

**R432. Health, Family Health and Preparedness, Licensing.**

**R432-201. Mental Retardation Facility: Supplement "A" to the Small Health Care Facility Rule.**

**R432-201-1. Legal Authority.**

This rule is adopted pursuant to Section 26-21-13.5.

**R432-201-2. Purpose.**

The purpose of this rule is to meet the legislative intent pursuant to 26-21-13.5.

**R432-201-3. Special Definitions.**

- (1) See R432-1-3.
- (2) Special Definitions.
  - (a) "Significantly Subaverage General Intellectual Functioning" is operationally defined as a score of two or more standard deviations below the mean on a standardized general intelligence test.
  - (b) "Developmental Period" means the period between conception and the 18th birthday.

**R432-201-4. Compliance.**

All facilities governed by these rules shall be in full compliance at the time of initial licensure.

**R432-201-5. Licensure.**

- (1) See Categories of licensure R432-200-4(2).
- (2) See R432-2.

**R432-201-6. Construction and Physical Environment.**

See R432-12, Small Health Care Facility Rules.

**R432-201-7. Governing Body and Management.**

- (1) Governing Body.

The facility shall identify an individual or group to constitute the governing body of the facility.
- (2) Duties and Responsibilities.

The governing body shall:

  - (a) exercise general policy, budget, and operating direction over the facility;
  - (b) set the qualifications for the administrator of the facility;
  - (c) appoint the administrator of the facility.

(3) Compliance with Federal, State, and Local Laws.

The facility shall be in compliance with all applicable provisions of federal, state and local laws, regulations and codes pertaining to health, safety, and sanitation.
- (4) Administrator.

Each facility shall appoint, in writing, an administrator professionally licensed by the Utah Department of Commerce in a health care field.

  - (a) A copy of the administrator's license or credentials shall be posted alongside the facility's license in a place readily visible to the public.
  - (b) The administrator shall act as the administrator of no more than four small health care facilities and no more than a total of 60 beds in any type of licensed health care facility.
  - (c) The administrator shall have sufficient freedom from other responsibilities and shall be on the premises of the facility a sufficient number of hours in each business day (at least four hours per week for each six clients) and as necessary to properly manage the facility and respond to requests by the Department and the public.
  - (d) The administrator shall designate, in writing, the name and title of the person who shall act as administrator in his absence.
    - (i) This person shall have sufficient power, authority, and freedom to act in the best interests of client safety and well-being.
    - (ii) It is not the intent of this paragraph to permit an unlicensed de facto administrator to supplant or replace the designated, licensed administrator.
- (5) Administrator Responsibilities.
  - (a) The administrator's responsibilities shall be included in a written job description on file in the facility and available for Department review.
  - (b) The job description shall include responsibility to insure the following duties are fulfilled:
    - (i) complete, submit, and file all records and reports required by the Department;
    - (ii) act as a liaison with the licensee, qualified mental retardation professional, QMRP, and other supervisory staff of the facility;
    - (iii) respond to recommendations made by the facility committees;
    - (iv) assure that employees are oriented to their job functions and receive appropriate and regularly scheduled in-service training;

- (v) implement policies and procedures for the operation of the facility;
- (vi) hire and maintain the required number of licensed and nonlicensed staff, as specified in these rules, to meet the needs of clients;
- (vii) maintain facility staffing records for at least the preceding 12 months;
- (viii) secure and update contracts for required professional and other services not provided directly by the facility;
- (ix) verify all required licenses and permits of staff and consultants at the time of hire or effective date of contract;
- (x) review all incident and accident reports and document action taken.
- (A) Incident and accident reports shall be numbered and logged in a manner to account for all reports.
- (B) Incident and accident reports shall have space for written comments by the administrator and, as appropriate, the attending physician and constituted committee.
- (C) Original incident and accident reports shall be kept on file in the facility and shall be available for review by the Department.

**R432-201-8. Staff and Personnel.**

- (1) Staff Qualifications and Orientation.
  - (a) The administrator, QMRP, and department supervisors shall develop job descriptions for each position including job title, job summary, responsibilities, qualifications, required skills and licenses, and physical requirements.
  - (b) Periodic employee performance evaluations shall be documented.
  - (c) All personnel shall have access to facility policy and procedure manuals and other information necessary to effectively perform duties and carry out responsibilities.
- (2) Health Surveillance.
  - (a) The facility shall establish policies and procedures for the health screening of all facility personnel.
  - (b) See R432-150-10(4).
  - (c) All dietary and other staff who handle food shall obtain a Food Handler's Permit from the local health department.
- (3) Qualified Mental Retardation Professional, QMRP.
  - (a) Each client's active treatment program shall be integrated, coordinated and monitored by a qualified mental retardation professional.
    - (b) The qualified mental retardation professional shall meet the standards in R432-152-9(1)(b)(i) through (ii).
- (4) Professional Program Services.
  - See R432-152-9(2)(a) through (f).
- (5) Direct Care Staffing.
  - See R432-152-9(3)(a) through (d).
- (6) Residential Living Unit Staff.
  - See R432-152-9(4)(a) through (d).
- (7) Staff Training Program.
  - See R432-152-9(5)(a) through (d).

**R432-201-9. Volunteers.**

Volunteers may be utilized in the daily activities of the facility but may not be included in the facility's staffing plan in lieu of facility employees. See R432-152-10.

**R432-201-10. Contracts and Agreements.**

- (1) Contracts.
  - (a) If a service required under this subpart is not provided directly, the facility shall have a written agreement with an outside program, resource, or service to furnish the necessary service, including emergency and other health care.
  - (b) The agreement shall:
    - (i) contain the responsibilities, functions, objectives, and other terms agreed to by both parties;
    - (ii) provide that the facility is responsible for assuring that the outside services meet the standards for quality of services contained in this subpart.
  - (c) The facility shall assure that outside services meet the needs of each client.
  - (d) If living quarters are not provided in a facility owned by the ICF/MR, the ICF/MR remains directly responsible for the standards relating to physical environment that are specified in R432-200-6 and R432-152-22.
- (2) Transfer Agreements.
  - (a) The licensee shall maintain, where appropriate, a written transfer agreement with one or more hospitals, or nearby health facilities to facilitate the transfer of clients and essential client information.
  - (b) The transfer agreement shall include provisions for:
    - (i) criteria for transfer;
    - (ii) appropriate methods of transfer;
    - (iii) transfer of information needed for proper care and treatment of the individual transferred;
    - (iv) security and accountability of personal property of the individual transferred;
    - (v) proper notification of the hospital and the responsible person before transfer;
    - (vi) the facility responsible for client care in the process of transfer;

- (vii) client confidentiality.

**R432-201-11. Client Rights.**

- (1) The facility shall ensure the rights of all clients.
- (2) The facility shall:
  - (a) inform each client, parent, if the client is a minor, or legal guardian, of the client's rights and the rules of the facility;
  - (b) inform each client, parent, if the client is a minor, or legal guardian, of the client's medical condition, developmental and behavioral status, attendant risks of treatment, and of the right to refuse treatment;
  - (c) allow and encourage individual clients to exercise their rights as clients of the facility, and as citizens of the United States, including the right to file complaints and the right to due process, and each client shall be afforded the opportunity to voice grievances and recommend changes in policies and procedures to facility staff and outside representatives of personal choice, free from restraint, interference, coercion, discrimination, or reprisal;
  - (d) allow individual clients to manage their financial affairs and teach them to do so to the extent of their capabilities;
  - (e) ensure that clients are not subjected to physical, verbal, sexual or psychological abuse or punishment;
  - (f) ensure that clients are free from unnecessary drugs and physical restraints and are provided active treatment to reduce dependency on drugs and physical restraints;
  - (g) provide each client with the opportunity for personal privacy and ensure privacy during treatment and care of personal needs;
  - (h) ensure the clients are not compelled to participate in publicity events, fund raising activities, movies or anything that would exploit the client;
  - (i) ensure that clients are not compelled to perform services for the facility and ensure that clients who do work for the facility are compensated for their efforts at prevailing wages commensurate with their abilities;
  - (j) ensure clients the opportunity to communicate, associate and meet privately with individuals of their choice, including legal counsel and clergy, and to send and receive unopened mail;
  - (k) ensure that clients have access to telephones with privacy for incoming and outgoing local and long distance calls except as contraindicated by factors identified within their individual program plans;
  - (l) ensure clients the opportunity to participate in social and community group activities and the opportunity to exercise religious beliefs and to participate in religious worship services without being coerced or forced into engaging in any religious activity;
  - (m) ensure that clients have the right to retain and use appropriate personal possessions and clothing, and ensure that each client is dressed in his or her own clothing each day;
  - (n) permit a married couple both of whom reside in the facility to reside together as a couple.
- (3) Client Finances.
  - (a) The facility shall establish and maintain a system that:
    - (i) assures a full and complete accounting of clients' personal funds entrusted to the facility on behalf of clients;
    - (ii) precludes any commingling of client funds with facility funds or with the funds of any person other than another client.
  - (b) The client's financial record shall be available on request to the client, parents, if the client is a minor, or legal guardian.
  - (c) All monies entrusted to the facility on behalf of the clients shall be kept in the facility or shall be deposited within five days of receipt of such funds in an interest-bearing account in a local bank or savings and loan association authorized to do business in Utah, the deposits of which shall be insured.
  - (d) When the amount of a client's money entrusted to the facility exceeds \$150, all money in excess of \$150 shall be deposited in an interest-bearing account as specified in R432-201-11(3) above.
  - (e) A person, firm, partnership, association or corporation which is licensed to operate more than one health facility shall maintain a separate account for each such facility and shall not commingle client funds from one facility with another.
  - (f) Upon discharge of a client, all money and valuables of that client which have been entrusted to the licensee shall be surrendered to the client in exchange for a signed receipt. Money and valuables kept within the facility shall be surrendered upon demand and those kept in an interest-bearing account shall be made available within a reasonable time.
  - (g) Within 30 days following the death of a client, except in a medical examiner case, all money and valuables of that client which have been entrusted to the licensee shall be surrendered to the person responsible for the client or to the executor or the administrator of the estate in exchange for a signed receipt. When a client dies without a representative or known heirs, immediate written notice thereof shall be given by the facility to the State Medical Examiner and the registrar of the local probate court and a copy of said notice shall be filed with the Department.
- (4) Communication with Clients, Parents, and Guardians.

The facility shall:

  - (a) promote participation of parent, if the client is a minor, and legal guardian in the process of providing active treatment to a client unless their participation is unobtainable or inappropriate;
  - (b) answer communications from a client's family and friends promptly and appropriately;

- (c) promote visits by individuals with a relationship to a client, such as family, close friends, legal guardian and advocate, at any reasonable hour, without prior notice, consistent with the right of a client's and other clients' privacy, unless the interdisciplinary team determines that the visit would not be appropriate for that client;
  - (d) promote visits by parents or guardians to any area of the facility that provides direct client care service to a client, consistent with right of that client's and other clients' privacy;
  - (e) promote frequent and informal leaves from the facility for visits, trips, or vacations;
  - (f) notify promptly a client's parent or guardian of any significant incident, or change in a client's condition including, but not limited to, serious illness, accident, death, abuse, or unauthorized absence.
- (5) Staff Treatment of Clients.
- (a) The facility shall develop and implement written policies and procedures that prohibit mistreatment, neglect or abuse of a client.
    - (i) Staff of the facility shall not use physical, verbal, sexual or psychological abuse or punishment.
    - (ii) Staff shall not punish a client by withholding food or hydration that contribute to a nutritionally adequate diet.
  - (b) The facility shall prohibit the employment of individuals with a conviction or prior employment history of child, client abuse, spouse abuse, neglect or mistreatment.
  - (c) The facility shall ensure that all allegations of mistreatment, neglect, or abuse, or injuries of unknown source, are reported immediately to the administrator and to other officials in accordance with 62A-3-302 through established procedures.
  - (d) The facility shall have evidence that all alleged violations are thoroughly investigated and shall prevent further potential abuse while the investigation is in progress.
  - (e) The results of all investigations shall be reported to the administrator or designated representative and to other officials within five working days of the incident and, if the alleged violation is verified, appropriate corrective action shall be taken.

**R432-201-12. Client Treatment Services.**

See R432-152-13.

**R432-201-13. Admissions, Transfers, and Discharge.**

- (1) A client who is admitted by the facility shall be in need of and receive active treatment services.
- (2) See R432-152-14, Admissions, Transfer and Discharge.

**R432-201-14. Behavior Management and Restraint Policy.**

- (1) See R432-152-15, Client Behavior and Facility Practice.
- (2) See R432-152-13, Human Rights Committee.

**R432-201-15. Physician Services.**

See R432-152-16.

**R432-201-16. Nursing Services.**

See R432-152-17.

**R432-201-17. Dental Services.**

See R432-152-18.

**R432-201-18. Pharmacy Services.**

See R432-152-19.

**R432-201-19. Laboratory Services.**

See R432-152-20.

**R432-201-20. Environment.**

See R432-152-21.

**R432-201-21. Emergency Plan and Procedures.**

See R432-152-22.

**R432-201-22. Smoking Policies.**

Smoking policies shall comply with R432-200-8.

**R432-201-23. Pets in Long-Term Care Facilities.**

Each facility shall develop a written policy regarding pets in accordance with R432-150-21.

**R432-201-24. Housekeeping Services.**

See R432-150-26.

**R432-201-25. Laundry Services.**

See R432-150-27.

**R432-201-26. Maintenance Services.**

See R432-150-28.

**R432-201-27. Food Services.**

See R432-150-24.

**R432-201-28. Record System.**

See R432-152-29.

**R432-201-29. Penalties.**

Any person who violates any provision of this rule may be subject to the penalties enumerated in 26-21-11 and R432-3-6 and be punished for violation of a class A misdemeanor as provided in 26-21-16.

**KEY: health care facilities**

**Date of Last Change: March 3, 1995**

**Notice of Continuation: January 24, 2022**

**Authorizing, and Implemented or Interpreted Law: 26-21-5; 26-21-13.5**