

003.LICENSURE.

01. General Requirements. Before any person shall either directly or indirectly operate a facility, he shall make an application for and receive a valid license for operation of the facility. No patient/resident shall be admitted or cared for in a facility which is required under Idaho law to be licensed, until a license is obtained.(1-1-88)

a. The facility and all related buildings associated with the operation of the facility, as well as all records required under these rules, shall be accessible at any reasonable time to authorized representatives of the Department for the purpose of inspection, with or without prior notice. (1-1-88)

b. Facilities licensed prior to the effective date of these rules will be given a period of time, not to exceed six (6) months if administrative or procedural changes are required and not to exceed two (2) years if major structural changes are required, to conform to revised or new rules, regulations and minimum standards. In order for this clause to be effective, written plans showing approximate dates when areas of nonconformance will be corrected shall be on file with the Department. Written plans shall be presented to the Department no later than thirty (30) days for administrative or procedural changes and ninety (90) days for structural changes, after the effective date of these rules and minimum standards. (1-1-88)

c. Before any building is constructed or altered for use as a facility, written approval of construction or alteration of plans shall be obtained from the Department. (1-1-88)

d. Buildings designated as annexes of facilities shall conform to all rules, regulations and minimum standards pertaining to the usage of such facilities. (1-1-88)

e. Information received by the licensing agency through filed reports, inspection, or as otherwise authorized under this law, shall not be disclosed publicly in such a manner as to identify individual patients/residents except in a proceeding involving the question of licensure. Public disclosure of information obtained by the licensing agency for the purposes of this law shall be governed by rules, regulations and minimum standards adopted by the Board. (1-1-88) i. Upon written request, information subject to public disclosure shall be made available upon receipt of a plan of correction from the facility for any deficiencies noted during the survey or within ninety (90) calendar days from the date of survey by the licensing agency whichever comes first. The following information is subject to disclosure: (1-1-88)

(1) The name of the facility, its owner(s), administrator and location and licensed bed capacity.(1-1-88)

(2) The official findings of deficiencies based on survey reports by the licensing agency. (1-1-88)

(3) A plan of correction between the provider and the licensing agency. (1-1-88)

(4) Comments furnished by the provider to the licensing agency. The provider shall have a reasonable opportunity, not to exceed thirty (30) days, to review the licensing agency's findings of deficiency and to comment thereon. (1-1-88) ii. No identification of an

individual patient/resident or individual other than the facility owner(s) and administrator shall be disclosed except as otherwise provided by law. (1-1-88)

02. Application for an Initial License. In addition to obtaining prior approval of plans for construction or alterations, all persons planning the operation of a facility shall apply to the Department for an initial license for the facility on a form provided by the Department. The application shall be submitted to the Department at least three (3) months prior to the planned opening date. (1-1-88)

a. Applicants shall, in addition, provide the following: (1-1-88) i. Evidence of a request for a determination of applicability for Section 1122 (Social Security Act) regulatory review. (1-1-88) ii. A copy of the Nursing Home Administrator's license with the application. (1-1-88) iii. A certificate of occupancy from the local building and fire authority. (1-1-88)

03. Issuance of License. Every facility shall be designated by a distinctive name in applying for a license, and the name shall not be changed without first notifying the Department in writing at least thirty (30) days prior to the date the proposed change in name is to be effective. (1-1-88)

a. Each license shall be issued only for the premises and persons or governmental units named in the application and shall not be transferable or assignable except with the written approval of the Department. (1-1-88)

b. Each license shall specify the maximum allowable number of beds in each facility, which number shall not be exceeded, except on a time-limited emergency basis, and authorized by the Department. (1-1-88)

c. The facility license shall be framed and posted so as to be visible to the general public. (1-1-88)

d. Facilities making an initial application for a license shall be issued a temporary license when the licensing agency determines that all application information is acceptable and that the facility is at least in substantial compliance with these rules and minimum standards. The temporary license provides the Department time to determine the facility's ongoing capability to provide services and to meet these rules. A temporary license may not be issued for a period that exceeds six (6) months. (1-1-88)

04. Expiration and Renewal of License. Each license to operate a facility shall, unless sooner suspended or revoked, expire on the date designated on the license. (1-1-88)

a. Each application for renewal of a license shall be submitted on a form prescribed by the Department. (1-1-88)

b. An annual report shall be submitted on a form prescribed by the Department prior to the renewal of a license. (1-1-88)

c. Facilities which show substantial conformity to these rules and minimum standards but fail to conform in every detail may be issued a provisional license when the failure to conform is not considered significant to the health and safety of the patient/resident and when it is determined that licensing of the facility is in the best interests of the

patients/residents involved. Renewal of a license issued on the basis of substantial conformity is contingent upon corrections according to an agreed upon plan. (1-1-88)

05. Denial or Revocation of License. The Director may deny the issuance of a license or revoke any license when persuaded by a preponderance of the evidence that such conditions exist as to endanger the health or safety of any patient/resident, or that the facility is not in substantial compliance with these rules and minimum standards. (1-1-88)

a. Additional causes for denial of a license may include the following: (1-1-88) i. The applicant has violated any conditions of a provisional license. (1-1-88) ii. The applicant has willfully misrepresented or omitted information on the application or other documents pertinent to obtaining a license. (1-1-88) iii. The applicant of the person proposed as the administrator has been guilty of fraud, gross negligence, abuse, assault, battery, or exploitation in relationship to the operation of a health facility or shelter home. (1-1-88) iv. The applicant or the person proposed as the administrator of the facility: (1-1-88)

(1) Has been denied or has had revoked any health facility license or shelter care license; or (1-1-88)

(2) Has been convicted of operating any health facility or shelter care facility without a license; or (1-1-88)

(3) Has been enjoined from operating a health facility or shelter care facility; or (1-1-88)

b. Additional causes for revocation of license. (1-1-88) i. Any act adversely affecting the welfare of patients/residents is being permitted, aided, performed, or abetted by the person or persons in charge of the facility. Such acts may include, but are not limited to, neglect, physical abuse, mental abuse, emotional abuse, violation of civil rights, or exploitation. (1-1-88) ii. Any condition exists in the facility which endangers the health or safety of any patient/resident. (1-1-88) iii. The licensee has willfully misrepresented or omitted information on the application or other documents pertinent to obtaining a license. (1-1-88) iv. The applicant or administrator has demonstrated lack of sound judgement in the operation or management of the skilled nursing or intermediate care facility. (1-1-88) v. The facility has one (1) or more major deficiencies. A major deficiency is defined as: (1-1-88)

(1) Any deficiency that endangers the health or safety or welfare of any patient/resident. (1-1-88)

(2) Repeat violations of any requirement of these rules and minimum standards or of Idaho law. (1-1-88)

(3) An accumulation of minor violations that, taken as a whole, would constitute a major deficiency. (1-1-88) vi. The facility lacks adequate staff to properly care for the number and type of patients/residents residing at the facility. (1-1-88) vii. The facility has violated a condition of a provisional license. (1-1-88) viii. The applicant or administrator of the facility: (1-1-88)

(1) Has been denied or has had revoked any health facility or shelter care license; or (1-1-88)

(2) Has been convicted of operating any health facility or shelter home without a license; or (1-1-88) (3) Has been enjoined from operating a health facility or shelter home; or (1-1-88) (4) Is directly under the control or influence of any person who has been subject to the proceedings in Subsection 003.05. (12-31-91)

06. Administrative Hearings. Hearings and appeals shall be governed according to the provisions of Idaho Department of Health and Welfare Rules, IDAPA 16.05.03, Sections 300, et seq., and Section 308, "Rules Governing Contested Case Proceedings and Declaratory Rulings." (12-31-91)

07. Change of Ownership, Operator, or Lessee. When a change of a licensed facility's ownership, operator or lessee is contemplated, the owner/operator shall notify the Department at least thirty (30) days prior to the proposed date of change. A new application must be submitted when there is a change of operator, ownership or lessee. (1-1-88)

08. Penalty for Operating a Facility or Agency Without a License. Any person establishing, conducting, managing, or operating any facility or agency as defined, without a license, under Sections 39-1301 through 39-1314, Idaho Code, shall be guilty of a misdemeanor punishable by imprisonment in a county jail for a period of time not exceeding six (6) months, or by a fine not exceeding three hundred dollars (\$300), or by both such fine and imprisonment, and each day of continuing violation shall constitute a separate offense. In the event that the prosecuting attorney in the county where the alleged violation occurred fails or refuses to act within sixty (60) days of notification of the violation, the attorney general is authorized to prosecute any violations (Section 39-1312, Idaho Code). (12-31-91)

09. Contract Services. Contracts with third parties to perform any services for a facility including, but not limited to, laundry, food, housekeeping and laboratory services, shall contain a clause requiring compliance with all pertinent provisions of these rules and minimum standards.