

## ARTICLE 1.1. COMMUNITY RESIDENTIAL FACILITIES FOR PERSONS WITH DEVELOPMENTAL DISABILITIES

### Rule 1. Definitions

#### 431 IAC 1.1-1-1 Applicability

Authority: IC 12-28-5-19

Affected: IC 12-7-2; IC 12-28-5

Sec. 1. The definitions in this rule apply throughout this article. (*Community Residential Facilities Council; 431 IAC 1.1-1-1; filed Sep 30, 1991, 1:40 p.m.: 15 IR 96; readopted filed Oct 1, 2001, 3:40 p.m.: 25 IR 528; readopted filed Aug 22, 2008, 11:20 a.m.: 20080903-IR-431080545RFA*)

#### 431 IAC 1.1-1-2 Types of facilities defined

Authority: IC 12-28-5-10; IC 12-28-5-19

Affected: IC 12-7-2; IC 12-28-5

Sec. 2. "Community residential facility for persons with developmental disabilities" means a residential facility, as defined by IC 12-7-2, that is operated for the purpose of providing one (1) of the following types of services to four (4) to eight (8) persons with developmental disabilities:

(1) "Adult support residence" means a home or an apartment staffed by personnel, that provides assistance with activities of daily living and transportation and other assistance to residents with developmental disabilities other than mental retardation to enable them to function in the community and within the home. The residence shall include specialized equipment, communication devices, and environmental controls as needed for the residents to enhance their ability to participate in activities of life.

(2) "Basic developmental residence" means a home or apartment setting for adults, staffed and supervised by personnel, to provide training for those individuals functioning at severe and profound levels of developmental disabilities in one (1) or more of the following areas:

- (A) Activities of daily living.
- (B) Communication.
- (C) Behavioral training.
- (D) Behavior management.

(3) "Child rearing residence" means a home for children only, staffed by personnel, that provides developmental training and support in specific areas for residents who function on a similar behavioral level.

(4) "Child rearing residence with a specialized program" means a home for children only that provides developmental training and support in specific areas. The home must be staffed by either or both of the following:

- (A) Personnel or behavior management consultants, or both, who develop and monitor behavioral training.
- (B) Personnel trained to provide intense personal assistance with activities of daily living due to physical limitations.

(5) "Developmental training residence" means a home or apartment for adults, staffed and supervised by personnel, to provide assistance and training for residents to promote their developmental growth in one (1) or more of the following areas:

- (A) Activities of daily living.
- (B) Behavioral training.
- (C) Behavioral management.
- (D) Communication.
- (E) Personal adjustment.
- (F) Leisure time.
- (G) Use of community resources.

(6) "Intensive training residence" means a home or apartment for adults, staffed by personnel, that provides a system of structured, individualized supports and comprehensive training for residents to progress to a less restrictive setting in one (1) or more of the following areas:

- (A) Activities of daily living.

- (B) Behavioral training.
  - (C) Behavior management.
  - (D) Communication.
  - (E) Leisure time.
- (7) "Residence for adults with extensive support needs" means a residential setting as follows with supports and services for adults with extensive supervision needs and intense behavioral support needs that has:
- (A) A behavior support plan supervised by a behavioral consultant to develop and monitor behavior training, developmental training, and support in specific areas for all individuals receiving services who function on a similar level as follows:
    - (i) The behavioral consultant or consultants must have twenty-four (24) hour availability and must be familiar with the specific needs of the consumers in the home.
    - (ii) The behavioral consultant or consultants must provide at least ten (10) hours per week of behavior services in the home for direct monitoring, assessment, intervention, and staff training.
    - (iii) Psychiatric services must be available to meet the needs of the individual or individuals.
  - (B) A residence for adults with extensive support needs must provide the following:
    - (i) A continuous active treatment program to address the extensive positive behavioral support needs of the individuals receiving services.
    - (ii) Training for individuals receiving services to address community integration skill needs, including training in one (1) or more of the following areas:
      - (AA) Activities of daily living.
      - (BB) Communication.
      - (CC) Personal maintenance and development.
      - (DD) Behavior supports with emphasis on positive measures.
      - (EE) Leisure time.
      - (FF) Active treatment.
      - (GG) Home skills.
  - (C) A residence under this subdivision shall not have more than four (4) beds.
- (8) "Sheltered living residence" means a home or apartment for adults, staffed by personnel, that provides training for residents to achieve an independent lifestyle in one (1) or more of the following areas:
- (A) Activities of daily living.
  - (B) Behavioral training.
  - (C) Behavior management.
  - (D) Communication.
  - (E) Use of community resources.
- (9) "Small behavior management residence for children" means a home exclusively for children that:
- (A) has a behavior management program staffed by a behavior management consultant or personnel to develop and monitor behavioral training, developmental training, and support in specific areas for all residents who function on a similar level; and
  - (B) does not have more than six (6) beds.
- (10) "Small residence for adults with extensive medical needs" means a residence that is exclusively for adults with extensive medical needs and meets the following requirements:
- (A) A residence for adults with extensive medical needs must provide the following:
    - (i) A medical management program to address the extensive medical needs of the residents.
    - (ii) Training for residents to address deficits in basic skills, including training in one (1) or more of the following areas:
      - (AA) Activities of daily living.
      - (BB) Communication.
      - (CC) Personal adjustment.
      - (DD) Behavior management.
      - (EE) Behavior training.
      - (FF) Leisure time.

(GG) Use of community resources.

(B) A residence under this subdivision shall have four (4) beds.

*(Community Residential Facilities Council; 431 IAC 1.1-1-2; filed Sep 30, 1991, 1:40 p.m.: 15 IR 96; filed Nov 2, 1992, 5:00 p.m.: 16 IR 850; filed Apr 30, 1997, 9:00 a.m.: 20 IR 2373; filed Nov 13, 1997, 12:05 p.m.: 21 IR 1342; readopted filed Oct 1, 2001, 3:40 p.m.: 25 IR 528; filed Jun 10, 2002, 2:30 p.m.: 25 IR 3126; errata filed Aug 22, 2002, 3:13 p.m.: 26 IR 36; filed Nov 19, 2007, 11:41 a.m.: 20071219-IR-431070226FRA; readopted filed Aug 22, 2008, 11:20 a.m.: 20080903-IR-431080545RFA)*

**431 IAC 1.1-1-3 "Activities of daily living" defined**

Authority: IC 12-28-5-19

Affected: IC 12-7-2; IC 12-28-5

Sec. 3. "Activities of daily living" means the basic skills of everyday living such as toileting, bathing, dressing, grooming, and eating and the skills necessary to maintain the normal routines of the day, such as housekeeping, shopping, and preparing meals. The term also includes exercising personal, social, and communications skills. *(Community Residential Facilities Council; 431 IAC 1.1-1-3; filed Sep 30, 1991, 1:40 p.m.: 15 IR 96; readopted filed Oct 1, 2001, 3:40 p.m.: 25 IR 528; readopted filed Aug 22, 2008, 11:20 a.m.: 20080903-IR-431080545RFA)*

**431 IAC 1.1-1-4 "Administrator" defined**

Authority: IC 12-28-5-19

Affected: IC 12-7-2; IC 12-28-5

Sec. 4. "Administrator" means an individual who has the necessary authority and responsibility for management of the facility and implementation of administrative and operational policies. *(Community Residential Facilities Council; 431 IAC 1.1-1-4; filed Sep 30, 1991, 1:40 p.m.: 15 IR 97; readopted filed Oct 1, 2001, 3:40 p.m.: 25 IR 528; readopted filed Aug 22, 2008, 11:20 a.m.: 20080903-IR-431080545RFA)*

**431 IAC 1.1-1-5 "Behavior management" defined**

Authority: IC 12-28-5-19

Affected: IC 12-7-2; IC 12-28-5

Sec. 5. "Behavior management" means the manipulation of, or creation of, an environment to decrease maladaptive behaviors or to increase appropriate behaviors. Such techniques are defined in Client Behavior and Facility Practices, 42 CFR 483.450(b) through 42 CFR 483.450(e) (10-1-95). *(Community Residential Facilities Council; 431 IAC 1.1-1-5; filed Sep 30, 1991, 1:40 p.m.: 15 IR 97; filed Apr 30, 1997, 9:00 a.m.: 20 IR 2374; readopted filed Oct 1, 2001, 3:40 p.m.: 25 IR 528; readopted filed Aug 22, 2008, 11:20 a.m.: 20080903-IR-431080545RFA)*

**431 IAC 1.1-1-6 "Case manager" defined**

Authority: IC 12-28-5-19

Affected: IC 12-28-5

Sec. 6. "Case manager" means a person employed by the division who makes every effort to assure that individual clients are identified, placed in an appropriate and least restrictive environment for receiving service, and receive services which are appropriate to their needs. *(Community Residential Facilities Council; 431 IAC 1.1-1-6; filed Sep 30, 1991, 1:40 p.m.: 15 IR 97; filed Nov 2, 1992, 5:00 p.m.: 16 IR 851; readopted filed Oct 1, 2001, 3:40 p.m.: 25 IR 528; readopted filed Aug 22, 2008, 11:20 a.m.: 20080903-IR-431080545RFA)*

**431 IAC 1.1-1-7 "Children" defined**

Authority: IC 12-28-5-19

Affected: IC 12-7-2; IC 12-28-5

Sec. 7. "Children" means individuals who are less than eighteen (18) years of age, or persons eighteen (18) years of age or over who continue to be enrolled in a public school program. (*Community Residential Facilities Council; 431 IAC 1.1-1-7; filed Sep 30, 1991, 1:40 p.m.: 15 IR 97; readopted filed Oct 1, 2001, 3:40 p.m.: 25 IR 528; readopted filed Aug 22, 2008, 11:20 a.m.: 20080903-IR-431080545RFA*)

**431 IAC 1.1-1-8 "Council" defined**

Authority: IC 12-28-5-19

Affected: IC 12-7-2; IC 12-28-5

Sec. 8. "Council" means the community residential facilities council as authorized by IC 12-7-2. (*Community Residential Facilities Council; 431 IAC 1.1-1-8; filed Sep 30, 1991, 1:40 p.m.: 15 IR 97; filed Nov 2, 1992, 5:00 p.m.: 16 IR 851; readopted filed Oct 1, 2001, 3:40 p.m.: 25 IR 528; readopted filed Aug 22, 2008, 11:20 a.m.: 20080903-IR-431080545RFA*)

**431 IAC 1.1-1-9 "Council staff" defined**

Authority: IC 12-28-5-19

Affected: IC 12-28-5

Sec. 9. "Council staff" means individuals designated by the division of aging and rehabilitative services and the division of mental health to assist the council in accomplishing its functions. (*Community Residential Facilities Council; 431 IAC 1.1-1-9; filed Sep 30, 1991, 1:40 p.m.: 15 IR 97; filed Nov 2, 1992, 5:00 p.m.: 16 IR 851; readopted filed Oct 1, 2001, 3:40 p.m.: 25 IR 528; readopted filed Aug 22, 2008, 11:20 a.m.: 20080903-IR-431080545RFA*)

**431 IAC 1.1-1-10 "Day service" defined**

Authority: IC 12-28-5-19

Affected: IC 12-28-5

Sec. 10. "Day service" means a program of services as described in IC 12-11-2 [*IC 12-11-2 was repealed by P.L.272-1999, SECTION 66, effective July 1, 1999.*]. (*Community Residential Facilities Council; 431 IAC 1.1-1-10; filed Sep 30, 1991, 1:40 p.m.: 15 IR 97; filed Nov 2, 1992, 5:00 p.m.: 16 IR 851; readopted filed Oct 1, 2001, 3:40 p.m.: 25 IR 528; readopted filed Aug 22, 2008, 11:20 a.m.: 20080903-IR-431080545RFA*)

**431 IAC 1.1-1-11 "Division" defined**

Authority: IC 12-28-5-19

Affected: IC 12-28-5

Sec. 11. "Division" means the division of aging and rehabilitative services or its duly authorized agent. (*Community Residential Facilities Council; 431 IAC 1.1-1-11; filed Sep 30, 1991, 1:40 p.m.: 15 IR 97; filed Nov 2, 1992, 5:00 p.m.: 16 IR 851; readopted filed Oct 1, 2001, 3:40 p.m.: 25 IR 528; readopted filed Aug 22, 2008, 11:20 a.m.: 20080903-IR-431080545RFA*)

**431 IAC 1.1-1-12 "Developmental disability" defined**

Authority: IC 12-28-5-19

Affected: IC 12-7-2-61; IC 12-28-5

Sec. 12. "Developmental disability" means a disability as defined by IC 12-7-2-61. (*Community Residential Facilities Council; 431 IAC 1.1-1-12; filed Sep 30, 1991, 1:40 p.m.: 15 IR 97; filed Nov 2, 1992, 5:00 p.m.: 16 IR 851; readopted filed Oct 1, 2001, 3:40 p.m.: 25 IR 528; readopted filed Aug 22, 2008, 11:20 a.m.: 20080903-IR-431080545RFA*)

**431 IAC 1.1-1-13 "Interdisciplinary team" defined**

Authority: IC 12-28-5-19

Affected: IC 12-7-2; IC 12-28-5

Sec. 13. "Interdisciplinary team" means those individuals who have responsibility for making decisions about and implementing individual program plans. The team may include, but is not limited to, the resident, his or her legal guardian, any representative of the resident's choice, case manager, and representatives from agencies who provide a direct service for the resident. (*Community Residential Facilities Council; 431 IAC 1.1-1-13; filed Sep 30, 1991, 1:40 p.m.: 15 IR 97; readopted filed Oct 1, 2001, 3:40 p.m.: 25 IR 528; readopted filed Aug 22, 2008, 11:20 a.m.: 20080903-IR-431080545RFA*)

**431 IAC 1.1-1-14 "Intermediate care facility for the mentally retarded" defined**

Authority: IC 12-28-5-19

Affected: IC 12-7-2; IC 12-28-5

Sec. 14. "Intermediate care facility for the mentally retarded" has the meaning as described in 42 CFR 483.400 through 42 CFR 483.480 (10-1-95). (*Community Residential Facilities Council; 431 IAC 1.1-1-14; filed Sep 30, 1991, 1:40 p.m.: 15 IR 97; filed Apr 30, 1997, 9:00 a.m.: 20 IR 2374; readopted filed Oct 1, 2001, 3:40 p.m.: 25 IR 528; readopted filed Aug 22, 2008, 11:20 a.m.: 20080903-IR-431080545RFA*)

**431 IAC 1.1-1-15 "Life safety training" defined**

Authority: IC 12-28-5-19

Affected: IC 12-7-2; IC 12-28-5

Sec. 15. "Life safety training" means instruction in basic first aid procedures such as stopping severe bleeding, treating burns, etc., emergency evacuation procedures, and other relevant training oriented to maintaining a safe environment. (*Community Residential Facilities Council; 431 IAC 1.1-1-15; filed Sep 30, 1991, 1:40 p.m.: 15 IR 98; readopted filed Oct 1, 2001, 3:40 p.m.: 25 IR 528; readopted filed Aug 22, 2008, 11:20 a.m.: 20080903-IR-431080545RFA*)

**431 IAC 1.1-1-16 "Provider" defined**

Authority: IC 12-28-5-19

Affected: IC 12-28-5-12

Sec. 16. "Provider" means an approved entity as defined in IC 12-28-5-12 which holds a license to operate a supervised group living program at a specific address. (*Community Residential Facilities Council; 431 IAC 1.1-1-16; filed Sep 30, 1991, 1:40 p.m.: 15 IR 98; filed Nov 2, 1992, 5:00 p.m.: 16 IR 851; readopted filed Oct 1, 2001, 3:40 p.m.: 25 IR 528; readopted filed Aug 22, 2008, 11:20 a.m.: 20080903-IR-431080545RFA*)

**431 IAC 1.1-1-17 "Residential facility" defined**

Authority: IC 12-28-5-19

Affected: IC 12-28-5

Sec. 17. "Residential facility" means a home in which a program as defined in IC 12-11-1-1(1) through IC 12-11-1-1(4) [IC 12-11-1 was repealed by P.L.272-1999, SECTION 66, effective July 1, 1999.] is carried out. (Community Residential Facilities Council; 431 IAC 1.1-1-17; filed Sep 30, 1991, 1:40 p.m.: 15 IR 98; filed Nov 2, 1992, 5:00 p.m.: 16 IR 851; readopted filed Oct 1, 2001, 3:40 p.m.: 25 IR 528; readopted filed Aug 22, 2008, 11:20 a.m.: 20080903-IR-431080545RFA)

**431 IAC 1.1-1-18 "Residential staff" defined**

Authority: IC 12-28-5-19

Affected: IC 12-7-2; IC 12-28-5

Sec. 18. "Residential staff" means all persons responsible for providing training, habilitation, and support in the residential setting. (Community Residential Facilities Council; 431 IAC 1.1-1-18; filed Sep 30, 1991, 1:40 p.m.: 15 IR 98; readopted filed Oct 1, 2001, 3:40 p.m.: 25 IR 528; readopted filed Aug 22, 2008, 11:20 a.m.: 20080903-IR-431080545RFA)

**431 IAC 1.1-1-19 "Supervised group living" defined**

Authority: IC 12-28-5-19

Affected: IC 12-28-5

Sec. 19. "Supervised group living" means a residence as set forth in IC 12-11-1-1(1) [IC 12-11-1 was repealed by P.L.272-1999, SECTION 66, effective July 1, 1999.]. (Community Residential Facilities Council; 431 IAC 1.1-1-19; filed Sep 30, 1991, 1:40 p.m.: 15 IR 98; filed Nov 2, 1992, 5:00 p.m.: 16 IR 852; readopted filed Oct 1, 2001, 3:40 p.m.: 25 IR 528; readopted filed Aug 22, 2008, 11:20 a.m.: 20080903-IR-431080545RFA)

**Rule 2. Licensing Procedures**

**431 IAC 1.1-2-1 Approved provider status**

Authority: IC 12-28-5-19

Affected: IC 4-21.5; IC 12-28-5-12; IC 22-12

Sec. 1. (a) Any prospective provider in order to lawfully establish, conduct, operate, or maintain a residential facility as defined in IC 12-11-1-1(1) [IC 12-11-1 was repealed by P.L.272-1999, SECTION 66, effective July 1, 1999.] shall demonstrate to the satisfaction of the council that it has the programmatic, financial, and management ability to operate a supervised group living residence.

(b) The prospective provider shall submit to the staff of the council professional and financial references and such additional program, policy, and operational documents as necessary to make a judgment that the prospective provider has the ability to operate a supervised group living residence for persons with developmental disabilities. Such documents shall include, but are not limited to, the following:

(1) A corporate or partnership structure if the prospective provider is a corporation or partnership.

(2) An organizational chart delineating job titles, lines of authority, and scope of responsibility.

(3) A policy and procedure manual.

(4) A program description.

(c) The prospective provider shall be notified in writing of its approval as a provider.

(d) In the event that a prospective provider is denied approval, the prospective provider shall be notified of that action by certified mail. The prospective provider may appeal that action by requesting a hearing by the council; such request is to be made in writing within fifteen (15) days of notification of denial by the council, under IC 4-21.5.

(e) Designation as an approved provider shall not be construed as authorization to develop a supervised group living program as defined in IC 12-11-1-1(1) [IC 12-11-1 was repealed by P.L.272-1999, SECTION 66, effective July 1, 1999.]. Such authorization shall be made by the division. (Community Residential Facilities Council; 431 IAC 1.1-2-1; filed Sep 30, 1991, 1:40 p.m.: 15 IR 98; filed Nov 2, 1992, 5:00 p.m.: 16 IR 852; readopted filed Oct 1, 2001, 3:40 p.m.: 25 IR 528; readopted filed Aug 22, 2008, 11:20 a.m.: 20080903-IR-431080545RFA)

*a.m.: 20080903-IR-431080545RFA)*

**431 IAC 1.1-2-2 General licensing process**

Authority: IC 12-28-5-19

Affected: IC 4-21.5; IC 12-28-5-12; IC 22-12

Sec. 2. (a) A license for a new residential facility shall be obtained as follows:

- (1) The provider shall obtain approved provider status under section 1 of this rule.
- (2) The provider who has been given preliminary approval to proceed with development of a residence shall submit a written letter of intent to the division, indicating its intention to develop a specific residence in a specific county for a specific number of residents.
- (3) The provider shall submit to the division a letter of support from the division's case manager with responsibility for placement of individuals in the proposed residence which supports the need for the residence in compliance with the council's assessment of needs and indicates the appropriate licensure designation for the residence as defined in 431 IAC 1.1-1-2.
- (4) The provider shall notify the affected day service agency of the proposed development of a residence and obtain a letter of commitment for day services.
- (5) The division shall notify the provider in writing of the approval to proceed with development.
- (6) Failure to submit a letter of intent within nine (9) months of receiving preliminary approval to proceed from the division or to open a residence within nine (9) months of receiving the division's approval to proceed may result in withdrawal of approval to proceed unless the provider can demonstrate that such delays were due to circumstances beyond its control or in the best interest of prospective residents.
- (7) The division may request architectural plans for review and approval. The residence must be in compliance with applicable building codes under IC 22-12.
- (8) The facility must meet the requirements of 431 IAC 3.1 or 431 IAC 4 for life safety.
- (9) When automatic sprinkler systems are installed, they shall be installed in accordance with National Fire Protection Association (NFPA) Standard 13 or 13R. The installation shall be certified in writing by the design professional as being in full compliance with applicable NFPA standards. The edition of NFPA 13 or NFPA 13R to be used for such certification shall be that edition most recently adopted by the fire prevention and building safety commission in Title 675 of the Indiana Administrative Code. The original of such certification shall be retained at the facility at all times that the facility is licensed by the division, and a copy shall be provided to the division at the time of initial licensure.
- (10) The division or its designated agent may give written approval for occupancy of a residential facility pending confirmation by the council if:
  - (A) the residential facility has been surveyed and found to be in substantial compliance with this article; and
  - (B) the residential facility has been inspected and found to be in substantial compliance with 431 IAC 3.1 or 431 IAC 4.
- (b) A license for an existing facility that proposes a change in the type of service or capacity of the home is obtained as follows:
  - (1) The provider shall submit a written letter to the division indicating its intention to:
    - (A) change licensure type for an existing residence; or
    - (B) change the capacity of an existing residence.
  - (2) The provider shall submit a letter of support from the division's case manager with responsibility for approving placement of individuals in the residence that affirms that the proposed change is in the best interests of existing residents.
  - (3) In the event that the provider proposes to increase the capacity of the residence, the division shall confirm with the Indiana state department of health that the residence will continue to meet the physical requirements of this article.
  - (4) The division, through its designated agent, may give preliminary written approval for change in licensure designation or change in capacity of a residence, pending confirmation by the council, or may defer the matter for full review by the council.
- (c) A license for a facility that proposes to change management shall be obtained as follows:
  - (1) The provider shall do the following:
    - (A) Submit a letter to the division indicating its intention to change management.
    - (B) Disclose to the prospective approved provider its most recent licensure and certification document, including all plans of correction.

(C) Submit a letter to the council identifying the entity responsible for the completion of the plans of correction.

(2) The division, or its designated agent, may give written approval for the change in management under 431 IAC 1.1-3-1 pending confirmation by the council, or may defer the matter for full review by the council.

*(Community Residential Facilities Council; 431 IAC 1.1-2-2; filed Sep 30, 1991, 1:40 p.m.: 15 IR 98; filed Nov 2, 1992, 5:00 p.m.: 16 IR 852; filed Apr 30, 1997, 9:00 a.m.: 20 IR 2374; readopted filed Oct 1, 2001, 3:40 p.m.: 25 IR 528; readopted filed Aug 22, 2008, 11:20 a.m.: 20080903-IR-431080545RFA)*

#### **431 IAC 1.1-2-3 Licensure actions**

Authority: IC 12-28-5-19

Affected: IC 4-21.5; IC 12-28-5; IC 22-12

Sec. 3. (a) Upon application for an initial license, the council may issue a provisional license for a period not to exceed twelve (12) months, or a regular license for a period not to exceed eighteen (18) months, or deny the issuance of a license. Such action shall be based on the following:

(1) Information verified by the council staff indicating whether the facility is being operated in compliance with IC 12-28-5 and this article.

(2) Information from the Indiana state department of health indicating that the residence has been inspected within the preceding twelve (12) months to assure compliance with the fire safety standards in 431 IAC 3.1 or 431 IAC 4.

(3) The division or its designated agent may give written approval for the facility to be occupied, pending confirmation by the council, or may defer authorization to occupy for full review by the council.

(4) If the council decides that a license will not be issued, the applicant affected has the right to an appeal to the council within a fifteen (15) day period after notification by registered or certified letter under IC 4-21.5.

(b) Upon application for a renewal license, the council may approve a regular license for a period not to exceed eighteen (18) months, or a conditional license for a period of less than one (1) year, or deny the issuance of a license. Such action shall be based on the following:

(1) Information verified by the council staff indicating whether the facility is being operated in compliance with IC 12-28-5 and this article.

(2) Information from the Indiana state department of health indicating that the residence has been inspected within the preceding twelve (12) months to assure compliance with the fire safety standards in 431 IAC 3.1 or 431 IAC 4.

(3) In order to assure compliance, the council may impose conditions upon the granting of such a conditional license to assure the health, safety, and well-being of residents. A conditional license cannot be granted for longer than twelve (12) consecutive months.

(c) Except where the facility is temporarily closed or no longer able to house the residents due to an emergency or due to final action by the council revoking or denying renewal of the license, the provider shall notify the division and any agency with placement responsibility in writing ninety (90) days in advance of closure. Relocation of a residential facility shall constitute a closure, and a new application shall be submitted. *(Community Residential Facilities Council; 431 IAC 1.1-2-3; filed Sep 30, 1991, 1:40 p.m.: 15 IR 99; filed Nov 2, 1992, 5:00 p.m.: 16 IR 853; filed Apr 30, 1997, 9:00 a.m.: 20 IR 2375; readopted filed Oct 1, 2001, 3:40 p.m.: 25 IR 528; readopted filed Aug 22, 2008, 11:20 a.m.: 20080903-IR-431080545RFA)*

### **Rule 3. Conditions of Licensure**

#### **431 IAC 1.1-3-1 Governing body**

Authority: IC 12-28-5-19

Affected: IC 4-21.5; IC 12-10-3; IC 12-28-5-12; IC 22-12

Sec. 1. (a) The provider shall meet all the conditions specified in 42 CFR 483.410 (10-3-88).

(b) The residential provider shall report the following circumstances to the division by telephone no later than the first business day followed by written summaries as requested by the division:

(1) An emergency rendering the residential facility temporarily uninhabitable.

- (2) Any fire resulting in injury or property damage.
- (3) Death of any resident.
- (4) Illness of any resident which requires hospitalization or which renders the resident bedfast for more than seven (7) days.
- (5) Suspected or alleged abuse, neglect, or exploitation of a resident which shall also be reported in accordance with IC 12-10-3 to the adult protective services or with IC 31-6-11 [*IC 31-6-11 was repealed by P.L.1-1997, SECTION 157, effective July 1, 1997.*] to the child protective services.
- (6) Incidents of serious injury to a resident which require the attention of a physician beyond the initial medical evaluation or treatment and release.
- (7) Any change in program administrator.

(c) The provider shall establish and maintain financial and program records to demonstrate compliance with all applicable state and federal laws and regulations.

(d) Representatives of the council, including employees of the state department of health and the division of aging and rehabilitative services, shall have the right to enter the premises of the residential facility, or its administering offices, without prior notification for the purpose of examining such records to determine compliance with such laws and regulations.

(e) The residential provider shall furnish an original of all financial audits to the council upon written request of the division. (*Community Residential Facilities Council; 431 IAC 1.1-3-1; filed Sep 30, 1991, 1:40 p.m.: 15 IR 100; filed Nov 2, 1992, 5:00 p.m.: 16 IR 853; readopted filed Oct 1, 2001, 3:40 p.m.: 25 IR 528; readopted filed Aug 22, 2008, 11:20 a.m.: 20080903-IR-431080545RFA*)

#### **431 IAC 1.1-3-2 Resident protections**

Authority: IC 12-28-5-19

Affected: IC 4-21.5; IC 10-13-3-27; IC 12-28-5-12; IC 22-12

Sec. 2. (a) The provider shall meet all conditions specified in 42 CFR 483.420 (10-1-95).

(b) The provider shall further ensure the following:

(1) A resident is transferred or discharged only for the following:

(A) Medical reasons.

(B) The resident's welfare or that of other residents.

(C) The resident's needs cannot be met as determined by an interdisciplinary team in compliance with IC 12-11-2 [*IC 12-11-2 was repealed by P.L.272-1999, SECTION 66, effective July 1, 1999.*].

(D) Failure to comply with IC 12-11-1-5 [*IC 12-11-1 was repealed by P.L.272-1999, SECTION 66, effective July 1, 1999.*].

(2) A resident is assisted in contacting or consulting with legal counsel as needed at the resident's own expense and is informed about available advocacy services.

(c) The residential provider shall demonstrate that its employment practices assure that no staff person would be employed where there is:

(1) evidence of abuse or fraud in any setting;

(2) repeated and substantial violation of applicable laws and rules in the operation of any type of residential, health, or developmental program in the care of dependent persons; or

(3) conviction of a crime substantially related to a dependent population or any violent crime.

The provider shall obtain, as a minimum, a bureau of motor vehicles record, a criminal history check as authorized in IC 5-2-5-5 [*IC 5-2-5 was repealed by P.L.2-2003, SECTION 102, effective July 1, 2003. See IC 10-13-3-27.*], and three (3) references. Mere verification of employment dates by previous employers shall not constitute a reference in compliance with this section. (*Community Residential Facilities Council; 431 IAC 1.1-3-2; filed Sep 30, 1991, 1:40 p.m.: 15 IR 100; filed Nov 2, 1992, 5:00 p.m.: 16 IR 854; filed Apr 30, 1997, 9:00 a.m.: 20 IR 2375; readopted filed Oct 1, 2001, 3:40 p.m.: 25 IR 528; readopted filed Aug 22, 2008, 11:20 a.m.: 20080903-IR-431080545RFA*)

#### **431 IAC 1.1-3-3 Facility staffing**

Authority: IC 12-28-5-19

Affected: IC 4-21.5; IC 12-28-5-12; IC 22-12

Sec. 3. (a) The residential facility shall meet all conditions specified in 42 CFR 483.430 (10-1-95).

(b) Orientation to the facility shall be as follows:

(1) Each residential facility shall have a written orientation plan for all residential staff. The orientation plan shall include, but not be limited to, the following:

- (A) A review of the policy and procedure manual.
- (B) Emergency procedures and appropriate telephone numbers.
- (C) On-the-job observation and training.
- (D) Any other suitable training required by the facility policy.

(2) Each residential staff person shall receive orientation and training in tasks required to be performed in the facility prior to independently assuming the position, including life safety training. Records of such training shall be documented by the provider.

(c) The provider shall have a written plan for inservice training or require all residential staff to attend other staff development programs. Each provider shall provide or require at least twenty-four (24) hours of training per residential staff person per year. Records of such training, including that provided to relief or part-time staff, shall be documented and retained according to the provider's written policy.

(d) The provider shall demonstrate that its employment practices assure that the health of residential staff shall not be detrimental to the health or welfare of the residents.

(e) Prior to assuming residential job duties and annually thereafter, each residential staff person shall submit written evidence that a Mantoux (5TU, PPD) tuberculosis skin test or chest x-ray was completed. The result of the Mantoux shall be recorded in millimeter of induration with the date given, date read, and by whom administered. If the skin test result is significant (ten (10) millimeters or more), then a chest film shall be done with other physical and laboratory examinations as necessary to complete a diagnosis. Prophylactic treatment shall be provided as per diagnosis for the length of time prescribed by the physician. (*Community Residential Facilities Council; 431 IAC 1.1-3-3; filed Sep 30, 1991, 1:40 p.m.: 15 IR 101; filed Apr 30, 1997, 9:00 a.m.: 20 IR 2376; readopted filed Oct 1, 2001, 3:40 p.m.: 25 IR 528; readopted filed Aug 22, 2008, 11:20 a.m.: 20080903-IR-431080545RFA*)

#### **431 IAC 1.1-3-4 Active treatment services**

Authority: IC 12-28-5-19

Affected: IC 4-21.5; IC 12-28-5-12; IC 22-12

Sec. 4. (a) The provider shall meet all conditions specified in 42 CFR 483.440 (10-1-95).

(b) The provider shall obtain day services for each resident which:

(1) meet the criteria and certification requirements established by the division of aging and rehabilitative services for all day service providers;

(2) meet the resident's active treatment needs set forth in the resident's individual program plan as determined by the interdisciplinary team conference with preference for services in the least restrictive environment; and

(3) are approved by the case manager, and in those situations where the resident is receiving vocational rehabilitation funded services, also by the vocational rehabilitation counselor.

(c) The interdisciplinary team shall assist the resident or the resident's guardian in exploring options for day services. The interdisciplinary team will take into consideration the resident's or the resident's guardian's preference of day services.

(d) The division of aging and rehabilitative services shall offer the residential provider and the resident, or the resident's guardian, an opportunity to appeal the day services approved by the case manager or, in those situations where the resident is receiving vocational rehabilitation funded services, the vocational rehabilitation counselor under subsection (b). The appeals process is described in developmental disabilities integrated field services policy.

(e) The protections afforded residents in section 2(b)(1) of this rule, which refer to the residential provider, should be extended to the resident in reference to the day services provider.

(f) Subsection (b) does not apply if either of the following apply:

(1) The resident is a child as defined in 431 IAC 1.1-1-7 and is in a school program.

(2) The resident's interdisciplinary team determines that the unique needs of the resident are best met without including day services. Any individual program plan which does not include day services must be approved by the case manager, and, in

those situations where the resident is receiving vocational rehabilitation funded services, also by the vocational rehabilitation counselor. The residential provider and the resident, or the resident's guardian, shall have an opportunity to appeal the services approved by the case manager or vocational rehabilitation counselor through the appeals process described in developmental disabilities integrated field services policy.

*(Community Residential Facilities Council; 431 IAC 1.1-3-4; filed Sep 30, 1991, 1:40 p.m.: 15 IR 101; filed Nov 2, 1992, 5:00 p.m.: 16 IR 854; filed Apr 30, 1997, 9:00 a.m.: 20 IR 2376; readopted filed Oct 1, 2001, 3:40 p.m.: 25 IR 528; readopted filed Aug 22, 2008, 11:20 a.m.: 20080903-IR-431080545RFA)*

#### **431 IAC 1.1-3-5 Resident behavior and facility practices**

Authority: IC 12-28-5-19

Affected: IC 4-21.5; IC 12-28-5-12; IC 22-12

Sec. 5. (a) The provider shall meet all conditions specified in 42 CFR 483.450 (10-1-95).

(b) Consideration shall be given to the residents' ages, developmental levels, and social needs and other arrangements that would promote the development of all those living together. Residences for children shall serve only children, and residences for adults shall serve only adults, except as provided in subsection (c).

(c) In the event that one (1) or more residents of a children's facility shall have reached eighteen (18) years of age or older and shall no longer participate in a special education program, if it is determined by the interdisciplinary team that it is in the best interest of the residents to remain living as a family, then the provider shall submit a plan and request approval from the council to convert the program orientation of the facility to an appropriate licensure category for adults in a reasonable period of time. If this approval is given, children and adults may continue to reside together in the same facility. *(Community Residential Facilities Council; 431 IAC 1.1-3-5; filed Sep 30, 1991, 1:40 p.m.: 15 IR 101; filed Apr 30, 1997, 9:00 a.m.: 20 IR 2377; readopted filed Oct 1, 2001, 3:40 p.m.: 25 IR 528; readopted filed Aug 22, 2008, 11:20 a.m.: 20080903-IR-431080545RFA)*

#### **431 IAC 1.1-3-6 Health care services**

Authority: IC 12-28-5-19

Affected: IC 4-21.5; IC 12-28-5-12; IC 22-12

Sec. 6. (a) The provider shall meet all conditions specified in 42 CFR 483.460 (10-1-95), except 42 CFR 483.460(c)(3) (10-1-95).

(b) All personnel who administer medication to residents or observe residents self-administering medication shall have received and successfully completed training using materials approved by the council. *(Community Residential Facilities Council; 431 IAC 1.1-3-6; filed Sep 30, 1991, 1:40 p.m.: 15 IR 102; filed Apr 30, 1997, 9:00 a.m.: 20 IR 2377; readopted filed Oct 1, 2001, 3:40 p.m.: 25 IR 528; readopted filed Aug 22, 2008, 11:20 a.m.: 20080903-IR-431080545RFA)*

#### **431 IAC 1.1-3-7 Physical environment**

Authority: IC 12-28-5-19

Affected: IC 4-21.5; IC 12-28-4-7; IC 12-28-5-12; IC 16-18-2-167; IC 22-12

Sec. 7. (a) The provider shall meet all conditions specified in 42 CFR 483.470 (10-1-95).

(b) Each residential facility shall be located in a residential neighborhood. The location, design, construction, and furnishings of each home shall be appropriate to the program, homelike, and conducive to the achievements of optimal development by the residents. No sign shall be erected which might set the facility apart from other residences in the area. The intent of this rule concerning the standards for licensure of facilities for persons with developmental disabilities is a clear pronouncement of the state of Indiana's commitment to end the unnecessary exclusion of persons with developmental disabilities from the American mainstream.

(c) No residential facility shall be licensed by the council if it is within one thousand (1,000) feet of another community residential facility from the nearest point on the lot line closest to the facility. The council, upon written request and upon a majority vote of the membership present at a meeting, may waive the one thousand (1,000) foot limitation for particular residential facilities.

Such waiver:

- (1) shall conform to the intent of the rule; and
- (2) once given, will remain as long as the facility is licensed as a residential facility.

(d) A facility initially licensed after September 1, 1984, shall not be located within one thousand (1,000) feet of a sheltered workshop or nursing home or similar health facility (as defined by IC 16-18-2-167) from the nearest point on the lot line closest to the facility. The council, upon written request and upon a majority vote of the membership present at a meeting, may waive the one thousand (1,000) foot limitation for particular residential facilities. Such waiver:

- (1) shall conform to the intent of the rule; and
- (2) once given, will remain as long as the facility is licensed as a residential facility.

(e) In accordance with IC 12-28-4-7(a), the residential facility shall meet all other zoning requirements for other dwellings in the area in which it is located.

(f) A residential facility shall be located on a well-maintained, all weather road and near a community that can provide the necessary supportive services for the home, such as fire protection, utilities, approved water and sewage systems, medical services, developmental services and access to recreational facilities, transportation, and social outlets.

(g) In the event that a residential facility uses a private water and/or sewage disposal system, such system shall meet standards for residential use as specified in 410 IAC 6-8.1. Evidence of such compliance shall be provided upon written request by the council or its agents.

(h) The living areas shall meet the following requirements, unless the facility was approved by the division prior to October 1, 1984, and cannot meet these requirements without major physical modifications:

- (1) When a resident with a physical handicap occupies a residential facility, the facility must be readily accessible to and functionally usable by each such resident according to needs identified in the individual program plan.
- (2) The facility shall contain sufficient living areas in addition to the bedrooms for the comfort and privacy of the residents. The living areas shall be furnished in the manner of typical family homes.
- (3) Not more than two (2) residents shall sleep in one (1) bedroom. No resident shall occupy any room with its only access requiring passage through the room of another resident or staff. Such passage is permitted only for use as a primary or secondary evacuation route in the event of emergency.
- (4) Residents shall be encouraged to purchase and display personal possessions, including personal items of furniture, and to enhance a homelike environment with items such as books, pictures, games, televisions, radios, art, and crafts and hobby materials; however, the provider is not relieved from responsibility to assure an adequate quantity and quality of personal furniture, and may not require residents to provide their own furniture. Furniture provided by the residents remains the property of the residents; it is not included in any charges for services paid by Medicaid or the division.
- (5) Residential staff who reside in the facility shall do so in a manner that will contribute to the well-being, comfort, independence, and safety of the residents.
- (6) In the event that it is necessary to relocate the residents due to the facility being uninhabitable, the division may approve relocation on a temporary, time limited basis and may reimburse the provider at the rate approved for the evacuated facility.

*(Community Residential Facilities Council; 431 IAC 1.1-3-7; filed Sep 30, 1991, 1:40 p.m.: 15 IR 102; filed Nov 2, 1992, 5:00 p.m.: 16 IR 855; filed Apr 30, 1997, 9:00 a.m.: 20 IR 2377; readopted filed Oct 1, 2001, 3:40 p.m.: 25 IR 528; readopted filed Aug 22, 2008, 11:20 a.m.: 20080903-IR-431080545RFA)*

#### **431 IAC 1.1-3-8 Dietetic services**

Authority: IC 12-28-5-19

Affected: IC 4-21.5; IC 12-28-5-12; IC 22-12

Sec. 8. (a) The provider shall meet all conditions specified in 42 CFR 483.480 (10-1-95).

(b) The written menu shall be prepared either with the residents' input or prepared by the residents.

(c) Meals shall be served in the dwelling unit family style in an attractive dining area of sufficient size to enable staff and residents to eat together as a family group.

(d) The majority of foods to be prepared in the facility shall be purchased at grocery stores as part of the nutrition program. The facility shall not purchase food in bulk or arrange for home delivery in a way that conflicts with residents' need for experience in food purchase and preparation. *(Community Residential Facilities Council; 431 IAC 1.1-3-8; filed Sep 30, 1991, 1:40 p.m.: 15*

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COMMUNITY RESIDENTIAL FACILITIES FOR PERSONS WITH DEVELOPMENTAL DISABILITIES

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