



New ISDH Assistant Commissioner

On September 2, 2003, Terry Whitson became the Assistant Commissioner for the Health Care Regulatory Services Commission. Whitson replaced Liz Carroll who was named the Deputy State Health Commissioner.

Whitson joined the ISDH in February 1999 as a staff attorney and has served as supervising attorney since September 2001. As the new assistant commissioner, Whitson will oversee the Acute Care, Consumer Protection, and Long-Term Care divisions. Prior to coming to the ISDH, Whitson was Associate Professor and Program Director of Radiologic Sciences at Marian College and was previously on the faculty of the Indiana University School of Medicine.

Whitson's educational background includes an undergraduate degree in Radiologic Technology, a Master's degree in Health Education, and a law degree from Indiana University. Whitson has been admitted to candidacy and is currently completing a Ph.D. in Higher Education Administration.



NEW PROGRAM DIRECTOR OF PROVIDER SERVICES

Traci Graham became the new Program Director for Provider Services within the Long-Term Care Division at ISDH on November 10, 2003. Graham replaced Stephen Upchurch who was promoted to Enforcement Manager for the division of Long-Term Care. Graham joined the Division from Cleveland, Ohio, where she worked at Huron Hospital as Project Manager of Palliative Care Services, interacting with various long-term care providers. Graham's educational background includes a Master's degree in Social Work and a Master's degree in Business Administration from Cleveland State University. Graham will coordinate and oversee the initial licensure process and certification program for Medicare/Medicaid. She will review and process applications for change of ownership, new facilities, conversions, initial certifications and licensure after termination. Graham will administer the state rule waiver program and process requests for variances and distinct part bed size changes. Additionally, she will coordinate all required life safety, sanitarian and state fire code inspections for facility construction additions. For any questions or concerns regarding licensure, facility changes, initial inspections or waivers, please contact Traci Graham at 317/234-3071 or by e-mail at tgraham@isdh.state.in.us.

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Transfer/Discharge Notice Guidelines

State Form 49669, Notice of Transfer or Discharge, is intended for use when notice is required to residents and their



representatives for transfer or discharge from a facility. Notice is required any time a resident is transferred to or discharged from a facility, whether or not the resi-

dent or their representative is in agreement. According to the list in 410 IAC 16.2-3.1-12(a)(6), copies of the notice should be transmitted to the following:

- 1) The resident;
 - 2) A family member of the resident (if known);
 - 3) The resident's legal representative and legal guardian (if known);
 - 4) The person or agency responsible for the resident's placement, maintenance, and care in the facility;
 - 5) The regional office of the division of mental health (if the resident is developmentally disabled) and
 - 6) The local long-term care ombudsman program (for involuntary relocations and discharges only).
- An involuntary discharge is one that is initiated by the facility, whether or not the resident or their representative is in agreement.

A Transfer and Discharge Form (State Form 49669) must be issued to each resident in the event of closing a facility. In the "transferred to" space on the form, the facility should indicate a place which has accepted the resident or a list of facilities which are "viable alternatives".

"Viable Alternatives" means other facilities in an area where the resident would like to go, where there are vacancies and a facility that provides the type of care needed by the resident. Whenever possible, the resident should be given a choice of facilities. ISDH will accept one facility only in the space, multiple facilities in the space or will accept an attached list. Facilities should keep in mind that having multiple facilities listed as "viable alternatives" indicates that the resident did have a choice.

New Enforcement Manger for the Division of Long

Stephen Upchurch, who served as the Program Director-Provider Services for the Division of Long-Term Care at the Indiana State Department of Health since June 25, 2001, has accepted the position of Enforcement Manager for the Division effective August 4, 2003. Mr. Upchurch follows Mary Louise Reynolds on this position, who retired.



Change in Licensure Fee

House Bill No. 1140, increasing the licensure fee for health facilities, was passed into law and became effective July 1, 2003. This law amends IC 16-28-2-7 to increase the licensure fee from one hundred dollars (\$100) for the first fifty (50) beds, and two dollars and fifty cents (\$2.50) for each additional bed, to two hundred dollars (\$200) for the first fifty (50) beds, and ten dollars (\$10) for each additional bed.

TOP TEN DEFICIENCIES JANUARY - DECEMBER 2003		
Tag	Description	# of Cites
F324	Quality of Care	214
F514	Administration	104
F157	Notification of Rights and Services	135
F281	Resident Assessment	99
F309	Quality of Care	208
F465	Physical Environment	130
F225	Staff Treatment of Residents	137
F314	Quality of Care	97
F371	Dietary Services	99
F323	Quality of Care	102
F312	Quality of Care	99
		61

DID YOU KNOW?

The following nursing homes closed between January and December 2003:

- Community Care of Wabash, Wabash, IN
- Crestview Healthcare, Indianapolis, IN
- Emerson Nursing and Rehab, Indianapolis, IN
- Emily E. Flinn Community, Marion, IN
- Hillside Haven Healthcare Center, Rushville, IN
- Holiday Manor, Princeton, IN
- Indianapolis Retirement Home Inc, Indianapolis, IN
- Longworth Villa, Charlestown, IN
- Oxford Community Living Center, Oxford, IN
- Paoli Walnut Creek LLC, Paoli, IN
- Pine Lake Manor, Chandler, IN
- Regina Continuing Care Center, Evansville, IN
- St. Anthony Hospital SNU, Michigan City, IN
- St. Clare Health Care Center, Otterbein, IN
- St. Margaret Mercy Health-SNU, Hammond, IN
- St. Mary's Riverside Continuing Care Center, Evansville, IN
- Transitional Care Center of Fayette Memorial Hospital, Connersville, IN
- Union Hospital-TCU, Terre Haute
- Walnut Creek at Broad Ripple, Indianapolis, IN
- Walnut Creek at Delmar, Indianapolis
- Walnut Creek at Hammond, Hammond, IN
- Walnut Creek at Lafayette, Lafayette, IN
- Walnut Creek at New Albany, New Albany, IN
- Walnut Creek at Noblesville, Noblesville, IN
- Walnut Creek at Thirty Eighth, Indianapolis, IN
- Westpark Residential Care Center, South Bend, IN

Final Feeding Assistant Regulation Published

On September 25, 2003, HHS Secretary Tommy G. Thompson announced new regulations designed to permit feeding assistants to increase the quality of care in health facilities. The regulations were published as a final rule on Friday, September 26, 2003, with an effective date of October 27, 2003.

The new rule allows nursing homes the ability to hire trained feeding assistants to provide help to residents, who have no complicated feeding issues, with eating and drinking. The new assistants will be required to successfully complete a state-approved course of at least eight hours, and the use of the assistants must be consistent with state law. For further details on the federal policy visit HHS website at <http://www.hhs.gov/news/press/2003.html>.

NOTE: The State of Indiana must promulgate rules for a feeding assistant program before the program can be implemented in health facilities in the state of Indiana.

Filing Complaints Regarding Violation of HIPAA Privacy Rule



If an individual believes that a person, agency or organization covered under the HIPAA Privacy Rule (“a covered entity”) violated health information privacy rights or committed another violation of the Privacy Rule, a complaint should be filed directly with the Office of Civil Rights (OCR) of the US Department of Health and Human Services, which has oversight for enforcement of the HIPAA Privacy standards. Only OCR has authority to receive and

investigate complaints against covered entities related to the Privacy Rule. Complaints to the Office of Civil Rights must: (1) Be filed in writing, either on paper or electronically; (2) Name the entity that is the subject of the complaint and describe the acts or omissions believed to be in violation of the applicable requirements of the Privacy Rule; and (3) Be filed within 180 days of when it became known that the act or omission occurred. OCR may extend the 180-day period if the complainant can show “good cause.” Any alleged violation must have occurred on or after April 14, 2003 (on or after April 14, 2004 for small health plans), for OCR to have authority to investigate. Complaints can be filed with OCR by mail, fax, or email. Complaints should be sent to the appropriate OCR Regional Office, based on the region where the alleged violation took place. Lists of the appropriate OCR contacts and instruction for submitting complaints can be found on the OCR website at <http://www.hhs.gov/ocr/privacyhowtofile.htm>.

National Council of State Boards of Nursing Has Registry List



The National Council of State Boards of Nursing (NCSBN) in Chicago has a list of all state nurse aide registries and telephone numbers. NCSBN advertises the list for sale on their website. The list can be ordered for \$15.00 plus shipping and handling. The web address is http://www.ncsbn.org/public/resources/resources_publication.htm.

Back-up for MDS Data Reminder

Per CMS Requirement §483.20(d); *The facility must have a back-up system to prevent data loss or damage.* It is the responsibility of the nursing facilities to have a regular back-up plan for all local MDS assessment data. Nursing facilities cannot depend on the national repository to restore lost files because the national repository does not contain all of the same data as the state due to state specific requirements. The data is stored in a different manner at the national repository than at the local level. CMS contractors will attempt to restore data, but it cannot always be done.

MDS Manual Updates

Clinicians should monitor the CMS web site at <http://cms.hhs.gov/medicaid/mds20/man-form.asp> for MDS updates. Updates are effective the day posted on the CMS web site and will be posted on the fourth Monday of the month.

MDS Training Offerings

Attention: Monitor the MDS Submission URL site at <http://32.71.31.54> for future ISDH MDS training offerings, locations, dates and times.

NEED MDS HELP?

Call 317/233-4719 for Clinical Assistance

Call 317/233-7206 for Technical Assistance

Call 317/816-4122 for Medicaid Specific Issues

INTRODUCING STEVE CORYA, ICF/MR SURVEYOR SUPERVISOR

The ICF/MR program has a new supervisor for nursing homes located south of Interstate 70.

Steve joined ISDH in October, 2003, after 17 years at the Muscatatuck State Developmental Center. Steve is from Jennings County, Indiana, and graduated from Franklin College in 1981. He worked in the Stress Center at Bartholomew County Hospital for three years before he joined the staff at Muscatatuck as a Rehabilitation Therapist. He became Assistant Division Director of Program Services at Muscatatuck and was eventually promoted to Division Director of Program Services at Muscatatuck.

Steve is married, has 2 step-daughters and a dog. In his "spare" time he officiates high school and college basketball, operates a home-based sporting goods business, plays softball and tends a small garden.

Steve brings to the surveyor supervisor position many years of experience with surveys, regulations and plans of correction from the provider perspective. Questions or concerns in the south ICF/MR area can be directed to Steve at (317) 233-7561.

REVISITING REVISITS

There is still a good deal of confusion about revisits and survey cycles. In May, 2001, CMS issued a Revisit Policy for Long Term Care. This policy required onsite revisits anytime there is immediate jeopardy, actual harm or substandard quality of care. The policy requires that onsite revisits continue until those specific deficiencies are corrected even if their scope and severity improve on a subsequent revisit.

Sometimes determining how many revisits a facility has had in a survey cycle is difficult. To make an accurate calculation, one needs to count the number of times the Division has **revisited** the building—not revisited a previous survey. In other words, it is not the number of revisits for a particular survey, but rather the number of revisits to the building for all the surveys in that cycle. Thus, if a survey cycle is opened with a complaint survey with findings on June 1. An annual, with a revisit to the complaint, is completed on July 15 and the annual has findings, but the complaint is corrected, the cycle continues and

the first revisit to the annual is actually the second revisit in the cycle. If compliance is not achieved at the revisit to the annual, the facility is then facing a 3rd revisit which has to be approved by CMS.

Typically on the first revisit, compliance is certified as of the latest correction date on an approved POC, unless it is determined that either correction actually occurred between the latest correction date on the POC and the date of the 1st revisit, or correction occurred sooner than the latest correction date on the POC. In other words, the Division certifies compliance effective the date of the POC unless there is evidence that the facility did not attain compliance on that date.

One exception to this is when the revisit finds that previously cited deficiencies were corrected, but new deficiencies are cited. In that case, the facility is not found in compliance at the time of the revisit and the period of non-compliance continues. The previously cited deficiencies will be corrected as of the date of the 1st revisit and not the date of the POC. Using the date of the POC would imply that there was a break in the non-compliance prior to the new defi-

INTRODUCING BRENDA MEREDITH, ICF/MR SURVEYOR SUPERVISOR

The ICF/MR program has a new supervisor for nursing homes located north of Interstate 70.

Brenda was a long term care surveyor at ISDH prior to moving over to the ICF/MR program. Brenda has been a RN for over 25 years and worked in hospitals and nursing homes. She became a supervisor in the ICF/MR program in May, 2003.

Brenda lives near Mentone (The egg capital of the world.) in Kosciusko County, Indiana. She is married and has 5 children-2 sons and 3 step-daughters. The youngest is 23. Brenda is also the doting grandmother of two grandchildren, both girls. Brenda is particularly proud of one step-daughter who is serving her country and will soon be going to Iraq for a year. In her "spare" time, Brenda likes cooking, cross stitch and crafts.

Questions or concerns in the north ICF/MR area can be directed to Brenda at (317) 233-7894.

ciencies being cited. CMS policy states that the latest date on the approved POC will be used as the date of compliance **only if** the facility is found in substantial compliance at the time of the revisit. If new deficiencies are cited, the facility is not in compliance and the non-compliance continues.

For second revisits, compliance is certified as of the date of the 2nd revisit or a date confirmed by acceptable evidence, whichever comes first. On a 2nd revisit, if the surveyor certifies compliance on a date other than the date of the revisit, the Division must send copies of the acceptable evidence to CMS. Therefore, this evidence must be something that can be clearly and objectively documented on paper so that the surveyor can copy it and forward it to CMS.

Providers wishing to have compliance certified at a date sooner than the date of the 2nd revisit may collect and present to the surveyor at the 2nd revisit a packet of documents that the provider believes is the acceptable evidence. Depending on the circumstances and the type of deficiencies cited, the surveyor and or the Division may or may not accept the earlier correction date.

Alcohol Gels in Health Facilities

The policy on the use and storage of alcohol gels in health facilities has changed back and forth in recent months. To clarify the issue, Jim Merrill of the CMS Central Office in Baltimore, was contacted by the Division of Long-Term Care. According to Mr. Merrill, alcohol gels cannot be mounted on walls in facility corridors. They can, however, be mounted on walls inside of resident rooms in order for Life Safety Code requirements to be met.

Oxygen Containers in Long-Term Care Facilities



With the adoption of the 2000 Life Safety Code, oxygen containers cannot be trans-filled in resident rooms. The transferring of oxygen shall be separated from any portion of a facility wherein patients/residents are housed, examined, or treated by a separation of a fire barrier of 1-hour fire-resistive construction. The area must be mechanically ventilated, sprinklered, and have ceramic or concrete flooring. In addition, the area must be posted with signs indicating that transferring of oxygen is occurring, and that smoking in the immediate area is not permitted in accordance with NFPA 99 and Compressed Gas Association.

New Facilities in 2003

The following facilities opened in 2003:

- Crawfordsville Bickford Cottage
Crawfordsville, IN
- Providence Health Care
Saint Mary of the Woods, IN
- Tipton House
Huntington, IN
- University Place Health Center and Assisted Living, West Lafayette, IN
- Wabash Bickford Cottage
Wabash, IN
- Woodbridge Health Campus
Logansport, IN
- The Woodlands at River Terrace Estates, Bluffton, IN
- Stonebridge Health Campus
Bedford, IN

Recertification Process for Qualified Medication Aides

The Training Section has received numerous phone calls regarding the recertification process for Qualified Medication Aides (QMA). Included in the insert section of this newsletter, is a two-page flyer that can be copied at your facility and distributed to your QMA employees. The flyer also includes the QMA Scope of Practice. Qualified Medication Aides must be recertified by January 1, 2005. For questions regarding the QMA recertification process, contact Sandra Marcum, RN at 317/233-7480 or Nancy Gilbert at 317/233-7616. Both can also be reached by e-mail: smarcum@isdh.state.in.us or ngilbert@isdh.state.in.us.

New Licensure Secretary

On January 20, 2004, Melinda Massey, became the Licensure Secretary for Provider Services. Melinda replaced Beverly Alise who was promoted to Administrative Assistant 6 for Stephen Upchurch, Enforcement Manager. Melinda will assist long-term care providers with facility license renewals, facility license verifications, Administrator/Director of Nursing changes, facility telephone number and mailing address changes. For any questions or concerns regarding these issues, please contact Melinda at 317/233-1324.

New Informal Dispute Resolution (IDR) Process

Pursuant to SEA 396-2003, ISDH contracted with an entity that has experience in conducting the Informal Dispute Resolution (IDR) process for a state agency to create and operate a voluntary informal IDR pilot program for health facilities. The program must comply with the requirements under 42 CFR 488.331.

ISDH has determined that Michigan Peer Review Organization (MPRO), the Medicare Quality Improvement Organization for Michigan, complies with this requirement and has been awarded the contract. As a result, the Indiana State Department of Health (ISDH), Long Term Care (LTC) is offering three choices in the Informal Dispute Resolution (IDR) process. Details regarding the new Informal Dispute Resolution (IDR) process and MPRO can be found in the insert section of this newsletter. For questions regarding the new IDR process, contact Susie Scott, RN at 317/233-7651.

Timing of Bed Change Request



Written requests for bed changes in facilities must be submitted to the Indiana State Department of Health no later than forty-five (45) days prior to the first day of the cost reporting year or first day of the cost reporting quarter which will be used as the effective date for the Medicare/Medicaid distinct part bed size change. No distinct part bed size change will be approved retroactively. A facility may request to change the location of its Distinct Part at any time, as long as there is no change in the number of beds certified to participate in the Medicare and/or Medicaid programs, by submitting a written request to the Indiana State Department of Health at least thirty (30) days in advance of the change.

HELPFUL WEBSITES

Access Indiana:
<http://www.in.gov/>

Indiana Secretary of State:
<http://www.in.gov/sos/>

State Forms Online PDF Catalog:
<http://www.state.in.us/icpr/webfile/formsdiv/index.html>

Centers for Medicare and Medicaid Services:
<http://www.cms.hhs.gov/> or
<http://www.hcfa.gov/>

AdminaStar Federal:
<http://www.adminastar.com/anthem/affiliates/adminastar/index.html>

Family and Social Services Administration – Aging:
<http://www.in.gov/fssa/elderly/>

Family and Social Services Administration – Healthcare:
<http://www.in.gov/fssa/healthcare/>

Indiana Medicaid:
<http://www.indianamedicaid.com/ihcp/index.asp>

US Government Printing Office:
<http://www.gpo.gov/>

ISDH Web Sites and URL Addresses

Indiana State Department of Health Web Page
<http://www.in.gov/isdh/>

Health Care Regulatory Services Commission Web Page
<http://www.in.gov/isdh/regsvcs/providers.htm>

Long Term Care Web Pages

Page Title

URL

Certified Nurse Aide Registry:

<http://www.in.gov/isdh/regsvcs/ltc/cna.htm>

CNA's with Verified Findings:

<http://www.in.gov/isdh/regsvcs/ltc/badcna/index.htm>

Health Care Financing Administration:

<http://www.in.gov/isdh/regsvcs/ltc/hcfalink/index.htm>

How to Read a Survey:

<http://www.in.gov/isdh/regsvcs/ltc/readsurvey/index.htm>

ICF/MR Facility Directory:

<http://www.in.gov/isdh/regsvcs/ltc/icfmdir/index.htm>

Laws, Rules, and Regulations:

<http://www.in.gov/isdh/regsvcs/ltc/lawrules/index.htm>

Long Term Care Facilities Director:

<http://www.in.gov/isdh/regsvcs/ltc/directory/index.htm>

MDS Bulletins:

<http://www.in.gov/isdh/regsvcs/ltc/mds/index.htm>

Non-Cert. Comprehensive Care Facility Directory:

<http://www.in.gov/isdh/regsvcs/ltc/nccdir/index.htm>

Nurse Aide Training Guide:

<http://www.in.gov/isdh/regsvcs/ltc/naguide/index.htm>

Nurse Aide Training Sites:

<http://www.in.gov/isdh/regsvcs/ltc/natdir/index.htm>

Nursing Home Compare (CMS):

<http://www.medicare.gov/nhcompare/home.asp>

Residential Care Facilities Directory:

<http://www.in.gov/isdh/regsvcs/ltc/resdir/index.htm>

State Operations Manual

<http://www.in.gov/isdh/regsvcs/ltc/somanual/index.htm>

New Minimum Occupancy Rule for Medicaid Rate Setting

The Office of Medicaid Policy and Planning (OMPP) implemented a revision to their rate setting rules of 405 IAC 1-14.6 that took effect October 1, 2003. Pursuant to the LSA Document #02-340, the new minimum occupancy percent for the purpose of setting Medicaid rates is eighty-five (85%). This means that facilities with occupancy levels less than 85% will have their per diem "fixed costs" established using a minimum occupancy of 85%. The minimum occupancy rate is a reimbursement policy intended to encourage high occupancy and efficient operations. The previous rule imposed a minimum occupancy rate of 65%. The number of licensed beds is used by Medicaid to determine a facility's occupancy rate. The new rule also affords an opportunity for providers to request their rates be re-calculated promptly if they de-license beds. If providers have any questions regarding this Medicaid reimbursement rule, they should contact Robert Schafer at Myers and Stauffer, (317) 846-9521.

Upholstered Furniture in Resident Rooms



The Division of Long-Term Care has been given clarification from the Centers for Medicare and Medicaid (CMS), regarding the issue of upholstered furniture in resident rooms and smoke detectors. Formerly, providers were informed that if upholstered furniture was placed in a resident's room, facilities had to furnish smoke detectors in each room that contained upholstered furniture. The smoke detectors could be battery-powered smoke detectors. After discussing the matter with CMS, smoke detectors are not necessary in the individual rooms if the building has a full sprinkler system in place. If the building has a sprinkler system, then nothing further needs to be done to meet the Life Safety Code requirements. If you have any questions regarding this matter, please do not hesitate to contact Rick Powers at 317/233-7471. His usual office days are on Tuesdays and Thursdays.

NEW CONSTRUCTION/REMODELING IN FACILITIES

Prior to the commencement of any construction or remodeling at any long-term care facility, plans and specifications for that project should be approved by the Indiana State Department of Health, Division of Sanitary Engineering, 317/233-7588. The architect or project manager of the construction project are required to submit a "Statement of Substantial Completion". In addition, the facility shall notify the Program Director-Provider Services, in writing, when the construction or remodeled area is ready for the required Sanitarian and Life Safety Code/State Fire Code Inspections. The area cannot be occupied until these inspections have been conducted and released. If the project includes the addition of beds or relocating beds, a "Bed Change Request" should be submitted. An occupancy permit issued by a city and/or county agency is not authorization to occupy the newly constructed facility or area. The Division of Long Term Care will grant permission in writing only after the inspections have been conducted and released.

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Indiana State
Department of Health



"The Indiana State Department of Health serves to promote, protect, and provide for the public health of people in Indiana."

Jobs in public service offer many rewards and challenges. If you are interested in a public service career, the Indiana State Department of Health (ISDH) offers a pleasant work environment and the opportunity for personal growth.

The ISDH currently has employment opportunities for nurses, laboratory, and information technology staff as well as a variety of other dedicated professionals.

The ISDH offers a flexible work schedule, a 37.5 hour work week, excellent benefits, and generous paid leave. We rarely require overtime, weekends, or holiday work.

Find out what opportunities await you by checking <http://www.in.gov/isdh/about/hr> or <http://www.in.gov/jobs/stateemployment/jobbank.html>

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