410 IAC 16.2-3.1-2 Licenses

Authority: IC 16-28-1-7; IC 16-28-1-12

Affected: IC 16-18-2-167; IC 16-28-1-10; IC 16-28-2-2; IC 16-28-2-4; IC 16-28-5-7

Sec. 2. (a) Any person, in order to lawfully operate a health facility as defined in IC 16-18-2-167, shall first obtain an authorization to occupy the facility or a license from the director. The applicant shall notify the director, in writing, before the applicant begins to operate a facility that is being purchased or leased from another licensee. Failure to notify the director precludes the issuance of a full license.

(k) For a good cause shown, waiver of any nonstatutory provisions of this rule may be granted by the executive board for a specified period in accordance with IC 16-28-1-10.

410 IAC 16.2-3.1-17 Nursing services

(f) A facility may request a waiver from either the requirement that a nursing facility provide a registered nurse for at least eight (8) consecutive hours a day, seven (7) days a week, or provide a registered nurse as the director of nursing, as specified in subsection (b), if the following conditions are met:

(1) The facility demonstrates to the satisfaction of the state that the facility has been unable, despite diligent efforts (including offering wages at the community prevailing rate for nursing facilities), to recruit appropriate personnel.

(2) The state determines that a waiver of the requirement will not endanger the health or safety of individuals staying in the facility.

(3) The state finds that, for any periods in which registered nursing services are not available, a registered nurse or physician is obligated to respond immediately to telephone calls from the facility.

(4) A waiver granted under the conditions listed in this subsection is subject to annual state review.

(5) Effective October 1, 1990, in granting or renewing a waiver, a facility may be required by the state to use other qualified, licensed personnel.
(6) The state agency granting a waiver of such requirements provides notice of the waiver to the state long term care ombudsman and the protection and advocacy system in the state for the mentally ill and mentally retarded.

(7) The nursing facility that is granted such a waiver by the state notifies residents of the facility.

(g) For purposes of IC 16-28-5-1, a breach of:

(1) subsection (a), (c), or (d) is a deficiency; and

(2) subsection (b), (e), or (f) is a noncompliance.

410 IAC 16.2-5-1.2 Residents' rights

(l) If the facility participates in the Medicaid waiver or residential care assistance programs, or both, the facility must provide to residents written information about how to apply for Medicaid benefits and room and board assistance.