700.12, homes to be converted to certified family homes shall comply with the following: (4-5-00)

- 01. Site Requirements.** The home location shall be: (4-5-00)
 - a.** In a lawfully constituted fire district; and (4-5-00)
 - b.** Served by an all-weather road kept open to motor vehicles at all times of the year; and (4-5-00)
 - c.** Accessible to physician or emergency medical services within thirty (30) minutes driving time; and (4-5-00)
 - d.** Accessible within thirty (30) minutes driving time to necessary social, medical, and rehabilitation services. (4-5-00)
- 02. Use Of Manufactured Homes.** (4-5-00)
 - a.** The home shall be constructed after August 8, 1987; and (4-5-00)
 - b.** The home shall comply with applicable standards set forth under HUD and shall bear the HUD seal; and (4-5-00)
 - c.** The home shall be installed on a concrete foundation meeting the requirements as set forth by the local jurisdiction (ie., city/county) in which the home is located. (4-5-00)
 - d.** Exception: Manufactured homes approved for use as a home prior to July 1, 1999 may continue to be certified when evaluated on a case-by-case basis for the fire and life safety issues for the current owner. (4-5-00)
 - e.** Manufactured homes brought up to equivalent standards may be considered for use subject to the certifying agency. (4-5-00)
- 03. Occupancy Approval.** Any building proposed for conversion to a home shall be approved by the certifying agency prior to issuance of a certificate. Any items of noncompliance shall be corrected prior to issuance of the certificate. (4-5-00)

711. -- 724. (RESERVED).

725. ENFORCEMENT PROCESS.

- 01. Remedies.** If the Department finds that a home does not or did not meet a rule governing certified family homes, it may impose the following remedies, independently or in conjunction with others, subject to the provisions of these rules for notice and appeal: (4-5-00)
 - a.** Ban on all admissions (See Subsection 726); (4-5-00)
 - b.** Ban on admissions of residents with certain diagnosis (See Section 727); (4-5-00)
 - c.** Civil monetary penalties (Refer to IDAPA 16.03.22, "Rules for Licensed Residential and Assisted Living Facilities in Idaho," Section 927); (4-5-00)
 - d.** Summarily suspend the certificate and transfer residents (See Section 728); (4-5-00)

e. Issue a provisional certificate (Refer to IDAPA 16.03.22, "Rules for Licensed Residential and Assisted Living Facilities in Idaho," Section 930); or (4-5-00)

f. Revoke the home's certificate (See Section 729). (4-5-00)

02. Recommendation Of Remedy. In determining which remedy to recommend, the certifying agency shall 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 remedies described in Subsections 725.01.a. through 725.01.f. (4-5-00)

03. Immediate Jeopardy. If the certifying agency finds that the home's deficiency or deficiencies immediately jeopardize the health or safety of its residents, the Department shall summarily suspend the home's certificate. (4-5-00)

04. No Immediate Jeopardy. If the certifying agency 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 Subsection 725.01.a. through 725.01.f. (4-5-00)

05. Repeated Noncompliance. If the certifying agency makes a determination of repeated noncompliance with respect to a home, the certifying agency may impose any of the remedies listed in Subsections 725.01.a. through 725.01.f. The certifying agency shall monitor the home on-site on an as needed basis, until the home has demonstrated to the certifying agency's satisfaction that it is in compliance with all program requirements governing homes and that it will remain in compliance. (4-5-00)

06. Failure To Comply. If a home has not complied with any program requirement within three (3) months of the date the home is found to have been out of compliance with such requirement, or as stated in the home's accepted plan of correction and the Department has verified, via on-site resurveys, that the home has made little or no progress in correcting deficiencies then the Department shall institute a revocation action against the home. (4-5-00)

726. ENFORCEMENT REMEDY OF BAN ON ALL ADMISSIONS.

The certifying agency shall notify the home via certified mail banning all admissions to the home pending satisfactory correction of all deficiencies. Such bans to the home or to any part thereof shall remain in effect until the state certifying agency determines that the home has achieved full compliance with all program requirements, or until a substitute remedy is imposed. (4-5-00)

727. ENFORCEMENT REMEDY OF BAN ON ADMISSIONS OF RESIDENTS WITH SPECIFIC DIAGNOSIS.

The certifying agency shall notify the home via certified mail banning admission of all residents with a specific diagnosis. Such bans may be imposed for all prospective residents both state and private, and shall prevent the home from admitting the kinds of residents for whom it has shown an inability to provide adequate care. (4-5-00)

728. ENFORCEMENT REMEDY OF SUMMARY SUSPENSION AND TRANSFER OF RESIDENTS.

01. Summarily Suspend The Home's Certificate And Transfer Residents. The certifying agency 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. See Subsection 150.05 and Section 184. (4-5-00)

02. 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 home certificate. As soon thereafter as practicable, the Director shall provide an opportunity for a hearing. (4-5-00)

729. 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. (4-5-00)

02. Causes For Revocation Of The Certificate. The certifying agency may revoke any certificate to include the following causes, but not be limited to: (4-5-00)

a. The certificate holder has willfully misrepresented or omitted information on the application or other documents pertinent to obtaining a certificate; (4-5-00)

b. The home is not in substantial compliance with these rules; (4-5-00)

c. When persuaded by a preponderance of the evidence that such conditions exist which endanger the health or safety of any resident; (4-5-00)

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; (4-5-00)

e. The provider has demonstrated or exhibited a lack of sound judgment essential to the operation and management of a home; (4-5-00)

f. The provider has violated any of the conditions of a provisional certificate; (4-5-00)

g. The home has one (1) or more major deficiencies. A major deficiency is a deficiency that endangers the health, safety, or welfare of any resident; (4-5-00)

h. An accumulation of minor violations that, taken as a whole would constitute a major deficiency as noted in Subsection 010.50; (4-5-00)

i. Repeat violations of any requirement of these rules or of the Idaho Code; (4-5-00)

j. The home lacks adequate personnel, as required by these rules or as directed by the Department, to properly care for the number and type of residents residing at the home; and (4-5-00)

k. Substantial Compliance. The home is not in substantial compliance with the provisions for services or residents' rights outlined in Subsection 101.01.d. and Section 200 through Subsection 200.03. (4-5-00)

l. Certificate holder refuses to allow the certifying agency and/or Protection and Advocacy agencies full access to the home environment, home records, and/or the residents. (4-5-00)

03. Additional Causes For Revocation Of Certificate. Additional causes for revocation of a certificate may include the following: (4-5-00)

a. Any condition exists in the home which endangers the health or safety of any resident; (4-5-00)

b. The provider has willfully misrepresented or omitted information on the application or other documents pertinent to obtaining a certificate; (4-5-00)

c. The provider has demonstrated or exhibited a lack of sound judgment essential to the operation and management of a certified family home; (4-5-00)

d. Any deficiency that endangers the health or safety or welfare of any resident; or (4-5-00)

e. The home lacks adequate supervision of residents; (4-5-00)

730. ENFORCEMENT REMEDY OF INJUNCTION.

Notwithstanding any other remedy at law, the Director may seek an injunction in the name of the state against any

person or governmental unit to enjoin the establishment, conduct, management, or operation of a certified family home in violation of the provisions of this chapter. See Sections 39-3358, 39-3558, 39-3380, and 39-3570, Idaho Code. (4-5-00)

731. RIGHT TO SELL.

Nothing contained in Section 725 shall limit the right of any home owner to sell, lease, mortgage, or close any home in accordance with all applicable laws. (4-5-00)

732. NOTICE OF ENFORCEMENT REMEDY.

The Department shall give notice of the imposition of any remedy described in this chapter after the home is afforded any allowable reviews or hearings as follows: (4-5-00)

01. Notice To Home. The Department shall give notice to the home in writing, transmitted in a manner which shall reasonably ensure timely receipt by the home such as certified mail or personal carrier; and (4-5-00)

02. Notice To Public. The Department shall give notice to the public by transmitting printed notices to the home. The home shall post all notices reasonably expected to be readable by the home's residents or their representatives, including, but not limited to, exits and common areas. The notices shall remain in place until all remedies are officially removed by the certifying agency; and (4-5-00)

03. Notice To The Ombudsman. The Department shall give notice to the state Ombudsman for the elderly; and (4-5-00)

04. Notice To The Residents' Attending Physicians. The Department shall give notice to the attending physician of each resident affected by a finding of substandard quality of care; and (4-5-00)

05. Notice To The Professional Licensing Boards. The Department shall give notice to professional licensing boards, as appropriate; and (4-5-00)

06. Failure To Effect Notice. Failure of the Department to effect notice as required in Sections 951 through 951.06 of IDAPA 16.03.22, "Rules For Licensed Residential and Assisted Living Facilities In Idaho," shall not be grounds for the home to contest any action taken under this chapter. (4-5-00)

733. PROCEDURE FOR HEARINGS FOR ENFORCEMENT ACTIONS AGAINST A CERTIFICATE.

01. Home Notification. Immediately upon the decision to implement an enforcement action to include denial of certificate, the certifying agency shall notify the applicant or provider in writing by certified mail or by personal service of its decision to implement an enforcement action against the certificate and the reason for the enforcement action. (4-5-00)

02. Administrative Review. The notification of denial or revocation shall also offer the applicant or the provider the opportunity to request an administrative review. Should the home wish to contest imposition of a remedy, other than a plan of correction and except as provided in IDAPA 16.03.22, "Rules for Licensed Residential and Assisted Living Facilities in Idaho," Subsections 927.05 and 928.04, a written request for administrative review must be received by the certifying agency within fourteen (14) calendar days of the home's receipt of notice of imposition of the remedy. The request shall state the grounds for its contention that the imposition of a remedy is in error. (4-5-00)

a. During this administrative review, the position of the Department and the home may be discussed and if possible an alternative to revocation or denial developed. (4-5-00)

b. The Department shall transmit printed notice of administrative review. Such notices shall set forth date, time, and location whenever the home has requested and been granted a review on imposition of a remedy. The home shall post all notices so provided. The notices shall be placed in areas readily accessible and visible to residents and their representatives. (4-5-00)

c. The Department shall issue a written decision within fourteen (14) calendar days of the completion

of the home's receipt of the administrative review. The review shall be made solely on the basis of the certifying agency recommendation, the survey report, the statement of deficiencies, any documentation the home submits to the Department at the time of its request, and information received as a result of the administrative review process. For the purposes of such review, a hearing shall not be held and oral testimony shall not be taken. (4-5-00)

d. If the home fails to file a timely request, the decision to impose a remedy or remedies shall become final and no further hearing or judicial review shall be available. (4-5-00)

03. Administrative Hearing. Should the home wish to appeal the administrative review decision for remedies described in Section 725 subject to the limitations therein, it may request an administrative hearing in accordance with the provisions of IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings," Section 301, et seq. The scope of the administrative hearing shall be limited to issues raised and meaningfully addressed in the administrative review. (4-5-00)

734. TRANSFER OF RESIDENTS.

The Department may transfer residents from a home to an alternative placement on the following grounds: (4-5-00)

01. Violation Of Rules. As a result of a violation of a provision of the rules or standards, the home's 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; (4-5-00)

02. Violation Of Resident's Rights. A violation of a resident's rights provided in Sections 39-3316, 39- 3387, 39-3516, 39-3576, or a combination, Idaho Code; and (4-5-00)

03. Imminent Danger. A violation of a provision of this chapter or applicable rules or standards results in conditions that present an imminent danger. (4-5-00)

735. -- 995. (RESERVED).

996. ADMINISTRATIVE PROVISIONS.

Contested case appeals shall be governed by IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings," Section 300. (4-5-00)

997. CONFIDENTIALITY OF RECORDS.

Any disclosure of information obtained by the Department is subject to the restrictions contained in IDAPA 16.05.01, "Use and Disclosure of Department Records". (4-5-00)

998. -- 999. (RESERVED).

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