ASSISTED LIVING UPDATE: INDIANA PROPOSES SIGNIFICANT REVISIONS TO RESIDENTIAL CARE FACILITY RESIDENT RIGHTS, RESIDENCY AGREEMENTS AND EVICTION RULES

The Indiana Department of Health ("IDOH") published proposed amendments to the Residential Care Facility ("RCF") regulations at 410 IAC 16.2-5 governing resident rights, residency agreements and involuntary resident evictions. The proposal represents one of the most significant updates to Indiana's assisted living regulatory framework in recent years and is intended to align Indiana's rules with the federal Home and Community-Based Services ("HCBS") Settings Rule.

BACKGROUND

According to IDOH, the proposed amendments are intended to ensure compliance with federal HCBS requirements applicable to residential settings that serve Medicaid waiver participants. IDOH explains that HCBS settings must support community integration, individual choice, autonomy, access to employment opportunities, control of personal resources and participation in community life. Indiana law specifically requires IDOH to amend its residential care facility licensure rules to comply with federal HCBS requirements.

Many of the proposed revisions closely track federal HCBS Settings Rule requirements, including resident choice, community integration, visitor access, control over schedules, access to food, privacy protections and autonomy in daily decision-making.

The proposed rule incorporates many HCBS concepts directly into Indiana's resident rights regulations and would substantially expand resident protections in residential care facilities and residential portions of comprehensive care facilities.

EXPANDED RESIDENT AUTONOMY AND COMMUNITY INTEGRATION RIGHTS

The proposal would expressly recognize a resident's right to:

- Full access to the greater community, including employment opportunities and participation in community life;
- Control of personal schedules and daily activities;
- Control of personal resources;
- Access to food at any time;
- Visitors of the resident's choosing at any time, without prior approval;
- Exit and enter the facility without curfews or other restrictions;
- 24-hour access to the residence;
- Choice of roommates and the ability to refuse a proposed roommate; and
- Furnish and decorate living units with personal belongings.

These provisions track the HCBS requirements intended to ensure that residents receiving services in community-based settings maintain the same rights and freedoms enjoyed by individuals living in the broader community.

RESIDENTIAL UNIT RIGHTS

The proposed rule would add several protections commonly associated with independent housing arrangements, including requirements that:

- Resident units have lockable entrance doors;
- Only appropriate staff possess keys to resident units;

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- Residents have full access to common areas and their units without gates, locked doors or similar barriers; and
- Residents have the ability to come and go without curfews.

These requirements reflect the HCBS Settings Rule's emphasis on privacy, dignity and individual autonomy within a resident's living environment.

MEDICATION SELF-ADMINISTRATION

The proposal would expressly recognize a resident's right to self-administer medications unless prohibited by physician order or unless the resident requests facility administration. Facilities would be required to document these decisions in the resident's service plan.

The proposal would also require restrictions on certain resident rights to be supported by documentation in the resident's person-centered service plan, physician documentation and written approval from the resident or the resident's legal representative.

RENTAL AND RESIDENT AGREEMENTS

A notable feature of the proposal is the incorporation of landlord-tenant concepts into the RCF regulatory framework. The proposed rule would require facilities to enter into rental or resident agreements that provide residents with rights established under Indiana landlord-tenant statutes and the resident rights rule.

The proposal also repeatedly references compliance with Indiana landlord-tenant statutes and would require facility policies and house rules to remain consistent with those agreements.

SIGNIFICANT CHANGES TO DISCHARGE AND EVICTION PROCEDURES

Current regulations generally focus on transfer and discharge requirements. The proposed rule reframes many of these provisions as "evictions" and establishes a more formalized process for removing residents from residential care facilities.

The proposal would limit evictions to specific circumstances, including:

- Danger to self or others;
- Need for services beyond those permitted in an RCF without appropriate outside providers;
- Certain levels of functional dependency;
- Failure to pay;
- Material breach of a rental or resident agreement; or
- Facility closure.

Residents would be granted an express right to challenge an eviction through an IDOH hearing process. The proposal would also require detailed notices, hearing rights disclosures and appeal procedures before many involuntary removals could occur.

The proposed rule incorporates landlord-tenant concepts, creates new hearing rights and procedural protections and establishes both standard and emergency eviction processes. If adopted, operators will need to carefully evaluate how these provisions interact with existing admission agreements and eviction/discharge practices.

EMERGENCY EVICTION PROCEDURES

The proposed rule would establish a new emergency eviction hearing process. Facilities could seek expedited review in situations involving immediate health or safety concerns or urgent medical needs. Residents would likewise be permitted to request emergency hearings for alleged violations of certain landlord-tenant protections.

STAFFING AND TRAINING UPDATES

The proposal also updates personnel requirements, including revisions to tuberculosis screening standards to align with current clinical practices and guidance. Facilities would continue to be subject to dementia training and in-service education requirements.

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KEY TAKEAWAYS

If adopted substantially as proposed, the amendments will require residential care facilities to review and potentially revise:

- Admission agreements and residency contracts;
- Resident rights policies;
- House rules and visitor policies;
- Discharge and relocation procedures;
- Service planning processes;
- Medication administration practices;
- Room assignment procedures; and
- Staff training programs.

Several proposed provisions may generate significant provider comments during the rulemaking process. For example, requirements concerning unrestricted visitation, 24-hour building access, lockable resident units, roommate choice and medication self-administration may present operational challenges for operators serving residents with dementia, cognitive impairment or behavioral health needs. Operators should evaluate how these provisions would interact with existing memory care practices, secured environments, safety protocols and staffing models.

Facilities that serve Medicaid waiver participants should pay particular attention to the proposed HCBS-related resident rights provisions, many of which closely track federal HCBS settings requirements and emphasize resident autonomy, independence and community integration.

COMMENT PERIOD

IDOH is accepting comments on the proposed rule through June 26, 2026. Interested stakeholders should carefully review the proposed language and consider whether operational, clinical or legal concerns warrant submission of comments before the deadline.

If you have any questions regarding the proposed Residential Care Facility rule changes, or would like assistance preparing comments for submission to IDOH, please contact:

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