

**RULES AND REGULATIONS
FOR LICENSURE OF INTERMEDIATE CARE FACILITIES FOR
THE MENTALLY RETARDED (ICF/MR)**

CHAPTER 13

Section 1. Authority. These rules are promulgated by the Department of Health pursuant to the Health Facilities Licensure Act at W. S. 35-2-901 et seq. and the Wyoming Administrative Procedures Act at W. S. 16-3-101 et seq.

Section 2. Purpose. These rules have been adopted for the licensure of Intermediate Care Facilities for the Mentally Retarded. These standards are designed to protect the health and safety of clients and employees.

Section 3. Severability. If any portion of these rules are found invalid or unenforceable, the remainder shall continue in effect.

Section 4. Definitions.

(a) “Acceptable plan of correction” means Wyoming Department of Health, Office of Health Quality, Planning and Program Evaluation (Office of Health Quality) approved the plan to correct the deficiencies identified through an onsite survey. The plan of correction shall be a written document and must contain who is responsible for correction, what was done to correct the problem and who will monitor to ensure that the situation does not develop again and must contain a appropriate date for completion of the correction.

(b) “Acquired Brain Injured” means any combination of focal and diffuse central nervous system dysfunction both immediate and/or delayed at the brain stem and above. These dysfunctions are acquired through the interaction of any external force and the body, oxygen deprivation, infection, toxicity, surgery and vascular disorders not associated with aging. These dysfunctions are not developmental or degenerative in nature.

(c) “Central Registry” means the registry operated by the Wyoming Department of Family Services pursuant to Wyoming Statute §14-3-213, which indexes perpetrators of child abuse or neglect and abuse and neglect, exploitation or abandonment of disabled adults.

(d) “Related Conditions” means acquired brain injured individuals who require services like those individuals who are mentally retarded.

(e) “Intermediate Care Facility for the Mentally Retarded (ICF/MR)” means a facility which provides on a regular basis health related care and training to mentally retarded individuals or persons with related conditions, who do not require the degree of care and treatment of a hospital or nursing facility and services above the need of a boarding home.

(f) “Fidelity bond” means a contract of fidelity insurance. One agrees to ensure another against loss arising from the want of honesty, integrity or fidelity of an employee of the ICF/MR.

(g) “Governing body” means the individual(s), group, or agency that has ultimate authority and responsibility for establishing client policies, personnel policies, and providing for organizational management and planning.

(h) “Licensed Practical Nurse (LPN)” means a person who is licensed to practice as a licensed practical nurse by the Wyoming Board of Nursing pursuant to W.S. §33-21-120.

(i) “Physician” means a person licensed to practice medicine in Wyoming by the Wyoming Board of Medicine.

(j) “Registered Nurse (RN)” means a graduate of an approved school of professional nursing, who is currently licensed to practice as a registered nurse by the Wyoming Board of Nursing pursuant to W.S. §33-21-120.

Section 5. Licensing.

(a) Licensing requirements. The Office of Health Quality has been authorized to issue licenses to ICF/MR’s and has established a system of licensure to comply with minimum requirements for the purpose of protecting the health, welfare and safety of clients receiving this type of service.

(b) Licensing procedure.

(i) For an initial license to be issued the Office of Health Quality shall receive:

(A) A completed application form as supplied by the Office of Health Quality.

(B) The required licensure fee as outlined in Chapter 1, Rules and Regulations for Health Care Facilities Licensure Fees. The check or money order shall be made payable to the Treasurer, State of Wyoming.

(C) Demonstrated compliance with the requirements for licensure as required in paragraph (c) of this section. This documentation shall be available to the Office of Health Quality following the onsite survey.

(D) The effective date of the initial license shall be:

(1) The date of the survey, if there are no deficiencies, or

(2) If deficiencies exist, the date that a plan of correction is approved.

(E) The length of the license shall be from the effective date of the license until the next June 30th.

(ii) For renewal of a full license for one year beginning July 1st, and unless suspended, or revoked, shall expire on June 30th of the following year, the Office of Health Quality shall receive:

(A) A completed application form by the date requested in the cover letter.

(B) The license fee as required in paragraph (b) of this section.

(C) Demonstrated compliance with the requirements for licensure as required in paragraph (c) of this section. This documentation is maintained on file at the Office of Health Quality following the onsite surveys.

(c) Requirements for licensure. The Office of Health Quality shall take into consideration:

(i) The ICF/MR shall be in conformity with all laws and standards relating to communicable and reportable diseases as promulgated by the Department of Health, Division of Public Health.

(ii) The existing deficiencies that may create a hazard to the health, safety or welfare of the clients.

(iii) The agency shall correct existing deficiencies.

(iv) There shall be adequate policies and procedures in place to guide operations.

(v) All applicants for initial licensure shall be reviewed by the Department of Health, Developmental Disabilities Division. The Division shall determine whether there is or is not a valid need for the new service and suitability of the applicant to provide this service. The Division shall forward written justification to the Office of Health Quality which states whether there is or is not a valid need for the new service.

(d) Transfer of license.

(i) No license granted shall be assignable or transferrable. A license shall apply only to the ICF/MR described in the license application.

(A) Whenever ownership of an ICF/MR is transferred from the individual or entity named in the license application to any other individual or entity, written notification of change of ownership shall be made to the Office of Health Quality. The transferee shall notify the Office of Health Quality of the transfer and apply for a new license.

(1) The transferor shall notify the Office of Health Quality at least thirty (30) days prior to the final transfer.

(I) Any license granted to the transferee shall be subject to the plan of correction submitted by the previous owner as approved by the Office of Health Quality.

(ii) If the ICF/MR's name or address is changed, the Office of Health Quality shall be advised in writing and a new license shall be issued upon receipt of the licensure fee and application.

(e) Conditions for revoking a license.

(i) Denial of application - revocation of license.

(A) An application for license may be denied or a previously issued license may be revoked for noncompliance with minimum standards as herein set forth when noncompliance jeopardizes the health, safety or welfare of clients.

(ii) Hearings.

(A) Any ICF/MR aggrieved by a decision of the Office of Health Quality may request a hearing by submitting a written request within ten (10) days of the receipt date of the notice of adverse action.

(B) Except in matters concerned with the spread of communicable disease as required in sections (c)(i), the Senior Management Consultant of the Office of Health Quality shall present the preliminary decisions and reasons to the aggrieved ICF/MR and provide an opportunity for a hearing (if such is requested within the appropriate time frame).

(1) In matters concerned with the spread of communicable disease, the Wyoming State Health Officer shall present the preliminary decisions and reasons to the parties concerned and provide an opportunity for a hearing (if such is requested within the appropriate time frame).

(C) Hearings requested under the terms of these rules and regulations shall be held by the Office of Health Quality in accordance with the provisions of the Wyoming Administrative Procedures Act at W.S. §16-3-113, and with the contested case rules and regulations of the Wyoming Department of Health.

(f) Posting of license.

(i) The current license issued by the Office of Health Quality shall be displayed in a public area within the ICF/MR.

(g) Survey of the ICF/MR.

(i) Shall be arranged by the Office of Health Quality through its duly authorized officers, agents, or consultants. The survey shall be made unannounced and at periodic intervals dependant on the results of the previous survey and funding. All records of the ICF/MR shall be made available to the surveyor.

(h) Requirements of the Office of Health Quality.

(i) The Office of Health Quality shall provide each ICF/MR with:

(A) A copy of the list of deficiencies found, if any; and

(B) A copy of these rules and regulations.

(i) Voluntary closure

(i) If an ICF/MR voluntarily ceases to operate, it shall notify the Office of Health Quality in writing at least thirty working days prior to the closure.

(ii) Five working days after closure, the ICF/MR shall return its license to the Office of Health Quality.

Section 6. Organization and Administration.

(a) Governing Body. The ICF/MR shall have a governing body which has legal authority and responsibility to operate the ICF/MR. The governing body shall:

(i) Appoint an administrator who is responsible for managing the ICF/MR.

(ii) Obtain a fidelity bond for client protection arising from the want of honesty, integrity or fidelity of an employee. The bond shall consist of no less than \$2500 and shall be augmented in relation to the number of employees.

(iii) Provide verification of a central registry checks on all employees hired on or after the filing of these rules. Each ICF/MR is responsible to initiate and follow this process to completion.

Central registry information can be obtained by contacting the Department of Family Services at 307-777-5366. (This number may be subject to change.)

(iv) Adopt, revise, and approve personnel policies; including:

(A) Frequency of employee evaluations;

(B) Insuring confidentiality of central registry information checks.

(v) Prepare an organizational chart that reflects the administrative control and lines of authority for the delegation of responsibility from management down to the client level.

(vi) The governing body shall ensure in accordance with State Statute 35-2-910, effective , ongoing, facility wide written quality improvement program which ensures and evaluates the quality of care provided to all clients.

(vii) The governing body shall be accountable for the quality of care provided to the client.

(viii) Personnel Records.

(A) There shall be one person designated responsible for maintaining confidentiality.

(B) The personnel records for an employee shall include:

(1) Central registry information checks, which shall be maintained in a locked cabinet at all times.

(ix) Notification.

(A) Prior to admission all perspective clients shall be notified if the ICF/MR is not Medicare/Medicaid certified.

(x) Services.

(A) Furnished services, including the contracted services, shall comply with all applicable licensure standards;

(B) Medical and nursing staff shall be licensed, certified, or registered according to Wyoming laws and rules; and

(C) Staff members shall provide health services only within the scope of their license, certification or registration.

Section 7. Physical Environment.

(a) The ICF/MR shall be constructed, arranged, and maintained to ensure health and safety of the client.

(i) The building interior and exterior shall be clean, orderly, sanitary, and free of odors.

Section 8. Construction/Remodeling.

Department of Health Chapter 3, Construction Rules for Health Facilities apply.

Section 9. Life Safety and Electrical Safety.

Department of Health Chapter III, Construction Rules for Health Facilities apply.

(a) Intermediate Care Facilities for Mentally Retarded (ICF/MR) operating prior to the effective date of these rules, shall meet the Life Safety Code of the National Fire Protection Association that was in effect at the time the facility was licensed as a ICF/MR.

(b) All plans and specifications for construction and/or remodeling shall be approved by the Office of Health Quality prior to construction.